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

AMERICAN FALLS RESERVOIR
DISTRICT #2,

Petitioners,

vs.

GARY SPACKMAN, in his capacity as
Director of the Idaho Department of Water
Resources, and THE IDAHO DEPARTMENT
OF WATER RESOURCES,

Respondents,

CASE NO. CV-2013-155

**JOINT RESPONSE TO SURFACE
WATER COALITION'S MOTION TO
CONSOLIDATE**

IDAHO GROUND WATER
APPROPRIATORS, INC.

Respondent/Intervenor.

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

COME NOW the Idaho Department of Water Resources, the City of Pocatello, and the Idaho Ground Water Appropriators, Inc. (collectively referred to as “Respondents”), by and through their counsel of record, and hereby submit this *Joint Response to Surface Water Coalition’s Motion to Consolidate/Motion to Expedite* in the above-captioned proceeding.

On October 30, 2013, the Surface Water Coalition (“SWC”)¹ filed with this Court its *Motion to Consolidate/Motion to Expedite*, requesting that this proceeding be consolidated into *Idaho Ground Water Appropriators, Inc., et al. vs. Spackman, et al.*, consolidated case no. CV-2010-382 (“CV-2010-382”). Respondents support the SWC’s request to consolidate this proceeding with CV-2010-382. The key issues involved in this proceeding overlap with the issues in CV-2010-382. Because of this, consolidation makes sense from a judicial economy standpoint. The Respondents believe the Court can consolidate the cases without a hearing on the motion as there is no opposition to the request. That said, however, the Court should not mistake the Respondents support for consolidation as suggesting that the Respondents now

¹ A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, Twin Falls Canal Company, American Falls Reservoir District #2 and Minidoka Irrigation District

support lifting of the stay in this case and in CV-2010-382. The Respondents continue to oppose lifting the stay. Taking up the appeals in advance of the Idaho Supreme Court's decision in the SWC delivery call case would waste judicial resources and potentially result in conflicting orders much like what happened in the recent A&B appeal in Case No. 2011-512. The Respondents believe that this case should be consolidated, but the stay should remain in place until a decision is issued by the Idaho Supreme Court.

DATED this 1st day of November, 2013.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
CHIEF, NATURAL RESOURCES DIVISION



GARRICK L. BAXTER
Deputy Attorney General

DATED this 1st day of November, 2013.

WHITE & JANKOWSKI, LLP

By 

FOR Sarah A. Klahn
Attorneys for City of Pocatello

DATED this 1ST day of November, 2013.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By 
For Thomas J. Budge
Attorneys for Idaho Ground Water
Appropriators, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1ST day of November, 2013, I caused to be served a true and correct copy of the foregoing document upon the following by the method(s) indicated:

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