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DEPARTMENT OF
WATER RESOURCES

A. Dean Tranmer, I.B. # 2793
City of Pocatello
P. O. Box 4169
Pocatello, ID 83201
(208) 234-6149
(208) 234-6297 (Fax)
dtranmer@pocatello.us

Sarah A. Klahn, I.B. #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

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 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

**POCATELLO'S RESPONSE TO
A&B'S MOTION FOR
RECONSIDERATION**

COMES NOW, City of Pocatello ("Pocatello") to respond to A&B's Petition for
Reconsideration and Request for Hearing Re: April 2016 As Applied Order ("Petition").

A&B's Petition seeks relief on two issues: first, A&B takes issue with the determination that its
operations result in 3,463 acre-feet of injury to the SWC and asks IDWR to recalculate and to
hold an "informal meeting" to discuss the methods used to arrive at this amount; and second,
A&B challenges the 3,463 acre-foot injury amount on the basis that the Director "artificially

POCATELLO'S RESPONSE TO A&B'S MOTION FOR RECONSIDERATION


enlarged" A&B's injury amount by limiting IDWR's analysis of injury from junior ground water pumping to wells within the area of common ground water supply under Rule 50.

On the first issue, Pocatello does not take a position about whether A&B's injury amount was properly calculated. However, to the extent there are meetings or discussions with IDWR regarding the Department's assignment of proportionate injury amounts to junior ground water users including A&B, Pocatello requests that it be allowed to participate.


On the second issue, A&B appears to suggest that the Director should have evaluated injury without regard to the area of common ground water identified in Rule 50 to reduce A&B's proportional obligation to satisfy SWC's injury amount. A&B's basis for this assertion is not clear, as it mentions bases that are both technical (the ESPAM 2.1 model domain is smaller than the ACGW) and nominally legal (general allegation that Rule 50 is unconstitutional). The Director should reject this basis for consideration, as IDWR is not authorized to disregard lawfully enacted and maintained conjunctive management rules in administering delivery calls. This is particularly with regard to Rule 50 which, as A&B notes in FN 2, was effectively reconfirmed in 2016 when the Idaho legislature rejected IDWR's efforts to repeal Rule 50.

Respectfully submitted, this 9th day of May, 2016.

CITY OF POCA TELLO ATTORNEY'S OFFICE

By 
A. Dean Tranmer

WHITE & JANKOWSKI, LLP

By 
Sarah A. Klahn

ATTORNEYS FOR CITY OF POCA TELLO

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May, 2016, I caused to be served a true and correct copy of the foregoing **POCATELLO'S RESPONSE TO A&B'S MOTION FOR RECONSIDERATION** 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 checked="" type="checkbox"/> Federal Express (208-287-4942) <input 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 th 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