BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

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	)	**ORDER DENYING MOTION TO AUTHORIZE DISCOVERY; AND GRANTING ADDITIONAL TIME TO SERVE RESPONDENTS**

On February 14, 2005, the Director of the Department of Water Resources ("Director" or "Department") issued an Order that, among other actions, included designating a contested case in the above-captioned matter. The Director designated the proceeding in response to a water delivery call made January 14, 2005, 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 (collectively the "Surface Water Coalition"). The Order of February 14, 2005, granted intervenor party status in the contested case to the Idaho Ground Water Appropriators, Inc. ("IGWA").

On February 18, 2005, IGWA filed its *Motion For Order Authorizing Discovery* in this matter seeking authorization to engage in discovery by way of interrogatories, requests for production or admission, deposition, and all other methods authorized by the Idaho Rules of Civil Procedure. IGWA states in its motion that it seeks to discover from the members of the Surface Water Coalition information not requested by the Director in his Order of February 14, 2005.

On March 7, 2005, the Surface Water Coalition filed *Petitioners' Joint Response to IGWA'S Motion for Order Authorizing Discovery (WD 120)* opposing IGWA's request to engage in discovery in this matter. On March 7, 2005, the Surface Water Coalition also filed a letter requesting the Department's assistance in completing the identification of ground water rights from the Eastern Snake Plain Aquifer, determined to be an area having a common ground water supply pursuant to IDAPA 37.03.11.50.01, that are junior in priority to surface water rights held by members of the Coalition and that are not in an organized water district or ground water management area, together with the names and addresses for the holders of such rights. The letter of March 7, 2005, also requested a two-week extension from the date set in the Order of February 14, 2005, or until March 31, 2005, to serve the holders of such junior priority water rights with the *Petition for Water Right Administration* originally filed by the Surface Water Coalition on January 14, 2005.

The Order of February 14, 2005, requires each member of the Surface Water Coalition to submit to the Director within thirty (30) days after issuance of the order certain information relevant to a determination of the likely extent of injury being incurred. Until the members of the Surface Water Coalition have had an opportunity to collect and submit the information requested by the Director, discovery by the parties should not be authorized. IGWA's *Motion for Order Authorizing Discovery* will therefore be denied.

In its letter of March 7, 2005, the Surface Water Coalition estimates that based on information it has already obtained from the Department, that there are approximately 6,800 ground water rights from the Eastern Snake Plain Aquifer that are junior in priority to surface water rights held by members of the Coalition and that are not in an organized water district or

ground water management area. The request for a two-week extension, or until March 31, 2005, to complete service on the holders of such ground water rights is reasonable and will be granted.

ORDER

IT IS THEREFORE ORDERED that the *Motion For Order Authorizing Discovery* filed by the Idaho Ground Water Appropriators is DENIED without prejudice. Following the Surface Water Coalition's submission of the information requested by the Director and following the Director's consideration and response to the information submitted, IGWA may renew its motion for an order authorizing discovery in this matter if it is still considered necessary.

IT IS FURTHER ORDERED that the request by the Surface Water Coalition for a two-week extension, or until March 31, 2005, to complete service of the *Petition for Water Right Administration* on the holders of junior priority ground water rights from the Eastern Snake Plain Aquifer that are not in an organized water district or ground water management area is GRANTED.

DATED this 9th day of March 2005.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March 2005, the above and foregoing, was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

JOHN K. SIMPSON
BARKER ROSHOLT
205 N 10TH STE 520
PO BOX 2139
BOISE ID 83701-2139

ROGER LING
LING ROBINSON
615 H ST
PO BOX 396
RUPERT ID 83350

TOM ARKOOSH
ARKOOSH LAW OFFICES
PO BOX 32
GOODING ID 83330

KENT FLETCHER
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318

JEFFREY C. FEREDAY
MICHAEL C. CREAMER
GIVENS PURSLEY LLP
601 BANNOCK ST STE 200
PO BOX 2720
BOISE ID 83701-2720

IDWR - EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-1718

IDWR – SOUTHERN REGION
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380

Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources