

A. Dean Tranmer ISB #2793
City of Pocatello
P. O. Box 4169
Pocatello, ID 83201
(208) 234-6149
(208) 234-6297 (Fax)
dtranmer@pocatello.us

Sarah A. Klahn, ISB #7928
White & Jankowski, LLP
511 Sixteenth Street, Suite 500
Denver, Colorado 80202
(303) 595-9441
(303) 825-5632 (Fax)
sarahk@white-jankowski.com

Attorneys for the City of Pocatello

Randall C. Budge, ISB #1949
Candice M. McHugh, ISB #5908
Thomas J. Budge, ISB #7465
Racine, Olson, Nye, Budge & Bailey, Chtd.
P.O. Box 1391
Pocatello, Idaho 83204-1391
(208) 232-6101
(208) 232-6109 fax

Attorneys for IGWA

District Court - SRBA Fifth Judicial District In Re: Administrative Appeals County of Twin Falls - State of Idaho	
JUL 26 2010	
By _____	Clerk
_____	Deputy Clerk

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

IDAHO GROUND WATER
APPROPRIATORS, INC.,

Petitioners,

CITY OF POCATELLO,

Petitioners,

TWIN FALLS CANAL COMPANY, NORTH
SIDE CANAL COMPANY, A&B
IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT, and
MINIDOKA IRRIGATION DISTRICT,

Petitioners,

vs.

GARY SPACKMAN, in his capacity as
Interim Director of the Idaho Department of
Water Resources, and THE IDAHO

Case Nos.: CV- 2010-0000383
CV-2010-0000384
CV-2010-0000388

**IGWA AND POCATELLO'S MOTION TO
RENUMBER APPEALS AND TO FILE
APPEALS IN GOODING COUNTY CASE
NO. CV-2008-00551**

DEPARTMENT OF WATER RESOURCES

Respondents,

IN THE MATTER OF DISTRIBUTION OF
WATER TO VARIOUS WATER RIGHTS
HELD BY OR FOR THE BENEFIT OF 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

COMES NOW, the Idaho Ground Water Appropriators (“IGWA”) and the City of Pocatello (“City” or “Pocatello”), by and through undersigned counsel and move the Court to renumber and file the appeals in Gooding County Case Nos. CV-2010-000383, CV-2010-000384, and CV-2010-000388 in Gooding County Case No. CV-2008-000551 (the “551 Case”).

On July 21, 2010, IGWA, Pocatello and the Surface Water Coalition¹ all filed appeals and petitions for judicial review in the 551 Case. However, the Gooding County Clerk assigned new case numbers to those July 21, 2010 petitions. IGWA’s appeal, *IGWA’s Petition for Judicial Review (Second Amended Final Order Re: Methodology dated June 23, 2010)* has been assigned Gooding County Case No. CV-2010-000383; Pocatello’s *Notice of Appeal and Petition for Judicial Review of Agency Action (Final Methodology Order)* has been assigned Gooding County Case No. CV-2010-000388; and the Surface Water Coalition’s *Notice of Appeal and Petition for Judicial Review of Agency Action (Methodology for Determining Material Injury)* was assigned Gooding County Case No. CV-2010-000384. These three appeals are part of the

¹ The Surface Water Coalition is made up of seven irrigation entities: A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company and Twin Falls Canal Company.

ongoing appeal in the 551 Case that has been handled for the past two years by the Honorable John M. Melanson.

The 551 Case involves an appeal of the Director's final order in the Surface Water Coalition's Delivery Call *In the Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of 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*. The Honorable John M. Melanson has held a final decision in the pending appeal in the 551 case in his *Order Staying Decision for Rehearing Pending Issuance of Revised Final Order* issued March 4, 2010 in the 551 Case. In that Order the Court ordered that it would hold in abeyance the pending petitions for rehearing until "the time periods for filing a motion for reconsideration and petition for judicial review of [the Final Methodology Order] have expired." *Id.* at 3. As such, Judge Melanson has not issued a final order on the pending petition for judicial review in the 551 case and is waiting for any other petitions for judicial review to be filed in the 551 case for his consideration before issuing a final order.

In response to the March 4, 2010, Order and the previous remand in the 551 Case, the Director issued the *Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Final Methodology Order") on June 23, 2010.² The IGWA, Pocatello and the Surface Water Coalition have all appealed the *Final Methodology Order* in the 551 Case as part of the ongoing matter that was remanded to IDWR.

² *In the Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of 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*.

