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DEPARTMENT OF  
WATER RESOURCES

Randall C. Budge (ISB# 1949)  
 Thomas J. Budge (ISB# 7465)  
 RACINE OLSON NYE BUDGE & BAILEY, CHARTERED  
 201 E. Center St. / P.O. Box 1391  
 Pocatello, Idaho 83204  
 (208) 232-6101 - phone  
 (208) 232-6109 - fax  
 rcb@racinelaw.net  
 tjb@racinelaw.net

*Attorneys for Idaho Ground Water Appropriators, Inc.*

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

IN THE MATTER OF THE MITIGATION  
 PLAN FILED BY THE CITY OF  
 POCATELLO

CM-MP-2015-001  
 CM-MP-2015-004  
 CM-MP-2015-005

IN THE MATTER OF THE COALITION  
 OF CITIES MITIGATION PLAN FOR  
 DIRECT DELIVERY AND MANAGED  
 RECHARGE

***IGWA's Notice of Protest to The  
 Joint Motion for Order Entering  
 Settlement Between Pocatello,  
 Coalition of Cities, Idaho Falls,  
 and Surface Water Coalition***

IN THE MATTER OF THE CITY OF  
 IDAHO FALLS MITIGATION PLAN FOR  
 THE SURFACE WATER COALITION

Idaho Ground Water Appropriators, Inc. (IGWA), acting for and on behalf of its members, hereby submits this notice of protest to the *Joint Motion for Order Entering Settlement Between Pocatello, Coalition of Cities, Idaho Falls, and Surface Water Coalition* (the "Motion") filed in these matters March 15, 2016.

The Motion purports to provide "full mitigation for any injury in 2016 associated with the Cities' ground water pumping." (Motion p. 2.) The Motion purposes to mitigate "consumptive pumping," but does not explain how consumptive pumping was calculated or how injury to the Surface Water Coalition (SWC) was calculated in response to such pumping.

The Motion further states that will mitigation is provided for all of the Cities' groundwater rights, it provides mitigation only for "consumptive pumping estimated to be attributable to the ESPA Cities junior to 1982." (Motion p. 2.) Thus, the Motion appears to protect water rights senior to 1982 without actually taking action to actually mitigate the impacts of such rights on the SWC, thereby shifting the burden of mitigating those rights to IGWA's members and other junior water users.

In addition, Conjunctive Management Rule (CMR) 43.03.m entitles IGWA's members to participate in the Cities' mitigation plan on an equitable basis. The Motion does not indicate this is available or explain how it may be accomplished.

For these reasons IGWA submits this Notice of Protest. IGWA reserves the right to protest any additional aspects or components of the Motion under CMR 43.

DATED this 18<sup>th</sup> day of April, 2016.



Randall C. Budge

Thomas J. Budge

RACINE OLSON NYE BUDGE &

BAILEY, CHARTERED

*Attorneys for IGWA*

## CERTIFICATE OF MAILING

I certify that on this 18<sup>th</sup> day of April, 2016, the foregoing document was served on the following persons in the manner indicated.

  
Signature of person mailing form

<b>Original:</b> Director, Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, ID 83720-0098 Attn: Deborah Gibson <a href="mailto:Deborah.Gibson@idwr.idaho.gov">Deborah.Gibson@idwr.idaho.gov</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Garrick L. Baxter Deputy Attorney General Idaho Department of Water Resources PO Box 83720 Boise, Idaho 83720-0098 <a href="mailto:Kimi.White@idwr.idaho.gov">Kimi.White@idwr.idaho.gov</a> <a href="mailto:Garrick.Baxter@idwr.idaho.gov">Garrick.Baxter@idwr.idaho.gov</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
Travis L. Thompson Paul L. Arrington Barker Rosholt & Simpson 195 River Vista Place, Ste. 204 Twin Falls, Idaho 83301-3029 <a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a> <a href="mailto:pla@idahowaters.com">pla@idahowaters.com</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
W. Kent Fletcher Fletcher Law Office PO Box 248 Burley, Idaho 83318 <a href="mailto:wkf@pmt.org">wkf@pmt.org</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
Robert E. Williams Williams, Meservy & Lothspeich, LLP PO Box 168 Jerome, Idaho 83338 <a href="mailto:rewilliams@cableone.net">rewilliams@cableone.net</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail

Robert L. Harris Holden Kidwell, Hahn & Crapo, PLLC PO Box 50130 Idaho Falls, Idaho 83405 <a href="mailto:rharris@holdenlegal.com">rharris@holdenlegal.com</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Sarah A. Klahn Mitra M. Pemberton White & Jankowski, LLP 511 Sixteenth Street, Suite 500 Denver, CO 80202 <a href="mailto:sarahk@white-jankowski.com">sarahk@white-jankowski.com</a> <a href="mailto:mitrap@white-jankowski.com">mitrap@white-jankowski.com</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Michael A. Kirkham Assistant City Attorney City of Idaho Falls P.O. Box 50220 Idaho Falls, Idaho 83405 <a href="mailto:mkirkham@idahofallsidaho.gov">mkirkham@idahofallsidaho.gov</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
A Dean Tranmer City of Pocatello PO Box 4169 Pocatello, Idaho 83201 <a href="mailto:dtranmer@pocatello.us">dtranmer@pocatello.us</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
Chris M. Bromley McHugh Bromley, PLLC 380 S. 4 <sup>th</sup> St., Ste. 103 Boise, Idaho 83702 <a href="mailto:cbromley@mchughbromley.com">cbromley@mchughbromley.com</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail

# Idaho Department of Water Resources Receipt

Receipt ID: C101876

Payment Amount \$25.00 Date Received 4/18/2016 4:11 PM Region STATE

Payment Type Check Check Number 5601

Payer RACINE OLSON NYE BUDGE & BAILEY CHTD

Comments NOTICE OF PROTEST FOR IDAHO GROUND WATER APPROPRIATORS INC (IGWA) PROTESTING THE  
JOINT MOTION FOR ORDER ENTERING SETTLEMENT BETWEEN POCA TELLO, COALITION OF CITIES,  
IDAHO FALLS AND SURFACE WATER COALITION CM-MP-2015-001, CM-MP-2015-004, CM-MP-2015-005

## Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	56103	0229	21		1155



Signature Line (Department Representative)

# Idaho Department of Water Resources Receipt

Receipt ID: C101877

Payment Amount \$50.00 Date Received 4/18/2016 4:16 PM Region STATE

Payment Type Check Check Number 5602

Payer RACINE OLSON NYE BUDGE & BAILEY CHTD

Comments NOTICE OF PROTEST FOR IDAHO GROUND WATER APPROPRIATORS INC (IGWA) PROTESTING THE JOINT MOTION FOR ORDER ENTERING SETTLEMENT BETWEEN POCA TELLO, COALITION OF CITIES, IDAHO FALLS, AND SURFACE WATER COALITION. CM-MP-2015-001, CM-MP-2015-004, CM-MP-2015-005

## Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	PROTESTS	56103	0229	21		1155



Signature Line (Department Representative)