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*ATTORNEYS FOR THE CITY OF POCATELLO*

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

IN THE MATTER OF DISTRIBUTION  
OF WATER TO VARIOUS WATER  
RIGHTS HELD BY OR FOR THE  
BENEFIT OF A&B IRRIGATION  
DISTRICT, AMERICAN FALLS  
RESERVOIR DISTRICT #2, BURLEY  
IRRIGATION DISTRICT, MILNER  
IRRIGATION DISTRICT, MINIDOKA  
IRRIGATION DISTRICT, NORTH  
SIDE CANAL COMPANY, AND TWIN  
FALLS CANAL COMPANY

Docket No.: CM-DC-2010-001

**JOINDER IN GROUND WATER  
USERS' MOTION FOR  
RECONSIDERATION OF APRIL  
29, 2010 ORDER AND REQUEST  
FOR HEARING**

The City of Pocatello ("City" or "Pocatello") hereby submits this Joinder in Ground Water Users' Motion for Reconsideration and Request for Hearing.

On May 6, 2010, Ground Water Users filed a *Motion for Reconsideration, Motion for Stay, Motion to Conduct Discovery, Motion for Immediate Action, and Request for Hearing*, which asked the Director to reconsider his *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4)* ("As-Applied Order"), issued April 29, 2010. On May 10, 2010, the Director issued an Order that, *inter*

*alia*, granted Ground Water Users' Motion for Reconsideration and ordered a hearing be held on May 24<sup>th</sup>, 2010. *Order Denying IGWA's Request for Stay and/or Extension of Time; Order Granting Request for Reconsideration and Hearing; Order Authorizing Discovery, in part; and Notice of Hearing* at 2. However, the Director has limited the May 24<sup>th</sup> hearing in this matter to "whether the April Forecast Supply Order followed Steps 3 and 4 of the Methodology Order." *Id.*


Pocatello submits this joinder in support of the Ground Water Users' Motion for Reconsideration and hereby notifies the Department of its intent to participate at the May 24<sup>th</sup>, 2010 hearing. Pocatello further requests that the Director grant a hearing on the As-Applied Order that also allows parties to address any technical issue related to the Methodology Order. The basis for curtailment in the As-Applied Order is the Methodology Order, and the Department's reliance on 2008 data is but one problem with the Methodology Order. By refusing to allow parties to address at hearing the sufficiency of the Department's determination of Reasonable In-Season Demand and Forecast Supply, among other concepts found in the Methodology Order, the Department has denied the parties due process regarding the As-Applied Order.

Therefore, Pocatello requests that the Director allow the parties an opportunity to adequately investigate and analyze the As-Applied Order and the Methodology Order in full at a hearing, and to issue an order allowing discovery regarding the entirety of the application of the Director' Methodology Order.

Pocatello would further request that the Director appoint an independent hearing officer, pursuant to Idaho Code Section 42-1701(A)(2).

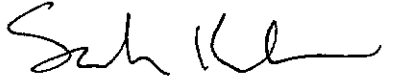
Respectfully submitted this 13<sup>th</sup> day of May, 2010.

CITY OF POCA TELLO ATTORNEY'S OFFICE

By   
A. Dean Tranmer

WHITE & JANKOWSKI

By   
Mitra M. Pemberton

By   
Sarah A. Klahn

ATTORNEYS FOR CITY OF POCA TELLO

## CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of May, 2010, I caused to be served a true and correct copy of the foregoing **Joinder in Ground Water Users' Motion for Reconsideration and Request for Hearing** for **Docket No. CM-DC-2010-001** upon the following by the method indicated:



\_\_\_\_\_  
Sarah Klahn, White & Jankowski, LLP

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