

TO: THE ABOVE NAMED RESPONDENTS, DIRECTOR GARY SPACKMAN AND THE IDAHO DEPARTMENT OF WATER RESOURCES, AND THE PARTIES' COUNSEL OF RECORD IDENTIFIED ON THE CERTIFICATE OF SERVICE; AND THE CLERK OF THE ABOVE ENTITLED DISTRICT COURT

NOTICE IS HEREBY GIVEN THAT:

1. The above named Appellant, A&B IRRIGATION DISTRICT ("Appellant") appeals against the above named respondents to the Idaho Supreme Court from the district court's *Memorandum Decision on Petition for Judicial Review*, entered in the above entitled action on April 25, 2013, the Honorable Eric J. Wildman presiding. Judge Wildman entered a Rule 54(a) final judgment on April 25, 2013.
2. The above named Appellant has a right to appeal to the Idaho Supreme Court, and the order described in paragraph 1 is an appealable order pursuant to Rule 11(a)(1), I.A.R.
3. The Appellant's preliminary statement of issues it intends to assert on appeal, which under I.A.R. 17 does not prevent the Appellant from asserting other issues, is as follows:
 - a. Whether the District Court erred in dismissing A&B's petition for judicial review of the Director's April 27, 2011 *Final Order on Remand Regarding A&B Irrigation District Delivery Call*?
 - b. Whether the District Court erred in application of the exception to the mootness doctrine?
 - c. Whether the District Court erred in stating A&B waived the issue of the Director's failure to apply the CM Rules in the evaluation of whether junior ground water right holders were "wasting" water?
 - d. Whether the District Court erred in stating A&B attempted to improperly appeal the Director's material injury analysis?
 - e. Whether the District Court erred in concluding I.C. § 42-226 allows for a consideration of "alternative means of diversion" not related to a reasonable groundwater pumping level?
4. No order has been entered sealing any portion of the record.

5. Is a reporter's transcript requested? **NO**

6. The Appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.:

Final Order on Remand Regarding A&B Irrigation District Delivery Call (April 27, 2011)

Supreme Court Opinion (No. 39196-2011, Sept. 14, 2012)

Remittitur (Oct. 12, 2012)

IDWR Motion to Remand Proceeding to IDWR (Oct. 29, 2012)

A&B Irrigation District's Second Amended Notice of Appeal and Petition for Judicial Review of Agency Action (Oct. 30, 2012)

A&B Irrigation District's Motion to Strike Affidavits of Chris M. Bromley / Supporting Points & Authorities (Oct. 30, 2012)

A&B Irrigation District's Opposition to Motion to Remand Proceeding to IDWR (Nov. 9, 2012)

Affidavit of Travis L. Thompson in Support of A&B Irrigation District's Opposition to Motion to Remand Proceeding to IDWR (Nov. 9, 2012)

Order Granting Motion to Strike (Nov. 16, 2012)

Order Denying Motion to Remand (Nov. 16, 2012)

Notice of Lodging Agency Transcripts and Record with District Court (Dec. 10, 2012)

Petitioner A&B Irrigation District's Opening Brief (Jan. 18, 2013)

Final Agency Transcripts, Record, and Exhibits (Feb. 15, 2013)

Order Granting Stipulated Motion to Augment the Record (Feb. 19, 2013)

Petitioner A&B Irrigation District's Reply Brief (Mar. 8, 2013)

7. I certify:

a. That the estimated fee for preparation of the clerk's record has been paid.

b. That the appellant filing fee has been paid.

c. That service has been made upon all parties to be served pursuant to Rule 20.

DATED this 4th day of June, 2013.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Attorneys for Petitioner A&B Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of June, 2013, I served true and correct copies of the *Notice of Appeal* upon the following by the method indicated:

SRBA District Court
253 3rd Ave. North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

Garrick Baxter
Chris Bromley
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
garrick.baxter@idwr.idaho.gov
chris.bromley@idwr.idaho.gov

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

<p>Jerry R. Rigby Rigby Andrus & Rigby Chtd. 25 N 2nd East Rexburg, Idaho 83440 jrigby@rex-law.com</p>	<p>Randall C. Budge Candice M. McHugh Racine Olson P.O. Box 1391 201 E. Center Street Pocatello, Idaho 83204-1391 rcb@racinelaw.net cmm@racinelaw.net</p>	<p>Sarah A. Klahn Mitra Pemberton White & Jankowski LLP 511 Sixteenth Street, Suite 500 Denver, Colorado 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com</p>
<p>A. Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, Idaho 83201 dtranmer@pocatello.us</p>		


 Travis L. Thompson