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*Department of Water Resources*

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**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF THE PETITION FOR )  
ADMINISTRATION BY A&B IRRIGATION )  
DISTRICT, AMERICAN FALLS RESER- ) **STATE AGENCY GROUND**  
VOIR DISTRICT # 2, BURLEY IRRIGATION ) **WATER USERS' QUESTION**  
DISTRICT, MILNER IRRIGATION DIS- ) **FOR STATUS CONFERENCE**  
TRICT, MINIDOKA IRRIGATION DIS- )  
TRICT, NORTH SIDE CANAL COMPANY, )  
AND TWIN FALL CANAL COMPANY )

The State Agency Ground Water Users (the Idaho Department of Juvenile Corrections, the Idaho Department of Health & Welfare, the Idaho Department of Fish & Game, and the Idaho Transportation Department), by and through their counsel of record Michael S. Gilmore, Deputy Attorney General, hereby file these written questions for the status conference of Wednesday, April 27, 2005, pursuant to the Director's Notice of Status Conference dated Friday, April 22, 2005:

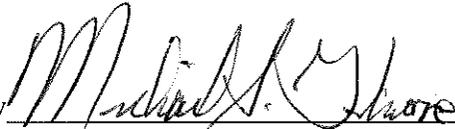
1. Do the Petitioners or does the Director take the position that any of the water rights listed in the State Agency Ground Water Users' Answer are subject to the Director's Order of April 19, 2005, regarding curtailment or mitigation of ground water users?

2. If any of the State Agency Ground Water Users' water rights are subject to the Director's Order of April 19, 2005, regarding curtailment or mitigation of ground water users, do the Petitioners or does the Director take the position that wildlife uses or small industrial uses (e.g., 0.06 cfs) may be curtailed or forced to mitigate when there are or may be domestic or stock watering ground water rights in the area defined for curtailment or mitigation that are junior to that wildlife or industrial use and that are not subject to curtailment or mitigation? If that answer to that question is yes, is the answer consistent with governing constitutional and statutory principles regarding priority of appropriation?

For the convenience of the Director and the Petitioners, the appendix to this filing lists the ground water rights that are subject to this question.

DATED this 25<sup>th</sup> day of April, 2005.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By  \_\_\_\_\_

MICHAEL S. GILMORE  
Deputy Attorney General

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 25<sup>th</sup> day of April, 2005, I caused to be served a true and correct copy of the foregoing by regular U.S. Mail, postage prepaid, to:

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**No. 21-11972. The Idaho Department of Juvenile Corrections, St. Anthony Juvenile Corrections Center, has a beneficial use ground water right for irrigation (No. 21-11972) to 0.9 cfs with a priority date of January 1, 1909, in T 7N R40E Sec 2, for:**  
40 acres in the NWNW  $\frac{1}{4}\frac{1}{4}$  section.

as shown by the IDWR Adjudication Claim Report for Water Right No. 27-11972.

**No. 27-11987. The Idaho Department of Health & Welfare, State Hospital South, has a beneficial use ground water right for irrigation (No. 27-11987) to 0.44 cfs with a priority date of April 1, 1899, in T 3S, R 35E, Sec 2, for:**

3 acres in the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
1.8 acres in the SESW  $\frac{1}{4}\frac{1}{4}$  section,  
1.2 acres in the SWSE  $\frac{1}{4}\frac{1}{4}$  section,  
16 acres in the SWSW  $\frac{1}{4}\frac{1}{4}$  section, and

as shown by the IDWR Adjudication Claim Report for Water Right No. 27-11987.

**No. 27-7084. The Idaho Department of Health & Welfare, State Hospital South, has a licensed ground water right for irrigation (No. 27-7084) to 3.11 cfs with a priority date of May 9, 1977, in T 3S, R 35E, Sec 2, for:**

39 acres in the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
14 acres in the NESW  $\frac{1}{4}\frac{1}{4}$  section,  
36 acres in the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
38 acres in the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the SESE  $\frac{1}{4}\frac{1}{4}$  section,  
34 acres in the SESW  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the SWSE  $\frac{1}{4}\frac{1}{4}$  section, and  
38 acres in the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

as shown by the IDWR Water Right License No. 27-7084 and the IDWR Adjudication Claim Report for Water Right No. 27-7084.

**No. 27-7478. The Idaho Department of Health & Welfare, State Hospital South, has a licensed ground water right for irrigation (No. 27-7478) to 2.2 cfs with a priority date of May 31, 1989, in T 3S, R 35E, Sec 1, for:**

38 acres in the NESW  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the SESW  $\frac{1}{4}\frac{1}{4}$  section, and  
39 acres in the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 3 S, R 35 E, Sec 2, for:

16 acres in the NESW  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
37 acres in the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the SESE  $\frac{1}{4}\frac{1}{4}$  section,  
34 acres in the SESW  $\frac{1}{4}\frac{1}{4}$  section, and  
39 acres in the SWSE  $\frac{1}{4}\frac{1}{4}$  section,

and in T 3 S, R 35 E, Sec 12, for:

12 acres in the NENW  $\frac{1}{4}\frac{1}{4}$  section,

as shown by the IDWR Water Right License No. 27-07478 and the IDWR Adjudication Claim Report for Water Right No. 27-7478.

