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DEPARTMENT OF  
WATER RESOURCES

A. Dean Tranmer (ISB #2793)  
City of Pocatello  
P.O. Box 4169  
Pocatello, ID 83201  
Telephone: (208) 234-6149  
Facsimile: (208) 234-6297  
E-mail dtranmer@pocatello.us

Sarah A. Klahn  
William A. Hillhouse II  
Amy W. Beatie  
WHITE & JANKOWSKI, LLP  
511 16th St. Ste. 500  
Denver, CO 80202  
Telephone: (303) 595-9441  
Facsimile: (303) 825-5632  
E-mail sarahk@white-jankowski.com  
E-mail abeatie@white-jankowski.com

Attorneys for City of Pocatello

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF	)	
WATER TO VARIOUS WATER RIGHTS	)	
HELD BUY OR FOR THE BENEFIT OF	)	
A&B IRRIGATION DISTRICT, AMERICAN	)	<b>POCATELLO'S MOTION FOR</b>
FALLS RESERVOIR DISTRICT #2, BURLEY	)	<b>RECONSIDERATION OF THE</b>
IRRIGATION DISTRICT, MILNER	)	<b>DIRECTOR'S FIFTH</b>
IRRIGATION DISTRICT, MINIDOKA	)	<b>SUPPLEMENTAL ORDER ON</b>
IRRIGATION DISTRICT, NORTH SIDE	)	<b>REPLACEMENT WATER</b>
CANAL COMPANY, AND TWIN FALLS	)	<b>REQUIREMENTS FINAL 2006</b>
CANAL COMPANY	)	<b>AND ESTIMATED 2007</b>

The City of Pocatello hereby files its Petition for Reconsideration of the Director's Fifth Supplemental Order on Replacement Water Requirements Final 2006 and Estimated 2007 ("Fifth Supplemental Order"). The Fifth Supplemental Order predicts that the Twin Falls Canal Company and American Falls Reservoir District #2 are likely to suffer material injury during the 2007 irrigation season and for purposes of carry-over storage into 2008.

1. The Director of the Idaho Department of Water Resources issued an amended order on May 2, 2005 ("May 2005 Order") in response to the Surface Water Coalition's January 14, 2005 letter requesting a delivery call. The Fifth Supplemental Order is a "supplement" to the May 2005 Order.
2. Pocatello has previously detailed its objections to the May 2005 Order (and its predecessor order of April 19, 2005) in various pleadings and expert reports previously filed in this matter. As the Fifth Supplemental Order is a continuation of the May 2005 Order, no party need state objections to the Fifth Supplemental Order or restate objections to the May 2005 Order. However, to the extent the Fifth Supplemental Order relies on the same legal, factual, and engineering deficiencies as the May 2005 Order, Pocatello restates its previous concerns, objections, and legal arguments, and incorporates them herein by reference.
3. To the extent the Fifth Supplemental Order incorporates new methodologies—such as the Director's apparent intention to make the replacement water requirements (and thus, well curtailment dates) a moving target by continual re-examination of the water supply throughout the irrigation season—Pocatello's previous investigations suggest that this only compounds the errors of the May 2005 Order, and it moves for reconsideration on this new approach.
4. A hearing has been scheduled for June 22, 2007, to address implementation of the Idaho Ground Water Appropriators' Replacement Plan. Pocatello does not seek to have the deficiencies of the Fifth Supplemental Order considered at that June 22, 2007 hearing. Rather, Pocatello respectfully requests that the issues previously raised in this matter, as well as issues raised herein, and issues raised by other parties related to the Fifth Supplemental Order, be incorporated into a single hearing.

Respectfully submitted this 6<sup>th</sup> day of June 2007.

WHITE & JANKOWSKI, LLP

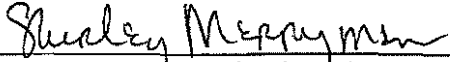
By

  
\_\_\_\_\_  
Amy W. Beatie

Attorneys for the City of Pocatello

CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of June, 2007, I caused to be served a true and correct copy of the foregoing **Pocatello's Motion for Reconsideration of the Director's Fifth Supplemental Order on Replacement Water Requirements Final 2006 and Estimated 2007** by email and or facsimile to:

