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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPERTMENT 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 SRFACE 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	**MOTION IN LIMINE TO EXCLUDE EXPERT REPORT OF JOHN CHURCH**

COME NOW the above-named petitioners and move the Director of the Idaho Department of Water Resources (IDWR), hearing officer herein, for an order prohibiting the Idaho Ground Water Appropriators, Inc. from offering any evidence of economic impact in the Surface Water Coalition's (Coalition) *Request for Administration in Water District 120.*

Pursuant to Idaho Rule of Evidence 403, the Coalition specifically seeks to prohibit the *Expert Report of John Church* with its accompanying affidavit and economic reports because the probative value of the *Expert Report of John Church* would be substantially outweighed by the danger of unfair prejudice, confusion of the issues, waste of time, or needless presentation of cumulative evidence.

IDWR and the Director are obligated to follow the provisions of the Idaho Administrative Code, the Idaho Code and Idaho case law regarding appropriation of water rights. That body of law does not permit IDWR or its Director to consider economics when reviewing the possible curtailment of junior appropriators. Therefore, the *Expert Report of John Church* should be excluded from any consideration or hearing on the Coalition's *Request for Administration.*

DATED this 23rd day of January, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January, 2006, the above and foregoing was served by the method indicated below, and addressed to the following:

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