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DEPARTMENT OF
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Attorneys for Idaho Ground Water Appropriators

BEFORE THE DIRECTOR
OF 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	)	**POCATELLO AND IGWA'S JOINT MOTION TO MODIFY SCHEDULING ORDER**

The Idaho Ground Water Appropriators, Inc. ("IGWA") and the City of Pocatello ("Pocatello"), together, the "Moving Parties", respectfully request the Director to modify the Scheduling Order dated July 22, 2005, so as to extend each of the dates in paragraphs 5 –9 to

permit the parties to conduct further discovery before they are required to submit expert reports or dispositive motions.

The grounds for this motion are as follows:

1. As required by the Scheduling Order, the parties submitted the names of their anticipated fact witnesses and the general basis of their anticipated testimony. In total, the parties have specifically identified approximately 70 fact witnesses. Some of the parties also have generally identified additional witnesses, such as employees or contractors of the Department.

2. The Scheduling Order currently sets a deadline of October 17, 2005 for the submission of expert reports. In order to prepare these reports, the Moving Parties believe that the experts need at least two weeks after the completion of fact witness depositions in order to assimilate the information from the fact witness depositions and to prepare their respective reports.

3. The Moving Parties have proceeded diligently to obtain necessary information in discovery. They submitted written discovery to the members of the Surface Water Coalition on August 9, 2005, and they submitted a records request to the Department on August 8, 2005.

4. The Moving Parties have requested that the Department make representatives available for deposition beginning the week of August 29, 2005, and continuing as necessary thereafter. The attorneys for the Moving Parties have spoken with the attorneys for the Surface Water Coalition and the attorneys for other parties and have proposed that depositions of IGWA's and Pocatello's witnesses be taken the week of September 5. The Moving Parties plan to take depositions of the other parties' fact witnesses, beginning the week of September 12, 2005. The Moving Parties are submitting a Notice of Deposition Schedule, which will describe these depositions more fully, to the Director and to all parties.

5. Based upon the identification of witnesses by other parties, requests for depositions of Department witnesses and defense of depositions of their own witnesses, the Moving Parties anticipate that they will participate in approximately 15 to 50 depositions. The current schedule for expert reports under the Scheduling Order simply does not provide enough time for the parties to conduct the needed fact witness depositions before the expert reports are due.

6. The parties should continue to have two weeks after the submission of all expert reports before the deadline for filing dispositive motions.

7. The attorneys for the Moving Parties have conferred with attorneys for the SWC and other parties in the case and believe that they concur with the Moving Parties that additional time is required for preparation of the expert reports and dispositive motions and that the deadlines in the Scheduling Order should be modified. The requested modifications will not prejudice any party.

8. The discovery cut-off date under the Scheduling Order is December 12, 2005. This and all subsequent dates now contained in Paragraphs 10 through 15 of the Scheduling Order, including commencement of the hearing, will not need to be changed for the modifications requested by the Moving Parties herein.

Accordingly, the Moving Parties request that the Scheduling Order be modified as follows:

A. Paragraph 5 should be modified to substitute Friday, November 4, 2005 for October 17, 2005 as the deadline for all expert witness reports.

B. Paragraph 6 should be modified to substitute Friday, November 18, 2005 for October 31, 2005 as the deadline for all rebuttal expert opinions.

C. Paragraph 7 should be modified to substitute Friday, December 2, 2005 for November 7, 2005 as the deadline for all dispositive motions.

D. Paragraph 8 should be modified to substitute Friday, December 16, 2005 for November 21, 2005 as the deadline for responses to all dispositive motions.

E. Paragraph 9 should be modified to substitute Tuesday, January 3, 2006 for December 5, 2005 as the deadline for replies to all dispositive motions.

Dated this 24th day of August 2005.

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of August 2005, I caused to be served a true and correct copy of the foregoing document by regular U.S. Mail, postage prepaid, to:

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