  
Shirley Merryman, White & Jankowski, LLP

<p>David R. Tuthill, Jr. Interim Director State of Idaho Dept of Water Resources 322 E Front St Boise ID 83720-0098 facsimile – 208-287-6700 <a href="mailto:dave.tuthill@idwr.idaho.gov">dave.tuthill@idwr.idaho.gov</a> <a href="mailto:Victoria.Wigle@idwr.idaho.gov">Victoria.Wigle@idwr.idaho.gov</a></p>	<p>Daniel V. Steenson Ringert Clark PO Box 2773 Boise ID 83701 facsimile 208-342-4591 <a href="mailto:dvs@ringertclark.com">dvs@ringertclark.com</a></p>	<p>Josephine P. Beeman, Esq. Beeman &amp; Associates 409 W Jefferson Boise ID 83702 facsimile – 208-331-0954 <a href="mailto:jo.beeman@beemanlaw.com">jo.beeman@beemanlaw.com</a></p>
<p>C. Tom Arkoosh Arkoosh Law Office PO Box 32 Burley ID 83330 facsimile – 208-934-8873 <a href="mailto:alo@cableone.net">alo@cableone.net</a></p>	<p>J. Dee May May Sudweeks &amp; Browning PO Box 1846 Twin Falls ID 83303 facsimile – 208-733-7180 <a href="mailto:jdmay@tflaw.com">jdmay@tflaw.com</a></p>	<p>Michael Gilmore Attorney General's Office PO Box 83720 Boise ID 83720-0010 facsimile – 208-334-2830 <a href="mailto:mike.gilmore@ag.idaho.gov">mike.gilmore@ag.idaho.gov</a></p>
<p>W. Kent Fletcher Fletcher Law Office PO Box 248 Burley, ID 83318-0248 facsimile – 208-878-2548 <a href="mailto:wkf@pmt.org">wkf@pmt.org</a></p>	<p>Scott Campbell Moffatt Thomas PO Box 829 Boise ID 83701 facsimile – 208-385-5384 <a href="mailto:slc@moffatt.com">slc@moffatt.com</a></p>	<p>Terry Uhling J.R. Simplot Co 999 Main St Boise ID 83702 <a href="mailto:tuhling@simplot.com">tuhling@simplot.com</a></p>
<p>Roger D. Ling Ling Robinson PO Box 396 Rupert ID 83350-0396 facsimile – 208-436-6804 <a href="mailto:lnrlaw@pmt.org">lnrlaw@pmt.org</a></p>	<p>Kathleen Carr US Dept Interior 960 Broadway Ste 400 Boise ID 83706 facsimile – 208-334-1918 <a href="mailto:kmarioncarr@msn.com">kmarioncarr@msn.com</a></p>	<p>James Tucker Idaho Power Co 1221 W Idaho St Boise ID 83702 <a href="mailto:jamestucker@idahopower.com">jamestucker@idahopower.com</a></p>
<p>John Rosholt Travis Thompson Barker Rosholt 113 Main Ave West Ste 303 Twin Falls ID 83301-6167 facsimile – 208-735-2444 <a href="mailto:jar@idahowaters.com">jar@idahowaters.com</a> <a href="mailto:tlr@idahowaters.com">tlr@idahowaters.com</a></p>	<p>Matt Howard U.S. Bureau of Reclamation 1150 N Curtis Road Boise ID 83706-1234 facsimile – 208-378-5003 <a href="mailto:mhoward@pn.usbr.gov">mhoward@pn.usbr.gov</a></p>	<p>James Lochhead Adam DeVoe Brownstein Hyatt 410 – 17<sup>th</sup> St 22<sup>nd</sup> Floor Denver CO 80202 <a href="mailto:jlochhead@bhf-law.com">jlochhead@bhf-law.com</a> <a href="mailto:adevoe@bhf-law.com">adevoe@bhf-law.com</a></p>

<p>John Simpson Barker Rosholt PO Box 2139 Boise ID 83701-2139 facsimile – 208-344-6034 <a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a></p>	<p>Lyle Swank IDWR 900 N Skyline Dr Idaho Falls ID 83402-6105 facsimile – 208-525-7177 <a href="mailto:lyle.swank@idwr.idaho.gov">lyle.swank@idwr.idaho.gov</a></p>	<p>Michael C Creamer Givens Pursley 601 Bannock St Ste 200 PO Box 2720 Boise ID 83701-2720 <a href="mailto:mcc@givenspursley.com">mcc@givenspursley.com</a></p>
<p>Randy Budge Racine Olson PO Box 1391 Pocatello ID 83204-1391 <a href="mailto:rcb@racinelaw.net">rcb@racinelaw.net</a></p>	<p>Allen Merritt Cindy Yenter IDWR 1341 Fillmore St Ste 200 Twin Falls ID 83301-3033 facsimile – 208-736-3037 <a href="mailto:allen.merritt@idwr.idaho.gov">allen.merritt@idwr.idaho.gov</a> <a href="mailto:cindy.yenter@idwr.idaho.gov">cindy.yenter@idwr.idaho.gov</a></p>	<p>Candice McHugh Racine Olson Nye Budge &amp; Bailey 101 S Capitol Blvd Ste208 Boise ID 83702 facsimile 208-232-6109 <a href="mailto:cmm@racinelaw.net">cmm@racinelaw.net</a></p>
<p>A.Dean Tranmer City of Pocatello PO Box 4169 Pocatello ID 83201 facsimile 208-234-6297 <a href="mailto:dtranmer@pocatello.us">dtranmer@pocatello.us</a></p>		

# White & Jankowski, L.L.P.

Lawyers

DATE: June 6, 2007

Please deliver the following document(s) to:

NAME: <sup>1</sup>	David Tuthill, Jr. / Victoria Wigle	1-208-287-6700
cc:	C. Tom Arkoosh	1-208-934-8873
	Michael Gilmore	1-208-334-2830
	Lyle Swank	1-208-525-7177
	Allen Merritt & Cindy Yenter	1-208-736-3037

RE: Pocatello's Motion for Reconsideration of the Director's 5<sup>th</sup> Supplemental Order on Replacement Water Requirements Final 2006 & Estimated 2007

FROM: Sarah Klahn / Amy Beatie

OUR FACSIMILE NUMBER: 303.825.5632

TOTAL NUMBER OF PAGES INCLUDING THIS COVER PAGE: 5

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