BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF 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 (Water Districts No. 120 and No. 130)	)	**ORDER REGARDING SERVICE OF EXPERT REPORTS**

The Director of the Idaho Department of Water Resources ("Director") issued a *Scheduling Order* in this matter on July 22, 2005, which authorized the parties to engage in discovery according to the Idaho Rules of Civil Procedure, subject to certain conditions. On November 25, 2005, the Director issued a *Second Amended Scheduling Order*, which extended the deadline to submit expert witness reports to December 30, 2005. On December 29, 2005, the U.S. Bureau of Reclamation ("Reclamation") filed with the Department *Reclamation's Notice of Service of Expert Report of Patrick C. McGrane, P.E.* together with the original *Expert Report of Patrick C. McGrane, P.E.* On December 30, 2005, the City of Pocatello filed with the Department *Pocatello's Notice of Service of Expert Disclosures in Compliance with Scheduling Order* together with originals or copies of the expert disclosures, reports, affidavits, and resumes referenced in its *Notice of Service*.

On January 3, 2006, the Surface Water Coalition ("SWC") and the Idaho Ground Water Appropriators, Inc. ("IGWA") separately filed with the Department notices of service of their respective expert reports upon the other parties to the proceeding without filing the originals or copies of the reports with the Department. The question thus arises as to whether the expert reports should be filed with the Department.

The *Second Amended Scheduling Order* provides that "parties submit expert witness reports" on December 30, 2005, without providing specific direction as to whether or not the reports were to be filed with the Department. The preparation and exchange of expert reports in this proceeding was required to facilitate the discovery process among the parties. *See* I.R.C.P. 26(b)(4); I.R.E. 705. As such, it is premature to submit the reports to the Director at this stage of the proceeding.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that the expert reports and associated documents, other than the notices of service, filed with the Department on December 29, 2005, by the U.S. Bureau of Reclamation, and by the City of Pocatello on December 30, 2005, shall be returned to the respective parties. The expert reports and associated documents may be offered into evidence at the hearing in this matter as appropriate.

DATED this 9th day of January, 2006.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2006, the above and foregoing, was served by the method indicated below, and addressed to the following:

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