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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT
APPLICATION NO. 63-32499 IN THE NAME
OF MAYFIELD TOWNSITE LLC

**PACWEST'S RESPONSE TO
APPLICANT'S PETITION FOR
RECONSIDERATION**

Pacific West Land LLC ("PacWest"), through counsel Jeffrey C. Fereday and Michael P. Lawrence of the firm Givens Pursley LLP, files this response to *Applicant's Petition for Reconsideration of Preliminary Order Granting Petitions to Intervene as to Pacific West Land LLC* ("Petition") filed by applicant Mayfield Townsite, LLC ("Mayfield") on December 3, 2008. In granting PacWest's intervention the Department made a correct decision well within the scope of its discretion. The Petition challenging it has no merit and should be denied.

Mayfield's arguments essentially recycle those it made previously, and which the Department properly rejected. PacWest's interests are well within those for which intervention is proper. Among others, these include its interest in ensuring that Mayfield has sufficient financial resources to proceed with its proposed use; that its application is consistent with conservation of water resources, is in the public interest and is made in good faith and not for speculative purposes; and that the ground water resource is sufficient for Mayfield's proposed use. The existing Protestants do not represent PacWest's interest in this matter.

Mayfield also asserts reconsideration is appropriate because PacWest did not file a timely protest. Obviously, there would be no need to intervene if a timely protest were filed. Mayfield's argument would essentially write the entire intervention procedure out of the Department's rules. PacWest meets the standards in the rules, and the Department properly granted intervention.

The Department should decline Mayfield's request to revisit its decision and impose conditions on PacWest's participation. The conditions Mayfield suggests would prevent PacWest from participating in a meaningful way; they would not be "reasonable conditions" allowed under Rule 353. As an intervenor, PacWest should be allowed to participate in this matter like any other party, just as the Department already has ruled. IDAPA 37.01.01.156.

Mayfield provides no justification for the Department to revisit its decision, and Mayfield's Petition should be denied.

DATED this 17th day of December 2008.

Respectfully submitted,

GIVENS PURSLEY LLP

By



Jeffrey C. Fereday
Michael P. Lawrence

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below and addressed to the following:

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