White & Jankowski *Lawyers*

January 31, 2006

VIA FAX 208-287-6700
Karl Dreher, Director
Idaho Department of Water Resources
322 East Front Street
Boise, ID 83720-0098

Re: SWC Delivery call case: Request to hold in abeyance IGWA and Pocatello's Motion to Compel

Dear Director Dreher:

One week ago, IGWA and Pocatello filed a Motion to Compel production of certain materials considered by the Surface Water Coalition's experts in the ongoing delivery call action. Subsequently, also one week ago today, we engaged in mediation over the production of these materials with the SWC through the services of Mr. Merlyn Clark. The result of the mediation was that the SWC agreed to produce the information considered by their experts. Verbally, counsel for SWC promised to provide the missing materials by the beginning of this week. To date, we have received nothing from the SWC experts, except for the password that was necessary to open the password protected spreadsheets that had been previously provided. The spreadsheet information is only a portion of the materials we seek and which SWC confirmed it would provide. Disclosure of all these materials is important if we are to have fruitful negotiations.

The mediation agreement was memorialized in a protective order between SWC, IGWA and Pocatello on Wednesday, January 25. The protective order was submitted to the Director for approval, and included a request that the proceedings in the delivery call case be stayed for 60 days. However, because we have not yet received the agreed-upon materials that are the subject of the protective order, we request that the Department hold the Motion to Compel in abeyance and exempt it from the order staying the delivery call case. IGWA and Pocatello will affirmatively move to withdraw the Motion to Compel once the documents SWC has agreed to provide have been received.

Very truly yours,

Sarah Klahn

Sarah Klahn, Esq.

cc: Counsel of Record via facsimile only

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January 2006, I caused to be served a true and correct copy of the foregoing **Letter to Karl Dreher, Director** by facsimile only:

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