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DEPARTMENT OF
WATER RESOURCES

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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	CM-DC-2010-001

DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	
IN THE MATTER OF THE MITIGATION PLAN FILED BY THE CITY OF POCATELLO, THE COALITION OF CITIES, AND THE CITY OF IDAHO FALLS FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	CM-MP-2016-002 **THIRD NOTICE OF CITIES' PARTICIPATION**

COME NOW the cities of Bliss, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone and Wendell (hereinafter the "Coalition of Cities"), the City of Idaho Falls, and the City of Pocatello (collectively referred to herein as the "Cities"), by and through their undersigned counsel, pursuant to the terms of the above-captioned mitigation plan ("Cities' Mitigation Plan"), and hereby notify the Director of the Idaho Department of Water Resources ("Director" or "IDWR") and the Surface Water Coalition ("SWC") of participation in the Cities' Mitigation Plan by the City of Aberdeen.

On April 27, 2016, and in response to the Cities' Mitigation Plan, the Director issued his *Final Order Approving Mitigation Plan for 2016*. The Cities' Mitigation Plan, which was stipulated to by the SWC, and settled the parties' differences for 2016, allowed for other cities to participate in the Cities' Mitigation Plan: "Participation of other municipalities shall be at the sole discretion of the Cities and shall not increase the amount of mitigation water in paragraph 2. The Parties agree that upon approval of participation by the Cities, the Cities will provide notice to the Department and the SWC of other municipalities participating in the Mitigation Plans, and said municipalities shall be protected from curtailment pursuant to the terms of this Agreement." *Exhibit A, p. 3, Joint Motion for Order Entering Settlement Between Pocatello, Coalition of Cities, Idaho Falls and Surface Water Coalition* (March 15, 2016). On May 5, 2016, and consistent with the terms therein, the Cities filed an *Amended Notice of Participation* with the Director and the SWC of

participation by the following cities in the *Cities' Mitigation Plan*: City of Ammon, City of Blackfoot, City of Chubbuck, City of Iona, City of Rigby, City of Ririe, City of Sugar City, and City of St. Anthony.[1]

On May 18, 2016, the Director issued his *Final Order Curtailing Ground Water Rights Junior to February 8, 1989* ("May 2016 Curtailment Order"). Included as Attachment A to the *May 2016 Curtailment Order* was a list of ground water rights junior to February 8, 1989, that would have been curtailed on June 3, 2016, unless those rights were shown to be participating in an approved mitigation plan. Water right no. 35-8712, owned by the City of Roberts, was included in Attachment A. On May 20, 2016, the Cities notified the Director of the City of Roberts' participation in *Cities Mitigation Plan. Second Notice of Cities' Participation* (May 20, 2016).

On June 1, 2016, the Cities notified the Director that the City of St. Anthony was no longer participating in the *Cities Mitigation Plan. Cities' Notice Regarding City of St. Anthony* (June 1, 2016).

On July 22, 2016, the Director issued his *Order Revising April 2016 Forecast Supply and Amending Curtailment Order (Methodology Step 6)*, revising the curtailment date from "junior to February 8, 1989" to "equal or junior to April 12, 1991."

On September 2, 2016, the Director issued his *Order Designating April 2016 Forecast Supply Order Final as Modified.*

The Cities recently discovered that the City of Aberdeen was inadvertently left off of the prior notices of participation. While the City of Aberdeen owns no ground water rights that are junior the curtailment dates established by the Director in his 2016 curtailment orders, it was the intention of the City of Aberdeen to participate with the Cities.

[1] The Cities shall notify the Director and SWC if the status of participating cities changes or if additional cities join this plan in 2016.

Consistent with the foregoing, the Cities hereby notify the Director and the SWC of the City of Aberdeen's participation in the *Cities Mitigation Plan*. Accordingly all water rights owned by the cities of Bliss, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone and Wendell, Idaho Falls, Pocatello, Aberdeen, Ammon, Blackfoot, Chubbuck, Iona, Rigby, Ririe, Roberts, and Sugar City shall be protected from curtailment in response to the SWC delivery call for 2016.

DATED this 7th day of October, 2016.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of October 2016, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

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