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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 STATEMENT OF
ISSUES**

Pursuant to the Director's May 2, 2023 Scheduling Order in the captioned matter,,the City of Pocatello (Pocatello), by and through its attorneys of record, Somach Simmons & Dunn, hereby submits this Statement of Issues:.

- a) Whether changes to how IDWR computes curtailment dates (using transient groundwater modeling) are reasonable;
- b) Whether the ESPAM has been shown to be sufficiently accurate to support the proposed transient groundwater modeling to determine curtailment dates;

- c) Whether the Surface Water Coalition's ("SWC") actual irrigated acreage was properly determined for use in determining reasonable in-season demand;
- d) Whether a baseline demand that incorporates increases in SWC member diversions in recent years is valid basis for conjunctive administration;
- e) The reasonableness of Project efficiencies of the SWC members, trends in said efficiencies in recent years, and how the efficiency values are used in determining reasonable in-season demands;
- f) IDWR's failure to consider all sources of supply to the SWC;
- g) Whether 2018 is a reasonable new baseline year;
- h) Whether changes to determination of the reasonable in-season demand for the SWC members are reasonable and appropriate;
- i) Whether the level of conservatism employed in the methodology order is reasonable;
- j) Whether contingencies other than curtailment are available to protect senior-priority rights in the event that mitigation water becomes unavailable.
- k) Whether changes to how the reasonable carryover for the SWC members is computed are reasonable;
- l) Whether other analytical methods or modeling would reasonably improve the process for predicting and evaluating material injury;

- m) IDWR’s failure to apply Conjunctive Management Rule 20.03 (IDAPA 37.03.11.20.03) and principles of reasonableness generally;
- n) IDWR’s violation of due process rights of all interested water users:
 - i. by engaging in an ineffective public process related to the Department’s convening of the “Technical Work Group” to discuss modifications to the Fourth Methodology Order;
 - ii. by setting the hearing without regard to the time required for discovery and without consideration of the existing obligations of the parties, their legal representatives and consultants.

This Statement of Issues is based on Pocatello’s current understanding of the issues. Additional issues development of the facts and issues in this case, and additional issues may be identified as discovery and case development proceed.

Respectfully submitted this 4th day of May, 2023.

SOMACH SIMMONS & DUNN

By 
Sarah A. Klahn, ISB # 7928

ATTORNEYS FOR CITY OF POCATELLO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of May, 2023, the foregoing document was served via email to the following:

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