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7 ISB No. 1018

8 Attorneys for Intervenor,  
A & B Irrigation District  
9

10 **BEFORE THE DEPARTMENT OF WAER RESOURCES**  
11 **STATE OF IDAHO**

12  
13 IN THE MATTER OF APPLICATION )  
FOR TRANSFER OF WATER RIGHT )  
14 NO. 70663, TO CHANGE THE PLACE )  
OF USE AND POINT OF DIVERSION )  
15 OF WATER RIGHT NOS. 35-2391 AND )  
35-7777 OF ANDREW E. POVEY )  
16 (CONTRACT PURCHASER FROM )  
KNUDSEN POOR FARMS, INC.) )  
17

**PETITION TO INTERVENE**

18 COMES NOW A & B Irrigation District, an irrigation district duly  
19 organized under the laws of the State of Idaho, of 414 11<sup>th</sup> Street, P. O. Box 675,  
20 Rupert, Idaho 83350, by and through its attorneys, Ling, Robinson & Walker, and  
21 pursuant to Rule 351 of the Rules of Procedure of the Idaho Department of Water  
22 Resources, petitions to intervene in the above transfer proceedings for the  
23 following grounds and reasons, to-wit:

24 1. That there is held by the Bureau of Reclamation, United States  
25 of America, ground water rights and storage water rights that are appurtenant to  
26 lands within the Northside Pumping Division of the Minidoka Project, which  
27 Project is operated and maintained by A & B Irrigation District, and that the  
28 PETITION TO INTERVENE - 1 -

Receipt  
# E029543

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3 Application for Transfer, if allowed, will result in injury to A & B Irrigation  
4 District, in that a depletion will occur in the reaches of the Snake River that  
5 supply storage water used by A & B Irrigation District on a portion of the Project  
6 lands, will interfere with a flood water right held by A & B Irrigation District for  
7 lands within the Project, and will result in injury to the ground water tables  
8 within the Eastern Snake Plain Aquifer from which water is diverted by A & B  
9 Irrigation District and its groundwater rights that are for use on lands within the  
10 District that are senior to the water rights of applicant Andrew E. Povey.

11           2.     That the proposed mitigation plan is insufficient in that it does  
12 not mitigate the loss of ground water to the Eastern Snake Plain Aquifer that will  
13 substantially affect the rights of the landowners within A & B Irrigation District  
14 using ground water from the Eastern Snake Plain Aquifer, and that there is  
15 insufficient storage water identified by applicant to provide a reliable source of  
16 water that is intended to be used in the mitigation plan of applicant, and such  
17 source of water is not being used or planned to be used to mitigate the loss of  
18 water to the Eastern Snake Plain Aquifer that affects the portion of the Eastern  
19 Snake Plain Aquifer from which water is diverted by A & B Irrigation District.

20           3.     That the mitigation plan relies upon what is termed as a "global  
21 rental pool" which does not exist, and there is no indication of reasonable  
22 probability that such a global rental pool will be in existence after this transfer.

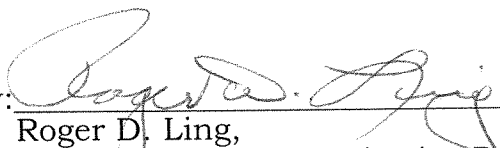
23           4.     For such other and further reasons that may be set forth at any  
24 hearing on this petition.

25           WHEREFORE, petitioner A & B Irrigation District prays that the  
26 Hearing Officer grant its Order allowing A & B Irrigation District to intervene in  
27 these proceedings.

28     PETITION TO INTERVENE

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3 DATED this 17th day of , 2003.

4 LING, ROBINSON & WALKER

5  
6 By:   
7 Roger D. Ling,  
8 Attorneys for A & B Irrigation District  
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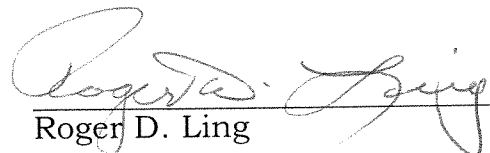
10 **CERTIFICATE OF MAILING**

11 I hereby certify that on the 17th day of February, 2004, I served  
12 copies of the foregoing ***Motion to Intervene*** upon:

13 Mr. Andrew Povey  
14 2602 Povey Rd.  
15 American Falls, ID 83211

16 Amy D. Chestnut, Esq.  
17 Barker, Rosholt & Simpson  
18 205 N. 10<sup>th</sup> Street, Suite 520  
19 P. O. Box 2139  
20 Boise, ID 83701

21 by depositing copies thereof in the United States mail, postage prepaid, in  
22 envelopes addressed to said persons at the foregoing addresses.  
23

24  
25   
26 Roger D. Ling  
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