**No. 31-2316. The Idaho Department of Fish & Game,** has an SRBA decreed ground water right for irrigation and for wildlife (No. 31-2316) to 7.5 cfs with a priority date of February 18, 1953:

(i) Irrigation:

in T 7N, R 34E, Sec 25, for:

3.3 acres in the SENE  $\frac{1}{4}\frac{1}{4}$  section,  
28 acres in lot 1 of the NESE  $\frac{1}{4}\frac{1}{4}$  section, and  
6.6 acres in lot 5 the SESE  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 29, for:

13 acres in the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
4.1 acres in the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
16 acres in the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
5.2 acres in the SENE  $\frac{1}{4}\frac{1}{4}$  section,  
9.9 acres in the SESE  $\frac{1}{4}\frac{1}{4}$  section,  
32 acres in the SESW  $\frac{1}{4}\frac{1}{4}$  section,  
35 acres in the SWSE  $\frac{1}{4}\frac{1}{4}$  section, and  
40 acres in the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 30, for:

40 acres in the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
29 acres in the NESW  $\frac{1}{4}\frac{1}{4}$  section,  
39 acres in the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
21 acres in lot 3 of the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
18 acres the SENE  $\frac{1}{4}\frac{1}{4}$  section,

40 acres in the SESE  $\frac{1}{4}\frac{1}{4}$  section,  
23 acres in the SESW  $\frac{1}{4}\frac{1}{4}$  section,  
0.2 acres in lot 2 of the SWNW  $\frac{1}{4}\frac{1}{4}$  section,  
7.9 acres in the SWNE  $\frac{1}{4}\frac{1}{4}$  section,  
40 acres in the SWSE  $\frac{1}{4}\frac{1}{4}$  section, and  
9.8 acres in lot 4 of the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 31, for:

2.7 acres in lot 1 of the NENE  $\frac{1}{4}\frac{1}{4}$  section, and  
2 acres in lot 2 of the NWNE  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 32, for:

4.5 acres in lot 3 of the NENW  $\frac{1}{4}\frac{1}{4}$  section,  
0.6 acres in lot 2 of the NWNE  $\frac{1}{4}\frac{1}{4}$  section, and  
14 acres in lot 4 of the NWNW  $\frac{1}{4}\frac{1}{4}$  section, and

(ii) Wildlife:

in T 7N, R 34E, Sec 25, for:

lot 1 of the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
lot 2 of the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
the SENE  $\frac{1}{4}\frac{1}{4}$  section,  
lot 5 of the SESE  $\frac{1}{4}\frac{1}{4}$  section, and  
the SWNE  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 34E, Sec 20, for:

the SESE  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 34E, Sec 28, for:

the NESW  $\frac{1}{4}\frac{1}{4}$  section,  
the NWNW  $\frac{1}{4}\frac{1}{4}$  section,  
the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
the SWNW  $\frac{1}{4}\frac{1}{4}$  section,  
the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 29, for:

the NENE  $\frac{1}{4}\frac{1}{4}$  section,  
the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
the SENE  $\frac{1}{4}\frac{1}{4}$  section,  
the SESE  $\frac{1}{4}\frac{1}{4}$  section,

the SESW  $\frac{1}{4}\frac{1}{4}$  section,  
the SWNW  $\frac{1}{4}\frac{1}{4}$  section,  
the SWSE  $\frac{1}{4}\frac{1}{4}$  section, and  
the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 30, for:

the NESE  $\frac{1}{4}\frac{1}{4}$  section,  
the NESW  $\frac{1}{4}\frac{1}{4}$  section,  
the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
lot 3 of the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
the SESE  $\frac{1}{4}\frac{1}{4}$  section,  
the SESW  $\frac{1}{4}\frac{1}{4}$  section,  
lot 2 of the SWNW  $\frac{1}{4}\frac{1}{4}$  section,  
the SWNE  $\frac{1}{4}\frac{1}{4}$  section,  
the SWSE  $\frac{1}{4}\frac{1}{4}$  section, and  
lot 4 of the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 31, for:

lot 1 of the NENE  $\frac{1}{4}\frac{1}{4}$  section, and  
lot 2 of the NWNE  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 32, for:

lot 3 of the NENW  $\frac{1}{4}\frac{1}{4}$  section,  
lot 2 of the NWNE  $\frac{1}{4}\frac{1}{4}$  section, and  
lot 4 of the NWNW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 35E, Sec 33, for:

the NWNW  $\frac{1}{4}\frac{1}{4}$  section,

as partially decreed by the SRBA court for Water Right No. 31-02316 on February 22, 2002.

**No. 31-2448B. The Idaho Department of Fish & Game**, has a licensed ground water right for irrigation and for wildlife (No. 31-2448B) to 0.2 cfs for irrigation and 6 cfs for wildlife (with a total diversion of 6.0 cfs) with a priority date of January 3, 1949:

(i) Irrigation:

in T 7N, R 35E, Sec 25, for:

10 acres in the NESE  $\frac{1}{4}\frac{1}{4}$  section, and

(ii) Wildlife:

in T 7N, R 34E, Sec 21, for:

the NWSE  $\frac{1}{4}\frac{1}{4}$  section,  
the NWSW  $\frac{1}{4}\frac{1}{4}$  section,  
the SESW  $\frac{1}{4}\frac{1}{4}$  section, and  
the SWSW  $\frac{1}{4}\frac{1}{4}$  section,

and in T 7N, R 34E, Sec 28, for:

the NENW  $\frac{1}{4}\frac{1}{4}$  section,  
the NWNW  $\frac{1}{4}\frac{1}{4}$  section,  
the SENW  $\frac{1}{4}\frac{1}{4}$  section, and  
the SWNW  $\frac{1}{4}\frac{1}{4}$  section,

as shown by the IDWR Adjudication Claim Report for Water Right No. 31-2448B.

**No. 31-7372. The Idaho Transportation Department,** Division of Highways, has an SRBA decreed ground water right for industrial use (No. 31-7372) to 0.05 cfs with a priority of January 1, 1982, in T 6N, R 34E, Sec 18 for:

Industrial use for the Mud Lake Maintenance Shed

as partially decreed by the SRBA Court for Water Right No. 31-07372 on February 22, 2002.