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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A&B IRRIGATION DISTRICT,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER  
RESOURCES and GARY SPACKMAN in his  
official capacity as Interim Director of the Idaho  
Department of Water Resources,

Respondents.

)  
) CASE NO. CV 2009-647  
)

) Fee Category L.3 - \$88.00  
)

) **NOTICE OF APPEAL AND**  
) **PETITION FOR JUDICIAL**  
) **REVIEW OF AGENCY ACTION**  
)

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IN THE MATTER OF THE PETITION FOR  
DELIVERY CALL OF A&B IRRIGATION  
DISTRICT FOR THE DELIVERY OF  
GROUND WATER AND FOR THE  
CREATION OF A GROUND WATER  
MANAGEMENT AREA  
\_\_\_\_\_

COMES NOW, the Petitioner A&B Irrigation District ("A&B"), by and through its undersigned counsel, and hereby files this Notice of Appeal and Petition for Judicial Review as follows:

### **STATEMENT OF THE CASE**

1. This is a civil action pursuant to Idaho Code §§ 67-5270 and 5279 seeking judicial review of the *Final Order Regarding A&B Irrigation District Delivery Call* issued by the Director of the Idaho Department of Water Resources on June 30, 2009 (made final by order denying A&B's petition for reconsideration dated August 4, 2009).

2. A hearing before the agency was held in the matter from December 3 - 18, 2008.

3. A Statement of Issues which A&B intends to assert in this matter will be filed with the Court within 14 days. Pursuant to I.R.C.P. 84(d)(5), A&B reserves the right to assert additional issues and/or clarify or further specify the issues for judicial review stated in this petition or which become later discovered.

### **JURISDICTION AND VENUE**

4. This petition is authorized by Idaho Code §§ 67-5270 and 5279.

5. This Court has jurisdiction over this action pursuant to Idaho Code §§ 42-1401D and 67-5272.

6. Venue lies in this Court pursuant to Idaho Code §§ 42-1701D and 67-5272. A&B's principal place of business is located in Minidoka County and real property (water right number 36-2080) which was the subject matter of the agency action is appurtenant to lands located in Minidoka County.

7. The Director's *Final Order* is a final agency action subject to judicial review pursuant to Idaho Code § 67-5270.

### **PARTIES**

8. Petitioner A&B is an Idaho irrigation district, with its principal office located in Minidoka County, specifically Rupert, Idaho.

9. Respondent Idaho Department of Water Resources is a state agency with its main office located at 322 E. Front St., Boise, Idaho. Respondent Gary Spackman is the interim director of the Idaho Department of Water Resources.

**AGENCY RECORD**

10. Judicial review is sought of the Director's June 30, 2009 *Final Order Regarding the A&B Irrigation District Delivery Call*.

11. The agency held a hearing in this matter from December 3 – 18, 2008, which was recorded and a transcript created, which transcript should be made a part of the agency record in this matter. The person who may have a copy of such transcript is Victoria Wigle, Director's Administrative Assistant, Idaho Department of Water Resources, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone: (208) 287-4803, Facsimile: (208) 287-6700, email: [victoria.wigle@idwr.idaho.gov](mailto:victoria.wigle@idwr.idaho.gov). The parties to the administrative case previously paid for the creation of the transcript of the hearing.

12. A&B anticipates that it can reach a stipulation regarding the agency record with the Respondents and the other parties, and will pay its necessary share of the fee for preparation of the record at such time.

13. Service of this Notice of Appeal and Petition for Judicial Review of Agency Action has been made on the Respondents at the time of the filing of this Petition.

**DATED** this 31<sup>st</sup> day of August 2009.

**BARKER ROSHOLT & SIMPSON LLP**

  
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Travis L. Thompson

Attorneys for Petitioner A&B Irrigation District

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 31<sup>st</sup> day of August, 2009, I served true and correct copies of the *Notice of Appeal and Petition for Judicial Review of Agency Action* upon the following by the method indicated:

Deputy Clerk  
 Minidoka County District Court  
 715 G Street  
 P.O. Box 368  
 Rupert, Idaho 83350  
 Fax: (208) 436-5272

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

Phillip J. Rassier  
 Chris Bromley  
 Deputy Attorneys General  
 Idaho Department of Water Resources  
 P.O. Box 83720  
 Boise, Idaho 83720-0098  
[phil.rassier@idwr.idaho.gov](mailto:phil.rassier@idwr.idaho.gov)  
[chris.bromley@idwr.idaho.gov](mailto:chris.bromley@idwr.idaho.gov)

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

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