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DEPARTMENT OF
WATER RESOURCES

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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

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| IN THE MATTER OF THE PETITION FOR ADMINISTRATION 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 FALL CANAL COMPANY | ) | **STATE AGENCY GROUND WATER USERS' MOTION FOR AUTHORITY TO CONDUCT DISCOVERY OF PARTIES AND OF IDWR STAFF** |

The Idaho Department of Fish & Game, the Idaho Department of Health & Welfare, the Idaho Department of Juvenile Corrections, and the Idaho Transportation Department, who have intervened as the State Agency Ground Water Users (SAGWU), by and through their counsel of record, Michael S. Gilmore, Deputy Attorney General, file this Motion to Conduct Discovery of Parties and of the IDWR Staff.

Pursuant to Rule 521 of IDWR's Rules of Procedure, IDAPA 37.01.01.521, the SAGWU hereby move for authority to conduct all forms of discovery listed in Rule 520.01.a-d and to direct that discovery:

(a) to all other parties in this proceeding, and

(b) to the IDWR Staff to the extent that the presiding officer in this proceeding may take official notice of

(i) "any facts that could be judicially noticed in the courts of this state,"

Idaho Code § 67-5251(4)(a),

(ii) any "generally recognized technical or scientific facts within [IDWR's] specialized knowledge," § 67-5251(4)(b), and

(iii) "specific facts or materials noticed and the source thereof, including any [IDWR] staff memoranda and data," § 67-5251.

The SAGWU move to conduct discovery so that, among other things, they may learn whether the parties or IDWR Staff have information, data or assumptions concerning the effects of the SAGWU's often unique forms of ground water use (*e.g.*, wildlife, drip irrigation, domestic uses for highway rest stops, etc.) or whether these forms of use have been taken into account in the modeling or accounting of ground water uses in this case. Without information of this kind, which can only be efficiently obtained by pre-hearing discovery rather than through "fishing expeditions" during cross-examination at hearing, it will be difficult if not impossible for the SAGWU to evaluate whether they should contest other parties' and/or the IDWR Staff's positions concerning the SAGWU's water rights, water use and effects upon other water users.

DATED this 29th day of June, 2005.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By _____
MICHAEL S. GILMORE
Deputy Attorney General

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2005, I caused to be served a true and correct copy of the foregoing by regular U.S. Mail, postage prepaid, to:

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