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DEPARTMENT OF
WATER RESOURCES

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Attorneys for American Falls Reservoir District #2

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 No. **01-00006**

**NOTICE OF DEPOSITION OF STATE
OF IDAHO**

**TO: STATE OF IDAHO AND ITS ATTORNEY OF RECORD, STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE, NATURAL RESOURCES DIVISION.**

PLEASE TAKE NOTICE THAT Claimant American Falls Reservoir District No. 2, by and through its attorney of record, C. Tom Arkoosh of Capitol Law Group, PLLC, pursuant to Idaho Rules of Civil Procedure 26, 30(a) and 30(b)(6), will take the testimony upon oral examination of **THE STATE OF IDAHO**, before a duly authorized court reporter and notary public.

Examination will commence on **July 7, 2010, at the hour of 9:00 a.m.**, at the office of **Capitol Law Group, PLLC, at 205 N. 10th Street, 4th Floor, Boise, Idaho 83702.** Said oral

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examination will continue from day to day until completed, excluding weekends and designated Court holidays.

Pursuant to I.R.C.P. 30(b)(6), the matters on which the deponent will be examined includes:

1. Any claimed explanation, reason, justification, or policy, whether based in law or fact or otherwise, for the difference between the language of the water right under license No. 15134 as set forth in the Eagle Decree and as recommended in the SRBA Director's report under water right 01-06. The specific language on which an explanation is sought is set forth below:

- a. The *Eagle Decree* provides as follows:

The right to divert as natural flow during each irrigation season under water license No. 15134, having a March 30, 1921, priority, as follows: From May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority, the first 1,700 cubic feet per second of flow to be available one-half (1/2) to American Falls Reservoir District No. 2 and one-half (1/2) to American Falls Reservoir, except that in any year in which American falls Reservoir is full to capacity on April 30 or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by American Falls Reservoir District No. 2 within the maximum of 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under water license No. 15134. Nothing herein shall prevent American Falls Reservoir District No. 2 from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season.

Water available at American Falls Reservoir for the March 30, 1921, priority under water license No. 15134, other than that to be available to American Falls Reservoir District No. 2 as provided above, to be available for storage in American Falls Reservoir.

b. The Director's Report provides as follows:

This right is limited to a maximum of 850 cubic feet per second (cfs) of the first 1,700 cfs diversion of natural flow available to the March 30, 1921, priority when the American Falls storage right (1-2064) has not completely filled for the season, with any remaining amount not diverted by American Falls Reservoir District #2 made available to American Falls Reservoir. If the American Falls Reservoir storage right (1-2064) completely fills after March 15 during the irrigation season, the maximum 1,700 cfs of natural flow available to the March 30, 1921, priority may be diverted under this right (1-6) beginning the day after the American Falls Reservoir storage right (1-2064) has completely filled.

The deponent, State of Idaho, must designate a person or persons who will testify regarding matters known or reasonably available to the State of Idaho relative to the above matters.

Pursuant to I.R.C.P. 30(b)(1), the deponent is required to bring to the deposition the following items and documents:

1. All documents, records, memoranda, and any other items relative to the above issue(s).

This deposition shall be taken pursuant to the Idaho Rules of Civil Procedure.

DATED: This 29 day of June, 2010.

CAPITOL LAW GROUP, PLLC

A handwritten signature in black ink, appearing to read "Isaac Leppin", written over a horizontal line.

C. Tom Arkoosh

Attorney for American Falls Reservoir District #2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29 day of June, 2010, I served a true and correct copy of the foregoing document by depositing a true and correct copy thereof in the United States mail, postage prepaid, in an envelope addressed to the following individuals at the addresses below listed:

Clerk of the SRBA Court 253 Third Ave North P. O. Box 2707 Twin Falls, ID 83303-2707 Robert L. Harris Holden, Kidwell, Hahn & Crapo, PLLC P.O. Box 50130 Idaho Falls, Idaho 83405 Candace McHugh Randall C. Budge Racine, Olson, Nye, Budge & Bailey, Chd. 101 S. Capitol Blvd., Suite 208 Boise, Idaho 83702 Chief, Natural Resources Division Office of the Attorney General P.O. Box 44449 Boise, Idaho 83711-4449	Craig D. Hobdey P.O. Box 176 Gooding, Idaho 83330 Jerry R. Rigby P.O. Box 250 Rexburg, Idaho 83440 IDWR Document Depository P.O. Box 83720 Boise, Idaho 83720-0098 United States Department of Justice Environment & Nat'l Resources Division 550 West Fort Street, MSC 033 Boise, Idaho 83724 American Falls Reservoir District No. 2 PO Box "C" Shoshone, ID 83352
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CAPITOL LAW GROUP, PLLC


C. Tom Arkoosh