

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER)
TO VARIOUS WATER RIGHTS HELD BY OR FOR) Docket No. CM-DC-2010-001
THE BENEFIT OF A&B IRRIGATION DISTRICT,)
AMERICAN FALLS RESERVOIR DISTRICT #2,) **ORDER REGARDING**
BURLEY IRRIGATION DISTRICT, MILNER) **FILING DEFICIENCY**
IRRIGATION DISTRICT, MINIDOKA IRRIGATION) **OF IGWA'S NOTICE**
DISTRICT, NORTH SIDE CANAL COMPANY,) **OF SECURED WATER**
AND TWIN FALLS CANAL COMPANY)
_____)

On April 29, 2010, the Director of the Department of Water Resources (“Director” or “Department”) issued his *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4)* (“April Forecast Supply Order”). In the April Forecast Supply Order, the Director predicted material injury to certain members of the Surface Water Coalition (“SWC”), and ordered that, by May 13, 2010, the Idaho Ground Water Appropriators, Inc. (“IGWA”) “must establish, to the satisfaction of the Director,” the amount of water secured to mitigate for material injury. *April Forecast Supply Order* at 3.

On May 13, 2010, IGWA filed its *Notice of Water Secured and Renewed Request for Stay* (“Notice”). Included with the Notice was the *Second Affidavit of Timothy Deeg* (“Deeg Affidavit”). Mr. Deeg is the “Chairman” of IGWA. *Deeg Affidavit* at 1. The Notice states “the Ground Water Users have secured a total of 68,000 acre-feet of water.” *Notice* at 2. The amount secured was confirmed by Mr. Deeg. *Deeg Affidavit* at 2. The Notice states however, “The total amount of water that the Ground Water Users must secure for mitigation is approximately 109,300 acre-feet in Water Districts 110, 120, 130, and 140.” *Notice* at 2. The importance of this statement is that the Director is unable to discern how much of the 68,000 acre-feet of secured water IGWA is pledging to the SWC.¹ IGWA should be aware in future proceedings that it must inform the Director of the volume of water it intends to provide.

In addition, neither the Notice nor the Deeg Affidavit have attached IGWA’s secured water agreements for the Director’s review. In previous proceedings before the Department,

¹ IGWA has a mitigation obligation with Clear Springs Foods, Inc. that involves delivery of surface water for conversion of ground water irrigated acres. The Director does not know how much water IGWA intends to convey to these conversions.

IGWA provided copies of its agreements for the Director's review. *See Sixth Supplemental Order Amending Replacement Water Requirements and Order Approving IGWA's 2007 Replacement Water Plan* at 6-8.² IGWA should be aware in future proceedings that it must provide the Director with copies of its secured water agreements for review.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

IGWA has until the end of today's business day (May 14, 2010) to cure the deficiencies in its May 13, 2010 filings. IGWA must provide copies of its secured water agreements for the Director's review. IGWA must also inform the Director how much of the water it has secured, as evidenced by the agreements, it intends to pledge to the SWC delivery call.

Dated this 14th day of May, 2010.


GARY SPACKMAN
Interim Director

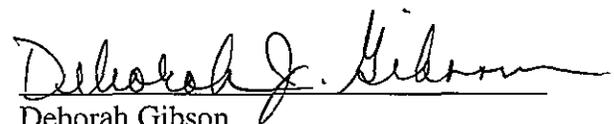
² See also <http://www.idwr.idaho.gov/News/WaterCalls/Surface%20Coalition%20Call/2007%20Filings/IGWA%20Exhibit%201.pdf> (IGWA Exhibit 1); and <http://www.idwr.idaho.gov/News/WaterCalls/Surface%20Coalition%20Call/2007%20Filings/IGWA%20Exhibit%202.pdf> (IGWA Exhibit 2).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May, 2010, the above and foregoing, was served by the method indicated below, and addressed to the following:

<p>John K. Simpson BARKER ROSHOLT & SIMPSON, LLP P.O. Box 2139 Boise, ID 83701 jks@idahowaters.com</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, LLP P.O. Box 485 Twin Falls, ID 83303 tlt@idahowaters.com pla@idahowaters.com</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>C. Thomas Arkoosh CAPITOL LAW GROUP, PLLC P.O. Box 32 Gooding, ID 83339 tarkoosh@capitollawgroup.net</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
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<p>Randall C. Budge Thomas J. Budge RACINE OLSON P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>
<p>Kathleen M. Carr US Dept. Interior 960 Broadway Ste 400 Boise, ID 83706 kathleenmarion.carr@sol.doi.gov</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email</p>

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<p>Lyle Swank IDWR—Eastern Region 900 N. Skyline Drive Idaho Falls, ID 83402-6105 lyle.swank@idwr.idaho.gov</p>	<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
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Deborah Gibson

Administrative Assistant to the Director