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Department of Water Resources

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Attorneys for Idaho Ground Water Appropriators, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE REQUEST FOR DELIVERY OF WATER TO WATER RIGHT NOS. 34-00372B, 34-00690B AND 34-00372A BY L. VAUGHN JENSEN, JACK JENSEN AND JAY V. JENSEN	**IDAHO GROUND WATER APPROPRIATORS' PETITION TO INTERVENE IN THE JENSENS' DELIVERY CALL**

Idaho Ground Water Appropriators, Inc., ("IGWA"), on behalf of its members, including the ground water districts described herein, and through its attorneys Jeffrey C. Fereday and Michael C. Creamer of the law firm of Givens Pursley LLP, and pursuant to Idaho Department of Water Resources ("Department") Rules of Procedure 350, 351 and 352 hereby petition for leave to intervene in the above-captioned matter. The grounds for this Petition are stated below.

INTERESTS OF IGWA AND ITS MEMBERS

1. IGWA is an Idaho non-profit corporation, organized to promote and represent the interests of Idaho ground water users. IGWA's address is P.O. Box 2624, 1109 West Main, Suite 300, Boise, Idaho 83701.

2. IGWA's members include six ground water districts, one irrigation district whose irrigators are reliant on ground water, various municipalities and municipal water providers, and

commercial and industrial entities operating within the State of Idaho. IGWA's members hold water rights authorizing ground water diversions for irrigation of approximately 855,000 acres and for other authorized beneficial uses.

3. Many of IGWA's members' ground water rights are diverted from wells within the Eastern Snake Plain Aquifer ("ESPA"), certain portions of which have been determined to be an interconnected source with the Thousand Springs Reach ("TSR") and American Falls Reach ("AFR") of the Snake River.

4. Magic Valley Ground Water District, North Snake Ground Water District, American Falls-Aberdeen Ground Water District, Bingham Ground Water District and the Bonneville Jefferson Ground Water District are IGWA members that represent ground water users within Water Districts 120 and 130. A small portion of the boundary of the Madison Ground Water District extends within the ESPA. The Madison Ground Water District and the South West Irrigation District are not located within an organized water district. The above-referenced districts are hereinafter referred to as (the "Ground Water Districts").

5. The Ground Water Districts[1] are authorized by Idaho Code § 42-5224(6) to represent their members with respect to their individual water rights in legal and administrative proceedings.

6. The Ground Water Districts' members hold water rights with varying priorities ranging from the early 1900's to the late 1900's, some of which are junior to the various priorities of water rights claimed by L. Vaughn Jensen, Jack Jensen and Jay V. Jensen (collectively "the Jensens").

[1] With the exception of South West Irrigation District, which is organized under Title 43, Idaho Code.

THE PETITION FOR ADMINISTRATION

7. The Jensens have petitioned the Department to administer (i.e., curtail) water rights to deliver water to water rights 34-00372B, 34-00690B and 34-00372A.

8. The Department has at all times prior deemed such petitions "delivery calls" subject to the Department's Conjunctive Management Rules, IDAPA 37.03.11. Under the Conjunctive Management Rules, delivery calls are to proceed under the contested case provisions of the Department's Rules of Procedure. IDAPA 37.03.11.030.02.

9. The Jensens' Petition seeks action by the Department that may impair the ability of IGWA's members to divert ground water under their water rights.

DEPARTMENT INTERVENTION REQUIREMENTS

10. The Department's Rule of Procedure 350 provides that "Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding." IDAPA 37.01.01.350.

11. IGWA's members have such interests.

ISSUES IMPLICATED BY THE PETITION THAT NECESSARILY MUST BE DETERMINED

12. The Jensens assert the priority of their surface water rights and seek administration by curtailment of junior ground water and/or surface water rights. As such, the Petition necessarily implicates significant legal and factual issues that must be addressed by the Department in any decision on the merits of the Petition, including, but not limited to the following:

DATED this 25th day of May 2005.

GIVENS PURSLEY LLP

By: _____
Michael C. Creamer
Attorneys for Idaho Ground Water Appropriators, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of May 2005, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Mr. Karl J. Dreher Director Idaho Department of Water Resources 322 East Front Street P.O. Box 83720 Boise, ID 83720-0098	____ U.S. Mail ____ Facsimile ____ Overnight Mail X Hand Delivery ____ E-mail
L. Vaughn Jensen Jack Jensen Jay V. Jensen 3347 West 2900 North Moore, ID 83255	X U.S. Mail ____ Facsimile ____ Overnight Mail ____ Hand Delivery ____ E-mail

Michael C. Creamer