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May 7, 2009

VIA U.S. MAIL & EMAIL

Director David R. Tuthill, Jr.
Idaho Dept. of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Request for Technical Meeting

Dear Director Tuthill:

As a follow-up to the May 4, 2009 meeting at which you and IDWR staff described the *Draft Protocol for Determining Reasonable In-Season Demand and Reasonable Carryover* ("*Draft Protocol*"), the Surface Water Coalition would hereby request a technical meeting for further clarification with an opportunity for questions.¹

We have discussed the *Draft Protocol* with our consultants Chuck Brockway, Dave Shaw, and John Koreny (only Dr. Brockway was able to listen in on the May 4th teleconference). In the interests of time and in order to submit meaningful comments by the June 5, 2009, our consultants would like to hold a technical meeting with your staff and the experts of the other parties, if they desire to participate, to better understand the information and calculations used to develop the *Draft Protocol*. Although a process was identified to use a written question and response format, our consultants have advised us that an in-person meeting with staff would be much more effective, useful and efficient. We would ask that the consultants be given the option of participation in person or by teleconference (and we would request that it be recorded the same as the May 4th meeting).

¹ This letter is written without waiving any issue raised on judicial review by the entities comprising the Surface Water Coalition (SWC), and without waiving any objection the SWC has to the current procedures being utilized by IDWR in the SWC call proceeding. Since you have elected to change the methodology and protocol previously used in the SWC call, even though the matter is being reviewed by the Gooding County District Court (*A&B Irr. Dist. et al. v. Tuthill et al.* Case No. 08-551), and are now commencing a process that you have indicated will lead to another final order, the SWC is responding to your invitation for input into the process. The Coalition reserves all rights and defenses with respect to its continuing objection to this process.

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Such a meeting would assist in the parties' and our consultants' understanding of the *Draft Protocol* and would allow for focused questions or comments to be submitted by June 5th. It is our position that such a meeting would save tremendous time and resources, not only on our part, but on the part of IDWR staff as well.

Our consultants are all available on either Wednesday May 13th or Friday May 15th. We would request the meeting to be held on either one of those days at IDWR's State Office. Furthermore, to the extent the information has not already been made available, could you please have staff post the associated spreadsheets and files used to develop the calculations in the presentations and documentation supporting the *Draft Protocol* as soon as possible.

Thank you for your expedited consideration of this request, please let me know if you have any questions.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

cc: Tom Arkoosh
Kent Fletcher
Randy Budge
Sarah Klahn
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Matt Howard