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DEPARTMENT OF
WATER RESOURCES

Jeffrey C. Fereday (Idaho State Bar # 2719)
Michael C. Creamer (Idaho State Bar # 4030)
John M. Marshall (Idaho State Bar # 5628)
Brad V. Sneed (Idaho State Bar # 6254)
GIVENS PURSLEY LLP
601 Bannock Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720
Telephone: (208) 388-1200
Facsimile: (208) 388-1300

Attorneys for Idaho Ground Water Appropriators, Inc.

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

IN THE MATTER OF THE 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

**IGWA'S RESPONSE TO POCATELLO'S
MOTION FOR STAY**

Idaho Ground Water Appropriators, Inc. ("IGWA"), on behalf of its members, hereby responds to the June 9, 2006 Motion for Stay filed by the City of Pocatello ("Pocatello") in this matter. IGWA agrees with Pocatello that deadlines should be suspended for a period of time to allow the Department and the parties to determine whether the hearing date will be vacated pending any final resolution of Judge Wood's order in *American Falls Res. Dist. No. 2 et al. v. Idaho Department of Water Resources*, Case No. CV- 2005-600 (Dist. Ct., Fifth Jud. Dist.) (the

“Gooding County Order”). However, IGWA wants to make clear its position that, under the circumstances, the Director should impose a stay of all current proceedings, including all scheduled depositions, until such time when these matters reasonably can be restarted. IGWA makes this point only because it is unclear whether Pocatello’s motion seeks such an immediate stay of proceedings or simply an extension of deadlines.

This question of a stay is squarely presented by circumstances now. Petitioner Surface Water Coalition (“SWC”) has noticed the deposition of Dr. Charles Brendecke, one of IGWA’s experts for this week, June 15 and 16, 2006. The parties also have agreed on dates for depositions of other experts that have not yet been noticed. Because it now is highly uncertain whether the remaining discovery, including depositions of other parties’ experts, will occur, it is appropriate that the Director immediately stay all proceedings in this matter, including the scheduled depositions, at least for a period of time to allow the Department and the parties to analyze the effect and likely appeal of the Gooding County Order, and to determine whether a hearing is feasible until that matter has been finally decided. There is potential prejudice to IGWA’s members if a stay halting proceedings is not imposed. This is because it is quite likely, under the current deposition notices, that IGWA could be required to make its experts available for deposition in the near term, only to have proceedings suspended or stayed before IGWA has the opportunity to depose the other parties’ experts.

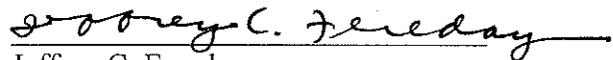
Furthermore, if the hearing is delayed to any significant extent, conducting expert depositions now likely will result in testimony that is stale, or at least will need updating, whenever the hearing is rescheduled. This would be a waste of money for both sides.

Accordingly, IGWA supports Pocatello's Motion for Stay, and also specifically requests that the Director enter an order staying all proceedings, including discovery and current notices of deposition, until the Director determines that the hearing in this matter can go forward.

Counsel for IGWA has attempted to confer with other parties regarding the stay proposed herein, but understand they have been in meetings and were unable to confirm their position as of the time of this filing.

Respectfully submitted this 12th day of June, 2006.

GIVENS PURSLEY, LLP



Jeffrey C. Fereday

Michael C. Creamer

John M. Marshall

Brad V. Sneed

*Attorneys for Idaho Ground Water
Appropriators, Inc.*

CERTIFICATE OF SERVICE

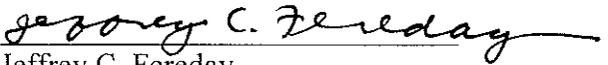
I hereby certify that on this 12th day of June, 2006, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

Mr. Karl J. Dreher, Director	<input type="checkbox"/>	U.S. Mail
Idaho Department of Water Resources	<input type="checkbox"/>	Facsimile
322 East Front Street	<input type="checkbox"/>	Overnight Mail
P.O. Box 83720	<input checked="" type="checkbox"/>	Hand Delivery
Boise, ID 83720-0098	<input type="checkbox"/>	E-mail
C. Tom Arkoosh, Esq.	<input checked="" type="checkbox"/>	U.S. Mail
Arkoosh Law Offices, Chtd.	<input type="checkbox"/>	Facsimile
301 Main Street	<input type="checkbox"/>	Overnight Mail
P.O. Box 32	<input type="checkbox"/>	Hand Delivery
Gooding, ID 83330	<input checked="" type="checkbox"/>	E-mail
W. Kent Fletcher, Esq.	<input checked="" type="checkbox"/>	U.S. Mail
Fletcher Law Office	<input type="checkbox"/>	Facsimile
P.O. Box 248	<input type="checkbox"/>	Overnight Mail
Burley, ID 83318-0248	<input type="checkbox"/>	Hand Delivery
	<input checked="" type="checkbox"/>	E-mail
Roger D. Ling, Esq.	<input checked="" type="checkbox"/>	U.S. Mail
Ling, Robinson & Walker	<input type="checkbox"/>	Facsimile
615 H St.	<input type="checkbox"/>	Overnight Mail
P.O. Box 396	<input type="checkbox"/>	Hand Delivery
Rupert, ID 83350-0396	<input checked="" type="checkbox"/>	E-mail
John A. Rosholt, Esq.	<input checked="" type="checkbox"/>	U.S. Mail
John K. Simpson, Esq.	<input type="checkbox"/>	Facsimile
Travis L. Thompson, Esq.	<input type="checkbox"/>	Overnight Mail
Barker, Rosholt & Simpson	<input type="checkbox"/>	Hand Delivery
113 Main Avenue West, Ste. 303	<input checked="" type="checkbox"/>	E-mail
Twin Falls, ID 83301-6167		
Kathleen Marion Carr, Esq.	<input checked="" type="checkbox"/>	U.S. Mail
Office of the Field Solicitor	<input type="checkbox"/>	Facsimile
U.S. Department of the Interior	<input type="checkbox"/>	Overnight Mail
960 Broadway Avenue, Suite 400	<input type="checkbox"/>	Hand Delivery
Boise, ID 83706	<input checked="" type="checkbox"/>	E-mail

Matt J. Howard, Esq. U.S. Bureau of Reclamation Pacific Northwest Region 1150 N. Curtis Road Boise, ID 83706-1234	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Scott L. Campbell, Esq. Moffatt Thomas Barrett Rock & Fields, Chtd. 101 S. Capitol Blvd., 10th Floor P.O. Box 829 Boise, ID 83701-0829	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Michael S. Gilmore, Esq. Deputy Attorney General Civil Litigation Division Office of the Attorney General P.O. Box 83720 Boise, ID 83720-0010	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Josephine P. Beeman, Esq. Beeman & Associates PC 409 West Jefferson Boise, ID 83702-6049	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Sarah A. Klahn, Esq. William A. Hillhouse, Esq. Amy W. Beatie, Esq. White & Jankowski, LLP 511 16th Street, Suite 500 Denver, CO 80202	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> E-mail
Terry T. Uhling, Esq. J.R. Simplot Company 999 Main Street P.O. Box 27 Boise, ID 83707	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Mr. Ryan Madsen Idaho Department of Water Resources Eastern Regional Office 900 North Skyline Dr. Idaho Falls, ID 83402-6105	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-mail

Mr. Allen Merritt
Ms. Cindy Yenter
Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3033

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail



Jeffrey C. Fereday
Michael C. Creamer
John M. Marshall
Bradley V. Sneed