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**DISTRICT COURT OF THE STATE OF IDAHO  
FOURTH JUDICIAL DISTRICT  
ADA COUNTY**

IDAHO GROUND WATER APPROPRIATORS,  
INC., BONNEVILLE-JEFFERSON GROUND  
WATER DISTRICT, and BINGHAM GROUND  
WATER DISTRICT,

Petitioners,

vs.

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

Respondents.

Case No. CV01-23-08187

**Declaration of Thomas J. Budge  
in Support of Ground Water Districts' Brief  
in Opposition to Department's Motion for  
Attorney Fees and Intervenor's Motion for  
Attorney Fees**

IN THE MATTER OF THE DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS  
HELD BY AND 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


I, Thomas J. Budge, declare the following:

1. I am an attorney representing Idaho Ground Water Appropriators, Inc. (“IGWA”) in the above-captioned matter.
2. The above-captioned matter is a petition for judicial review of an order in contested case, IDWR Docket No. CM-DC-2010-001, of the Idaho Department of Water Resources (“Department”), presided over by the Director of the Department (“Director”).
3. Attached hereto as Exhibit A are excerpts from an audio transcription of Recorded Pre-Hearing Conference held by the Director on April 28, 2023.

I declare under the penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.


DATED this 29<sup>th</sup> day of June, 2023.

RACINE OLSON, PLLP

By:   
Thomas J. Budge  
*Attorneys for IGWA*

## CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of June, 2023, I served the foregoing document on the persons below via email or as otherwise indicated:

  
Thomas J. Budge

Clerk of the Court Ada County District Court	iCourt
Director Gary Spackman Garrick Baxter Sarah Tschohl Idaho Department of Water Resources 322 E Front St. Boise, ID 83720-0098	<a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a> <a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a> <a href="mailto:sarah.tschohl@idwr.idaho.gov">sarah.tschohl@idwr.idaho.gov</a> <a href="mailto:file@idwr.idaho.gov">file@idwr.idaho.gov</a>
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# EXHIBIT A



BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER)	Docket No.
TO VARIOUS WATER RIGHTS HELD BY OR FOR)	CM-DC-2010-001
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 )	
_____ )	

TRANSCRIPT OF RECORDED PRE-HEARING CONFERENCE  
APRIL 28, 2023

TRANSCRIBED BY:  
JEFF LAMAR, C.S.R. No. 640  
Notary Public

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APPEARANCES:

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OFFICE OF ATTORNEY GENERAL

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Mat Weaver  
Kara Ferguson  
Matt Anders  
Alan Jackson  
Don Terry  
Jay Barlogi  
Paul Arrington  
Dave Colvin

1 (Beginning of audio file.)

2 DIRECTOR SPACKMAN: This is Gary Spackman. I'm  
3 the Director of the Idaho Department of Water  
4 Resources.

5 This is the time and place scheduled for a  
6 pre-hearing conference regarding a hearing that has  
7 been calendared for June 6th through 10th, 2023. And  
8 the hearing was scheduled on my initiative. And the  
9 purpose of the hearing is to present and receive  
10 evidence regarding two orders I issued on April 21st,  
11 2023.

12 And I will just refer to these. Well, let  
13 me give the titles. One is what we refer to as a  
14 Methodology Order or maybe in a longer version the  
15 Fifth Amended Methodology Order, but its full title is  
16 "Fifth Amended Final Order Regarding Methodology for  
17 Determining Material Injury to Reasonable In-Season  
18 Demand and Reasonable Carryover."

19 And the other order that was issued was  
20 what we refer to as an As-Applied Order. And the title  
21 of that particular document is "Final Order Regarding  
22 April 2023 Forecast Supply (Methodology Step -- Steps 1  
23 through 3)."

24 And so I think the first thing I need to do  
25 is probably call roll and determine who's participating

1 particular Methodology Order -- so if within that  
2 period of time the parties can find dates that are  
3 acceptable to them for a hearing, I'm willing to  
4 consider it. But that's the narrow window of time that  
5 I'm willing to work within.

6 Now, let me go back to the arguments that  
7 were presented regarding preparation and familiarity  
8 with the information that's contained in the Fifth  
9 Methodology Order.

10 The Department of Water Resources notified  
11 all of the parties last fall that we would be reviewing  
12 the information and presenting that. All of the  
13 parties' expert witnesses were invited to attend, and  
14 there were multiple presentations of that evidence, and  
15 also some conclusions drawn by technical staff about  
16 what -- what information would be reviewed in the  
17 Methodology Order. There were also statements along  
18 the way, and I made them personally, that I intended to  
19 issue and amend the Methodology Order.

20 And so all of that information has been  
21 presented, and the data, to the parties previously.  
22 And the argument that there needs to be significant  
23 additional time for preparation I think -- well, for  
24 me, falls on unsympathetic ears.

25 And I have a responsibility to administer

1 water rights and to ensure that the senior water right  
2 holders are made whole. And I intend to do that.

3 I also have an obligation, based on the  
4 Court's orders, to not only predict what the water  
5 supply will be, but to issue an order or to review that  
6 information midseason, as well as at the time of need  
7 to determine whether the seniors are receiving the  
8 water that they're entitled to.

9 So I intend to hold a hearing the first  
10 three weeks of June. If you can agree on a time, I  
11 have some flexibility during that period of time. But  
12 by the fourth week of June, I want to have completed  
13 the hearing itself and have time to issue a decision.

14 And if the parties disagree with that  
15 timing, if they think that I'm not affording them due  
16 process, then I think there is an alternative route, if  
17 the parties want to go there, to seek a stay from the  
18 courts and establish in front of the Court that I'm not  
19 affording the parties due process.

20 All right.

21 MR. BUDGE: Mr. Director.

22 MR. THOMPSON: I just have a comment, if I  
23 might.

24 DIRECTOR SPACKMAN: Yeah. Well, Travis  
25 Thompson.

1           DIRECTOR SPACKMAN: Because it's in front of me,  
2 but I still have to review the information and make a  
3 determination of whether there was a breach or not.

4           MR. THOMPSON: Yes.

5           DIRECTOR SPACKMAN: Yeah. Okay. All right.

6                   Other matters?

7                   All right. Let's conclude this -- the  
8 formal pre-hearing conference.

9                   (End of audio file.)

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Audio Transcription

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REPORTER'S CERTIFICATE

I, JEFF LaMAR, CSR No. 640, Certified Shorthand Reporter, certify:

That the audio recording of the proceedings was transcribed by me or under my direction.

That the foregoing is a true and correct transcription of all testimony given, to the best of my ability.

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 3rd day of May, 2023.



---

JEFF LaMAR, CSR NO. 640  
Notary Public  
Post Office Box 2636  
Boise, Idaho 83701-2636

My commission expires December 30, 2023