

## SUMMARY STATEMENT

*A & B Irrigation District v. State*, Docket No. 40974, 40975

The Idaho Supreme Court vacated the Snake River Basin Adjudication (SRBA) court's designation of the following basin-wide issue: Does Idaho law require a remark authorizing storage rights to "refill," under priority, space vacated for flood control? The SRBA court addressed the basin-wide issue and concluded that a remark was not necessary. The SRBA court declined to address when the quantity element of a storage water right is considered filled and the Idaho Supreme Court agreed.

The Court further held that the SRBA court abused its discretion in designating the basin-wide issue because the basin-wide issue did not address the question that the parties actually sought to have answered: whether water stored under a storage right counts toward the fill of that right if it is used by the reservoir operator for flood control purposes. Without a complete factual record or any injury alleged, the Court declined to issue an advisory opinion on that question. The Court also held that the SRBA court did not abuse its discretion by declining to address when the quantity element of a storage water right is considered filled or in stating that such a determination was within the Director's discretion.