United States Department of the Interior

OFFICE OF THE SOLICITOR
Pacific Northwest Region, Boise Field Office
James A. McClure Federal Building & U.S. Courthouse
MSC 020-550 West Fort Street
Boise, Idaho 83724-0020

TAKE PRIDE IN AMERICA

April 1, 2005

RECEIVED
APR - 1 2005
Department of Water Resources

Via U.S. Mail and Hand Delivery

Mr. Karl Dreher, Director
Idaho Department of Water Resources
322 East Front Street
Post Office Box 83720
Boise Idaho 83720-0098

Re: Idaho Ground Water Appropriators' (IGWA) Motion for Summary Judgment and Motion in Support in the Matter of the Request for Administration in Water District 120 and the Request for Delivery of Water to Senior Surface Water Rights by A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (*Motion for Summary Judgment)*

Dear Director Dreher:

We have reviewed the subject motion and attached affidavits submitted to the Department on March 23, 2005 in response to the request for water right administration and delivery of surface water filed on January 14, 2005, by various holders of surface water rights in the American Falls Reach of the Snake River (the "Surface Water Coalition"). Earlier this week, Idaho Power Company and the Surface Water Coalition responded that the summary judgment motion is neither authorized nor appropriate in an informal proceeding under IDAPA 37.01.01.100 and, as a consequence, they argued that the motion and affidavits should be stricken. Reclamation[1] agrees with this position given no action has been taken to establish a formal proceeding and we believe that the *Motion for Summary Judgment* was filed to preempt you from acting pursuant to Conjunctive Management Rules 37.03.11.040 –042.

[1] Reclamation's Petition to Intervene has yet to be granted, and we are writing as interested parties under IDAPA 37.01.01.158.

In any event, to the extent you wish to entertain the *Motion for Summary Judgment,* it is not appropriate for you to act on the motion without first granting Reclamation's *Petition to Intervene* and affording Reclamation an opportunity to respond to IGWA's motion at that time.

Please do not hesitate to call me, if you have any questions.

Sincerely,

Kathleen Marion Carr
For the U.S. Bureau of Reclamation

Travis L. Thompson
John K. Simpson
Barker Rosholt & Simpson, LLP
Post Office Box 2139
Boise, ID 83701-0700

Roger Ling
Ling Robinson & Walker
Post Office Box 396
Rupert, Idaho 83350

Tom Arkoosh
Arkoosh Law Office
Post Office Box 32
Gooding, ID 83330

Kent Fletcher
Fletcher Law Office
Post Office Box 248
Burley, ID 83318

E. Gail McGarry
U.S. Bureau of Reclamation
1150 North Curtis Road
Boise, ID 83706-1234

Jeffrey C. Fereday
Michael C. Creamer
Givens Pursley, LLP
Post Office Box 2720
Boise, ID 83701-2720

Scott L. Campbell
Moffatt, Thomas, Barrett, Rock & Fields
Post Office Box 829
Boise, ID 83701

IDWR – Eastern Region
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

IDWR –Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380