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Department of Water Resources

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD 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' PETITION TO INTERVENE**

The State Agency Ground Water Users (the Idaho Department of Juvenile Corrections, the Idaho Department of Health & Welfare, the Idaho Department of Fish & Game, and the Idaho Transportation Department), by and through their counsel of record Michael S. Gilmore, Deputy Attorney General, hereby petition to intervene in this proceeding. The State Agency Ground Water Users allege:

1. The State Agency Ground Water Users and their main addresses are:

Idaho Transportation Department, 3311 West State Street, PO Box 7129, Boise, Idaho 83707-1129
Idaho Department of Juvenile Corrections, 400 North 10th Street, 2nd Floor, PO Box 83702, Boise, Idaho 83720-0285
Idaho Department of Health & Welfare, 450 West State Street, PO Box 83720, Boise, Idaho 83702-0036
Idaho Department of Fish & Game, 600 South Walnut Street, Boise, Idaho 83712.

In addition to these main addresses, the State Agency Ground Water Users have many other

addresses throughout the State.

2. At least one of the State Agency Ground Water Users (the Idaho Transportation Department) has received a letter from a watermaster stating that ground Water Right Nos. 35-8624, 35-8625, and 35-9041 will be subject to curtailment or required mitigation. However, one of the ground water rights listed in that notice sent to the Idaho Transportation Department (No. 35-8624) is shown by IDWR records to be held by the Idaho Department of Fish & Game.

3. The Idaho Transportation Department received notice of possible curtailment or required mitigation for two of its water rights and what turned out to be a Fish & Game ground water right by a letter dated April 22, 2005, and received by ITD on April 25, 2005, *i.e.*, a notice of such importance was mailed by surface mail rather than faxed. There may be other State Agency Ground Water users whose mail has been delayed who will receive such notices but have not yet had an opportunity to forward them to counsel.

4. The threat of curtailment or mitigation and the short procedural window that the Department has given for responding to its letter gives the State Agency Ground Water Users a direct and substantial interest in the proceeding that justifies granting their petition to intervene.

5. The Department should waive the requirements of its Rule 352 that petitions to intervene must be filed at least 14 days before a hearing or prehearing conference because the Department's Notice of Status Conference was issued on April 22, 2005, just five days before the status conference scheduled for April 27, 2005, and because the Idaho Transportation Department received its curtailment/mitigation letter on April 25, 2005, just two days before the status conference.

6. The State Agency Ground Water users petition the Department to immediately grant their petition to intervene.

DATED this 26th day of April, 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 26th day of April, 2005, I caused to be served a true and correct copy of the foregoing via e-mail or facsimile to:

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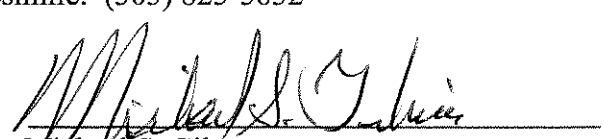

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