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ATTORNEYS FOR GROUND WATER  
USERS

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING**

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

UNITED STATES OF AMERICA,  
BUREAU OF RECLAMATION,

Petitioners,

vs.

IDAHO DAIRYMEN'S ASSOCIATION,  
INC.,

Cross-Petitioner,

vs.

GARY SPACKMAN, in his capacity as

**Case No.: CV-2008-0000551**

**CITY OF POCATELLO'S AND  
GROUND WATER USERS' MOTION  
FOR STAY AND TO AUGMENT THE  
RECORD WITH ADDITIONAL  
EVIDENCE**

Interim Director of the Idaho Department of  
Water Resources,<sup>1</sup> and THE IDAHO  
DEPARTMENT OF WATER RESOURCES

Respondents,

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

The City of Pocatello (“Pocatello”) and the Idaho Ground Water Appropriators, acting for and on behalf of their members (“Ground Water Users”) (collectively, “Movants”) submit this Memorandum in Support of their Motion to Stay and to Augment the Record with Additional Evidence. Pocatello and the Ground Water Users have requested a hearing on the Director’s Director’s April 7, 2010 *Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“Methodology Order”) and the Director’s April 29, 2010 *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 and 4)* (“As-Applied Order”) (together referred to herein as the “April Orders”)<sup>2</sup>.

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<sup>1</sup> Director David R. Tuthill retired as Director of Idaho Department of Water Resources effective June 30, 2009. Gary Spackman was appointed as Interim Director. I.R.C.P. 25 (d) and (e).

<sup>2</sup> All the documents and orders referenced herein are publicly available from IDWR and Movants request that the Court take judicial notice of these materials. However, for the convenience of the Court the following materials are provided as Attachments 1-6: Attachment 1: Methodology Order; Attachment 2: As-Applied Order; Attachment 3: Memoranda of Spronk Water Engineers; Attachment 4, Affidavit of Charles Bendecke; Attachment 5, May 10, 2010 Notice of Hearing Regarding 2008 Data; Attachment 6: Order Denying IGWA’ s Request for Stay and/or Extension of Time etc.

For the reasons stated in the Memorandum in Support filed contemporaneously herewith, Movants respectfully request that the Court:

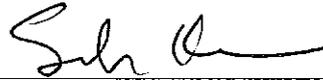
- 1) Order the Department to hold a hearing on all aspects of the Methodology Order and the As-Applied Order with sufficient time for the technical experts to develop opinions and testimony; and
- 2) stay the captioned matter during the interim.

Respectfully submitted, this 12<sup>th</sup> day of May, 2010.

ATTORNEYS FOR CITY OF POCA TELLO



\_\_\_\_\_  
A. Dean Tranmer



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Sarah A. Klahn

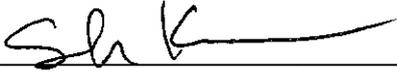
ATTORNEYS FOR GROUND WATER USERS



\_\_\_\_\_  
Candice M. McHugh

## CERTIFICATE OF SERVICE

I hereby certify that on this 12<sup>th</sup> day of May, 2010, I caused to be served a true and correct copy of the foregoing **City of Pocatello's and Ground Water Users' Motion for Stay and To Augment the Record with Additional Evidence** for **Case No. CV-2008-0000551** upon the following by the method indicated:

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

Gary Spackman, Interim Director State of Idaho, Dept of Water Resources 322 E Front St PO Box 83720 Boise ID 83720-0098 <a href="mailto:Deborah.Gibson@idwr.idaho.gov">Deborah.Gibson@idwr.idaho.gov</a>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail – Federal Express <input type="checkbox"/> Facsimile – 208-287-6700 = Phone – 208-287-4942 <input checked="" type="checkbox"/> Email
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<p>Kathleen Carr  US Dept Interior, Office of Solicitor  960 Broadway Ste 400  PO Box 4169  Boise ID 83706  <a href="mailto:kmarioncarr@yahoo.com">kmarioncarr@yahoo.com</a></p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid  <input type="checkbox"/> Hand Delivery  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Facsimile – 208-334-1918  <input checked="" type="checkbox"/> Email</p>
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<p>Michael Gilmore  Attorney General's Office  PO Box 83720  Boise ID 83720-0010  <a href="mailto:mike.gilmore@ag.idaho.gov">mike.gilmore@ag.idaho.gov</a></p>	<p><input type="checkbox"/> U.S. Mail, Postage Prepaid  <input type="checkbox"/> Hand Delivery  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Facsimile – 208-334-2830  <input checked="" type="checkbox"/> Email</p>

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