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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF 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	**IGWA'S REPLY TO THE SURFACE WATER COALITION'S RESPONSE TO POCATELLO'S MOTION FOR STAY**

Idaho Ground Water Appropriators, Inc. ("IGWA"), on behalf of its members, hereby replies to the Surface Water Coalition's ("SWC") Response to Pocatello's Motion for Stay.

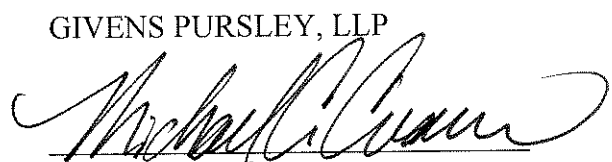
In its response, the SWC agrees with IGWA and Pocatello that the hearing and, presumably, certain other portions of this contested matter should be stayed. However, the SWC then requests that the Director continue in this case to determine "injury," to carry out water right "administration," and impose "mitigation" requirements on their pending delivery calls. These

are the delivery calls, involving determinations of injury, mitigation obligations and administration for 2005 and 2006 that are to be the subject of the hearing. IGWA has not agreed to such a selective "stay," nor can it. If further obligations, conclusions of law or fact, or administrative actions are to be imposed, then IGWA must have a hearing. IGWA's response to Pocatello's motion made it clear that it intended that "all current proceedings" should be stayed.

Grounds for staying the hearing and all proceedings involved with it are even more applicable to determinations of injury, mitigation (if any), and water right administration. IGWA did not, and cannot, agree that simply discovery obligations and other such pre-hearing matters would be stayed. The Department's approach to these matters is called into question by Judge Wood's recent order. It would be prejudicial for IGWA and its members to have remedies imposed against them without the opportunity for hearing.

Respectfully submitted this 13th day of June, 2006.

GIVENS PURSLEY, LLP



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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June 2006, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

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