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 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 (Water Districts No. 120 and No. 130)	)	**ORDER STAYING PROCEEDINGS AND AMENDED SCHEDULING ORDER**

This matter is before the Director of the Department of Water Resources ("Director" or "Department") as a result of a joint *Stipulated Motion for Entrance of Protective Order* ("Stipulated Motion") filed on January 25, 2006, by the Surface Water Coalition, Idaho Ground Water Appropriators, Inc. ("IGWA"), and City of Pocatello ("Pocatello"). The "proposed Protective Order" accompanying the Stipulated Motion seeks a stay in the proceedings "for a period of sixty (60) days from the date of this Order for purposes of allowing the parties to investigate settlement." The following parties did not sign the Stipulated Motion: State Agency Ground Water Users, Idaho Dairymen's Association, and United States Bureau of Reclamation. On January 23, 2006, the Surface Water Coalition filed a separate *Motion for Stay* ("Motion for Stay") seeking to stay the hearing scheduled for March 6, 2006.

On February 3, 2006, the Director conducted a status conference with the parties pursuant to a Notice issued on February 1, 2006, to ascertain whether any party objected to entry of the requested stay or protective order in this proceeding. All parties were represented at the status conference with the exception of the Idaho Dairymen's Association. No party objected to entry of the stay or protective order. In addition, the Director inquired as to whether it was the intention of the parties that the stay apply to the deadline of March 15, 2006, for IGWA to provide an amount of replacement water to the Twin Falls Canal Company as set forth in the *Second Supplemental Order Amending Replacement Water Requirements* issued by the Director on December 27, 2005. The parties agreed that the stay should apply to IGWA's replacement water requirement.

On January 24, 2006, *IGWA and Pocatello's Motion To Compel Production of Documents* ("Motion to Compel") was filed with the Department. The Motion to Compel sought the production of certain materials considered by the Surface Water Coalition's experts. The parties at the status conference agreed on how the materials sought would be delivered to IGWA and Pocatello. Following the status conference, IGWA informed the Director by letter that the information it requested from the Surface Water Coalition has been received and verified by their

expert as the information sought by IGWA. The City of Pocatello informed the Director in two separate letters that although some of the information it requested from the Surface Water Coalition has been received, not all of the requested information has been provided.

ORDER

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

1. In accordance with the January 25, 2006, *Stipulated Motion for Entrance of Protective Order*, filed jointly by the Surface Water Coalition, Idaho Ground Water Appropriators, Inc., and City of Pocatello, and as agreed to by the State Agency Ground Water Users, United States Bureau of Reclamation, and the Idaho Dairymen's Association by failure to participate in the status conference of February 3, 2006, all further scheduled filing dates in this proceeding shall be stayed for a period of sixty (60) days from the date of this Order for the purpose of allowing the parties to investigate settlement. The Surface Water Coalition's *Motion for Stay* of January 23, 2006, shall be deemed subsumed by the more recent and more specific *Stipulated Motion for Entrance of Protective Order*.

2. The order staying the proceeding for sixty (60) days shall apply to the obligation of the Idaho Ground Water Appropriators, Inc. to provide an amount of replacement water to the Twin Falls Canal Company as set forth in the *Second Supplemental Order Amending Replacement Water Requirements* issued by the Director on December 27, 2005.

3. In accordance with the confirmation received from the Idaho Ground Water Appropriators, Inc., the Surface Water Coalition has satisfactorily provided the information sought by IGWA in *IGWA and Pocatello's Motion To Compel Production of Documents*, filed on January 24, 2006. Further action on the Motion to Compel, as may be necessary to address the outstanding information requests of the City of Pocatello, is not stayed by this Order.

4. Once the sixty (60)-day stay has expired, the parties shall be allowed an additional twenty-one (21) days to meet applicable due dates previously established by order of the Department, if not inconsistent with the Amended Schedule set forth below. The dates established in this Order shall supersede any and all previously established conflicting dates. The remaining hearing schedule dates, as summarized below, are advanced to accommodate the stay.

   a. April 28, 2006: deadline for responses to all dispositive motions, which includes any responses to the Surface Water Coalition's January 23, 2006, *Motion for Partial Summary Judgment and Supporting Legal Points and Authorities*, and the Surface Water Coalition's January 23, 2006, *Motion in Limine to Exclude the Expert Report of John Church*.

   b. May 5, 2006: deadline for replies to all dispositive motions.

c. May 12, 2006: parties identify exhibits, data, scientific information, and all documents that may be used at hearing.

d. May 12, 2006: parties may submit proposed orders to govern procedures at the hearing.

e. May 16, 2006: prehearing conference at 9:00 a.m. at the Idaho Department of Water Resources.

f. May 22, 2006: parties submit written opening arguments, and, if desired, trial brief.

g. May 31, 2006: hearing commences at 9:00 a.m. at the Idaho Department of Water Resources.

