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Department of Water Resources

Attorneys for Basic American Foods, ConAgra/Lamb Weston, City of Pocatello, and J. R. Simplot Company (Water Resource Coalition)

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	)	**WATER RESOURCE COALITION'S MOTION TO FILE AMICUS BRIEF**

Basic American Foods, ConAgra/Lamb Weston, the City of Pocatello, and the J. R. Simplot Company (hereinafter the "Water Resource Coalition") request an order from the Idaho Department of Water Resources (IDWR) allowing it to file in this proceeding the attached Amicus Brief addressing the legal issue identified in IDWR's April 6, 2005 Order:

> Whether Idaho law permits the [Surface Water Coalition] to pursue a delivery call to supply water rights that were decreed in a proceeding(s) to which the ground water users were not a party.

Each of the individual members of the Water Resource Coalition has recorded ground water rights to withdraw water from the Eastern Snake Plain Aquifer (ESPA). IDWR's records

for Water District 130, Water District 120, the existing American Falls Ground Water Management Area, and the area where IDWR contemplates formation of Water District 110, document the ESPA ground water rights for the members of the Water Resource Coalition.

The identified legal issue affects due process rights which could be addressed at the outset of the proceeding, as IDWR has requested. This issue also could be addressed later in the proceeding when the Water Resource Coalition members anticipate becoming parties in response to an IDWR curtailment order. The Water Resource Coalition believes the interests and resources of IDWR, the Surface Water Coalition, and the ESPA ground water user community are best served if the issue is addressed at the outset of the proceeding.

Specifically, this issue affects whether IDWR has the authority to enter a curtailment order the week of April 18, 2005, or is constrained to enter such an order until the SRBA court enters an Idaho Code 42-1417 order permitting distribution of water in Chapter 6, Title 42, Idaho Code, water districts in accordance with the Director's SRBA report of water rights for the members of the Surface Water Coalition.

The Water Resource Coalition filed a "Notice of Intent to File Application for Approval of Mitigation Plan" with IDWR on April 8, 2005 and is also a party to the Ground Water Districts' "Application for Approval of Mitigation Plan for the American Falls Reach of the Snake River." These existing and anticipated proceedings involving the Water Resource Coalition are also affected by any curtailment order from IDWR which could be determined later not to meet due process standards.

For these reasons, the Water Resource Coalition seeks permission to file an Amicus Brief (attached hereto). The goal of the Water Resource Coalition is to support a process which will provide certainty for the water user community that relies upon the ESPA and the associated Snake River and springs.

RESPECTFULLY SUBMITTED this 13th day of April 2005.

Beeman & Associates, P.C.

By Josephine P. Beeman

Josephine P. Beeman
Attorney for Water Resource Coalition

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of April 2005, I caused to be served copies of the foregoing WATER RESOURCE COALITION'S MOTION TO FILE AMICUS BRIEF upon the following, by U. S. Mail, postage prepaid:

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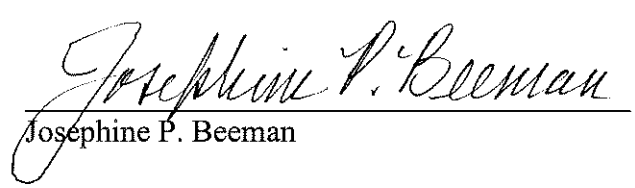

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