

RECEIVED

MAY 04 2016

DEPARTMENT OF  
WATER RESOURCES

A. Dean Tranmer (ISB # 2793)  
City of Pocatello  
P. O. Box 4169  
Pocatello, ID 83201  
(208) 234-6149  
(208) 239-6986 (Fax)  
dtranmer@pocatello.us

Sarah A. Klahn (ISB # 7928)  
Mitra M. Pemberton  
White & Jankowski, LLP  
511 Sixteenth Street, Suite 500  
Denver, Colorado 80202  
(303) 595-9441  
(303) 825-5632 (Fax)  
sarahk@white-jankowski.com  
mitrap@white-jankowski.com

ATTORNEYS FOR THE CITY OF POCATELLO

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

IN THE MATTER OF DISTRIBUTION	)	
OF WATER TO VARIOUS WATER	)	Docket No. CM-DC-2010-001
RIGHTS HELD BY OR FOR THE	)	
BENEFIT OF A&B IRRIGATION	)	<b>CITY OF POCATELLO'S REQUEST FOR</b>
DISTRICT, AMERICAN FALLS	)	<b>HEARING AND REQUEST FOR STAY</b>
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") by and through its undersigned attorneys hereby submits  
this *Request for Hearing and Request for Stay*.

Pocatello requests a hearing pursuant to I.C. § 42-1701A(3) on the Director's *Fourth  
Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-*

*Season Demand and Reasonable Carryover* (“Fourth Methodology Order”) dated April 19, 2016, in the above-captioned proceeding.

**A. Request for Hearing**

On April 30, 2015 Pocatello requested a hearing on the Directors *Third Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“Third Methodology Order”) dated April 17, 2015. The Third Methodology Order was withdrawn by the Director on May 8, 2015. *Order Approving Stipulation and Granting Joint Motion*, CM-DC-2010-001. On April 19, 2016 the Director issued an *Order on Motions re: Third Methodology Order* which granted and stayed requests by Pocatello, the Surface Water Coalition and Idaho Ground Water Appropriators, Inc. for hearing on the Third Methodology Order. The Director also explained that he would reinstate the Third Methodology Order, but that because “certain changes are necessary” he would issue a Fourth Methodology Order. *Id.* at 2.

Pocatello requests a hearing in this matter regarding the following issues:

1. The calculation of in-season demand shortfall, including adjustments during the irrigation season; and
2. The extent of irrigation by the Surface Water Coalition by supplemental ground water rights; and
3. The calculation of reasonable carryover shortfall; and
4. Use of the ESPAM 2.1 Model to determine a curtailment date.

**B. Request for Stay**

Pocatello and the SWC have entered into a stipulated Mitigation Plan for 2016, which has been approved by the Director. *See Final Order Approving Mitigation Plan for 2016*, CM-MP-2016-002, April 27, 2016. Pocatello and other municipalities, along with the SWC have agreed “to continue to meet and attempt to reach a long-term mitigation agreement regarding the Cities’

POCATELLO’S REQUEST FOR HEARING AND REQUEST FOR STAY

Mitigation Plans before December 31, 2016.” Exhibit A to *Joint Motion for Order Entering Settlement Between Pocatello, Coalition of Cities, Idaho Falls and Surface Water Coalition*, March 15, 2016. Accordingly Pocatello requests the Director stay its request for hearing in the same manner it stayed Pocatello’s 2015 request, until Pocatello requests the stay be lifted.

### CONCLUSION

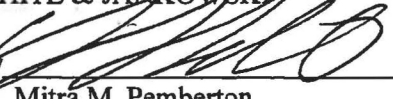
Pocatello requests the Director enter an order to stay any hearing until Pocatello requests the stay be lifted.

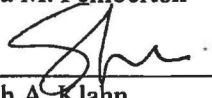
Respectfully submitted this 4th day of May, 2016.

CITY OF POCATELLO ATTORNEY’S OFFICE

By   
A. Dean Tranmer

WHITE & JANKOWSKI

By   
Mitra M. Pemberton

By   
Sarah A. Klahn

ATTORNEYS FOR CITY OF POCATELLO

## CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of May, 2016, I caused to be served a true and correct copy of the foregoing **CITY OF POCATELLO'S REQUEST FOR HEARING AND REQUEST FOR STAY** in Docket No. CM-DC-2010-001 upon the following by the method indicated:

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

Gary Spackman, Director State of Idaho, Dept of Water Resources 322 E Front St P.O. Box 83720 Boise ID 83720-0098 deborah.gibson@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express (208-287-4942) <input checked="" type="checkbox"/> Facsimile 208-287-6700 <input checked="" type="checkbox"/> Email
John K. Simpson Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson 195 River Vista Place Ste 204 Twin Falls ID 83301-3029 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-735-2444 <input checked="" type="checkbox"/> Email
W. Kent Fletcher Fletcher Law Office P.O. Box 248 Burley, ID 83318 wkf@pmt.org	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-878-2548 <input checked="" type="checkbox"/> Email
Garrick L. Baxter Deputy Attorneys General – IDWR P.O. Box 83720 Boise ID 83720-0098 garrick.baxter@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input checked="" type="checkbox"/> Facsimile 208-287-6700 <input checked="" type="checkbox"/> Email
Randall C. Budge Thomas J. Budge Racine Olson Nye Budge & Bailey 201 E Center St / PO Box 1391 Pocatello ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-232-6109 <input checked="" type="checkbox"/> Email
Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello ID 83201 dtranmer@pocatello.us	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-234-6297 <input checked="" type="checkbox"/> Email
Kathleen Carr US Dept Interior 960 Broadway Ste 400 Boise ID 83706 kathleenmarion.carr@sol.doi.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-334-1907 <input checked="" type="checkbox"/> Email

David W. Gehlert Natural Resources Section Environment & Natural Resources Division US Dept of Justice 999 18th St, South Terrace Ste 370 Denver CO 80202 david.gehlert@usdoj.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 303-844-1350 <input checked="" type="checkbox"/> Email
Michael C Creamer Jeffery C. Fereday Givens Pursley 601 W Bannock St Ste 200 P.O. Box 2720 Boise ID 83701-2720 mcc@givenspursley.com jcf@givenspursley.com	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-388-1300 <input checked="" type="checkbox"/> Email
William A. Parsons Parsons Smith Stone Loveland & Shirley LLP 137 West 13 <sup>th</sup> St P.O. Box 910 Burley ID 83318 wparsons@pmt.org	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile 208-878-8382 <input checked="" type="checkbox"/> Email
Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise ID 83706-1234 mhoward@usbr.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Lyle Swank IDWR – Eastern Region 900 N Skyline Dr Idaho Falls ID 83402-6105 lyle.swank@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Allen Merritt Cindy Yenter IDWR – Southern Region 1341 Filmore St Ste 200 Twin Falls ID 83301-3033 allen.merritt@idwr.idaho.gov cindy.yenter@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email