5. The Department will issue a separate order addressing the motion for a protective order, as requested in the *Stipulated Motion for Entrance of Protective Order*.

DATED this 10th day of February 2006.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of February 2006, the above and foregoing, was served by the method indicated below, and addressed to the following:

TOM C. ARKOOSH ARKOOSH LAW OFFICES PO BOX 32 GOODING ID 83330 (208) 934-8873 alo@cableone.net	(x) U.S Mail, Postage Prepaid ( ) Facsimile (x) E-mail
W. KENT FLETCHER FLETCHER LAW OFFICE PO BOX 248 BURLEY ID 83318-0248 (208) 878-2548 wkf@pmt.org	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
ROGER D. LING LING ROBINSON PO BOX 396 RUPERT ID 83350-0396 (208) 436-6804 rdl@idlawfirm.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
JOHN A. ROSHOLT TRAVIS L. THOMPSON BARKER ROSHOLT 113 MAIN AVENUE WEST, SUITE 303 TWIN FALLS ID 83301-6167 (208) 735-2444 jar@idahowaters.com tlt@idahowaters.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
JOHN K. SIMPSON BARKER ROSHOLT PO BOX 2139 BOISE ID 83701-2139 (208) 344-6034 jks@idahowaters.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail

JEFFREY C. FEREDAY MICHAEL C. CREAMER GIVENS PURSLEY PO BOX 2720 BOISE ID 83701-2720 (208) 388-1200 cf@givenspursley.com mcc@givenspursley.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
SCOTT L. CAMPBELL MOFFATT THOMAS PO BOX 829 BOISE ID 83701 (208) 385-5384 slc@moffatt.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
KATHLEEN M. CARR OFFICE OF THE SOLICITOR 960 BROADWAY, SUITE 400 BOISE ID 83706 (208) 334-1378	(x) U.S. Mail, Postage Prepaid (x) Facsimile
MATT HOWARD PN-3130 US BUREAU OF RECLAMATION PACIFIC NORTHWEST REGION 1150 NORTH CURTIS ROAD BOISE ID 83706-1234 (208) 378-5003 mhoward@pn.usbr.gov	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
JOSEPHINE P. BEEMAN BEEMAN & ASSOCIATES 409 WEST JEFFERSON STREET BOISE ID 83702 (208) 331-0954 jo.beeman@beemanlaw.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
SARAH A. KLAHN WHITE & JANKOWSKI 511 16TH STREET, SUITE 500 DENVER CO 80202 sarahk@white-jankowski.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail

MICHAEL S. GILMORE
ATTORNEY GENERAL'S OFFICE
PO BOX 83720
BOISE ID 83720-0010
(208) 334-2830
mike.gilmore@ag.idaho.gov

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

TERRY T. UHLING
J.R. SIMPLOT COMPANY
999 MAIN STREET
BOISE ID 83702
(208) 336-2110
tuhling@simplot.com

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

JAMES C. TUCKER
IDAHO POWER COMPANY
1221 WEST IDAHO STREET
BOISE ID 83702
(208) 388-2112
jamestucker@idahopower.com

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

JAMES S. LOCHHEAD
BROWNSTEIN HYATT & FARBER
410 17TH STREET, 22ND FLOOR
DENVER CO 80202
(303) 223-1100
jlochhead@bhf-law.com

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

RON CARLSON
LEWIS ROUNDS
IDWR
900 NORTH SKYLINE DRIVE
IDAHO FALLS ID 83402-6105
(208) 525-7177
ron.carlson@idwr.idaho.gov
lewis.rounds@idwr.idaho.gov

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

ALLEN MERRITT
CINDY YENTER
IDWR
1341 FILLMORE STREET, SUITE 200
TWIN FALLS ID 83301-3033
(208) 736-3037
allen.merritt@idwr.idaho.gov
cindy.yenter@idwr.idaho.gov

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources