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DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Case No. 39576

Subcase Nos. 00-92002GP, 02-00200,
02-00201, 02-00223 and 02-00224

**GROUND WATER DISTRICTS'
JOINDER IN THE STATE OF IDAHO'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT RE: MILNER ZERO
MINIMUM FLOW**

Idaho Ground Water Appropriators, Inc., Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground Water District, Fremont-Madison Ground Water District, and Clark-Jefferson Ground Water District (collectively, the "Ground Water Districts"), acting for and on behalf of their members, hereby join in the *State of Idaho's Motion for Partial Summary Judgment Re: Milner Zero Minimum Flow* filed October 19, 2009.

1. Water Rights 00-92002GP and 02-00200 pertain to the minimum Snake River flow at Milner Dam of zero cubic feet per second (cfs).
2. The Ground Water Districts' members hold water rights that have as their source the Eastern Snake Plain Aquifer which is tributary to the Snake River.
3. The Ground Water Districts filed an SRBA Standard Form 1 Objection in Subcase Numbers 02-0200 and 00-92002GP, asserting that Water Right 02-0200 and Basin 02

General Provision 4 (00-92002GP) should provide for a maximum daily flow of zero cfs at Milner Dam.

4. The *State of Idaho's Motion for Partial Summary Judgment Re: Milner Zero Minimum Flow* asks that the first sentence of Basin 02 General Provision 4 (Subcase 00-92002GP) be clarified to read as follows:

The flow of the Snake River at Milner Dam may be reduced to zero, and water rights using water downstream from Milner Dam have no right to call for the delivery, or seek the administration, of the flow of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam.

(*State of Idaho's Mot. for Partial Summ. J. Re: Milner Zero Minimum Flow 2.*)

5. Similarly, the *State of Idaho's Motion for Partial Summary Judgment Re: Milner Zero Minimum Flow* asks that the following condition be included in the "Other Provisions Necessary for Definition/Administration of this Water Right" section of the Partial Decree for Water Right 02-0200:

The flow of the Snake River at Milner Dam may be reduced to zero, and water rights using water downstream from Milner Dam have no right to call for the delivery, or seek the administration, of the flow of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam.

Id.

6. Having read the *State of Idaho's Motion for Summary Judgment Re: Milner Zero Minimum Flow*, the Ground Water Districts hereby join in the Motion and urge the Court to adopt the above language proposed to be included in the Partial Decrees for Basin 02 General Provision 4 and Water Right 02-0200.

DATED this 27th day of October, 2009.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By Thomas J. Budge
Thomas J. Budge

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of October, 2009, the above document(s), was served upon the following persons in the manner indicated:

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