Because all parties filed their appeals in Gooding County Case No. CV-2008-000551, there appears to be no dispute among the parties that these appeals and petitions for judicial review should be part of the 551 Case. Because the appeals are all part of the pending 551 Case, IGWA and Pocatello request that Gooding County Case Nos. CV-2010-000383, CV-2010-000388 and CV-2010-000384 be eliminated and that the appeals filed in those cases be renumbered and filed in CV-2008-000551.

Petitioners do not request argument on this Motion.

Dated this 23rd day of July, 2010.

RACINE OLSON NYE BUDGE &
BAILEY, CHTD.

By: 
RANDALL C. BUDGE
CANDICE M. McHUGH
THOMAS J. BUDGE

Attorneys for IGWA

CITY OF POCATELLO ATTORNEY'S
OFFICE

By: 
A. DEAN TRANMER

WHITE & JANKOWSKI, LLP

By: 
SARAH A. KLAHN

Attorneys for the City of Pocatello

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of July, 2010, the above and foregoing document was served in the following manner.

Deputy Clerk Gooding County District Court PO Box 27 Gooding, Idaho 83330	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile 208-934-4408 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail
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Honorable John Melanson (courtesy copy) Court of Appeals PO Box 83720 451 W State St Boise, ID 83720-0101	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile 208-334-2616 <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail
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Deputy Clerk (courtesy copy) SRBA District Court 253 3 rd Avenue N. P.O. Box 2707 Twin Falls, Idaho 83303-2707	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile 208-736-2121 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail
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Tom Arkoosh CAPITOL LAW GROUP, PLLC P.O. Box 2598 Boise, Idaho 83701-2598	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile 208-424-8873 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail tarkoosh@capitolawgroup.net
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Garrick Baxter Chris Bromley Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile 208-287-6700 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail garrick.baxter@idwr.idaho.gov chris.bromley@idwr.idaho.gov
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W. Kent Fletcher
FLETCHER LAW OFFICE
P.O. Box 248
Burley, Idaho 83318-0248

U.S. Mail/Postage Prepaid
 Facsimile 208-878-2548
 Overnight Mail
 Hand Delivery
 E-Mail
wkf@pmt.org

John Simpson
Travis L. Thompson
Barker Rosholt
P.O. Box 2139
Boise, Idaho 83701-2139

U.S. Mail/Postage Prepaid
 Facsimile 208-344-6034
 Overnight Mail
 Hand Delivery
 E-Mail
jks@idahowaters.com
tlt@idahowaters.com

Sarah Klahn
Mitra Pemberton
WHITE JANKOWSKI, LLP
511 16th St., Suite 500
Denver, Colorado 80202

U.S. Mail/Postage Prepaid
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail
sarahk@white-jankowski.com
mitrap@white-jankowski.com

Dean Tranmer
CITY OF POCATELLO
P.O. Box 4169
Pocatello, Idaho 83205

U.S. Mail/Postage Prepaid
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail
dtranmer@pocatello.us

Michael S. Gilmore
Attorney General's Office
P.O. Box 83720
Boise, Idaho 83720-0010

U.S. Mail/Postage Prepaid
 Facsimile
 Overnight Mail
 Hand Delivery
 E-Mail
mike.gilmore@ag.idaho.gov

Jeff Fereday
Mike Creamer
Givens, Pursley
P.O. Box 2720
Boise, Idaho 83701-2720

U.S. Mail/Postage Prepaid
 Facsimile 208-388-1300
 Overnight Mail
 Hand Delivery
 E-Mail
jcf@givenspursley.com
mcc@givenspursley.com

Josephine P. Beeman
Beeman & Associates
409 W. Jefferson
Boise, Idaho 83702

U.S. Mail/Postage Prepaid
 Facsimile 208-331-0954
 Overnight Mail
 Hand Delivery
 E-Mail
jo.beeman@beemanlaw.com

Kathleen Carr
U.S. DEPT. OF INTERIOR
960 Broadway, Suite 400
Boise, Idaho 83706

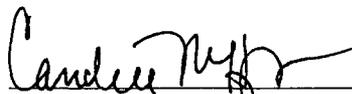
U.S. Mail/Postage Prepaid
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail
kathleenmarioncarr@sol.doi.gov

David W. Gehlert
Natural Resources Section
Environment and Natural Res. Div.
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, Colorado 80294

U.S. Mail/Postage Prepaid
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail
david.gehlert@usdoj.gov

Terry Uhling
JR SIMPLOT CO.
999 Main Street
Boise, Idaho 83702

U.S. Mail/Postage Prepaid
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail
tuhling@simplot.com



CANDICE M. MCHUGH