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DEPARTMENT OF
WATER RESOURCES

A. Dean Tranmer, ISB No. 2793
City of Pocatello
P. O. Box 4169
Pocatello, ID 83201
Telephone: (208) 234-6149
dtranmer@pocatello.us

Sarah A. Klahn, ISB No. 7928
Mitra M. Pemberton
WHITE & JANKOWSKI, LLP
511 Sixteenth Street, Suite 500
Denver, CO 80202
Telephone: (303) 595-9441
sarahk@white-jankowski.com
mitrap@white-jankowski.com

Attorneys for the City of Pocatello

Robert E. Williams, ISB No. 1693
**WILLIAMS, MESERVY & LOTH SPEICH,
LLP**
P.O. Box 168
Jerome, ID 83338
Telephone: (208) 324-2303
rewilliams@cableone.net

Chris M. Bromley, ISB No. 6530
MCHUGH BROMLEY, PLLC
380 S. 4th St., Ste. 103
Boise, ID 83702
Telephone: (208) 287-0991
cbromley@mchughbromley.com

Attorneys for the Coalition of Cities

Randall C. Budge, ISB No. 1949
Thomas J. Budge, ISB No. 7465
**RACINE, OLSON, NYE, BUDGE &
BAILEY, CHTD**
201 E. Center St. / P.O. Box 1391
Pocatello, ID 83204-1391
Telephone: (208) 232-6101
rcb@racinelaw.net
tjb@racinelaw.net

Randall D. Fife, ISB No. 4010
City Attorney
CITY OF IDAHO FALLS
P.O. Box 50220
Idaho Falls, ID 83405
Telephone: (208) 612-8177
rfife@idahofallsidaho.gov

Robert L. Harris, ISB No. 7018
**HOLDEN, KIDWELL, HAHN & CRAPO,
P.L.L.C.**
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405
Telephone: (208) 523-0620
rharris@holdenlegal.com

Attorneys for the City of Idaho Falls

John K. Simpson, ISB No. 242
Travis L. Thompson, ISB No. 6168
Paul L. Arrington, ISB No. 7198
BARKER, ROSHOLT & SIMPSON, LLC
195 River Vista Place, Suite 204
Twin Falls, ID 83301-3029
Telephone: (208) 733-0700
tlts@idahowaters.com
jks@idahowaters.com
pla@idahowaters.com

*Attorneys for A&B Irrigation District, Burley
Irrigation District, Milner Irrigation District,
North Side Canal Company, and Twin Falls
Canal Company*

W. Kent Fletcher, ISB No. 2248
FLETCHER LAW FIRM
P.O. Box 248
Burley, ID 83318
Telephone (208) 678-3250
wkf@pmt.org

*Attorneys for American Falls Reservoir District
#2 and Minidoka Irrigation District*

*Attorneys for Idaho Ground Water
Appropriators, Inc.*

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

IN THE MATTER OF IGWA'S SETTLEMENT
AGREEMENT MITIGATION PLAN

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

IN THE MATTER OF THE MITIGATION
PLAN FILED BY THE COALITION OF CITIES

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

Docket Nos. CM-MP-2016-001,
CM-MP-2015-001, CM-MP-2015-004,
CM-MP-2015-005

**MOTION FOR ORDER APPROVING
STIPULATION TO
CONDITIONALLY WITHDRAW
PROTESTS**

The City of Idaho Falls (the "City"), an Idaho municipal corporation, the City of Pocatello ("Pocatello") an Idaho municipal corporation, the Coalition of Cities ("COC") (collectively "cities"), the Surface Water Coalition and the Idaho Ground Water Appropriators (collectively,

“Parties”), by and through their above-identified counsel, hereby submits this *Motion for Order Approving Stipulation to Conditionally Withdraw Protests*.

The Parties hereby stipulate as follows:

1. The *Surface Water Coalition’s and IGWA’s Stipulated Mitigation Plan and Request for Order* (the “SWC/IGWA Plan”) was filed with the Idaho Department of Water Resources (“IDWR” or “Department”) on March 9, 2016, and the Cities timely filed protest on April 4, 2016.
2. To resolve the Idaho Falls and Pocatello’s Protests of the SWC/IGWA Plan, the Parties agree:
 - a. Pocatello and Idaho Falls are not participants in the SWC/IGWA Plan and are not bound by any of the terms or conditions found therein.
 - b. SWC and IGWA will not ask the Department to impose the obligations and goals of the SWC/IGWA Plan on any of the cities, despite the fact that the March 9, 2016, SWC/IGWA Request for Order at paragraph 14 requests such relief.
 - c. The Pocatello and Idaho Falls Protests to the IGWA/SWC Plan are to be withdrawn upon entry of an order of the Department approving the SWC/IGWA Plan which includes the following provisions, or provisions in substantially the same form or content:
 - “The SWC/IGWA Plan requires numerous on-going activities, such as monitoring, reporting, and verification of data. The parties to the SWC/IGWA Plan should be responsible for these activities.”

- “The SWC/IGWA Plan includes reference to certain hydrologic goals and benchmarks. The goals and benchmarks are applicable only to the parties to the SWC/IGWA Plan.”¹
 - “Approval of the SWC/IGWA Plan does not begin the process of establishing the Eastern Snake Plain Aquifer (“ESPA”) as a ‘ground water management area’ pursuant to Idaho Code § 42-233b. Any such action to establish the ESPA as a ‘ground water management area’ pursuant to Idaho Code § 42-233b shall only be addressed through a separate administrative proceeding designated for that purpose.”
- d. In the event the above provisions or provisions in substantially the same form or content are not included in the order approving the SWC/IGWA Plan, this stipulation shall be null and void.
3. The *Joint Motion for Order Entering Settlement Between Pocatello, Coalition of Cities, Idaho Falls and the Surface Water Coalition* (“Cities’ Plan”) was filed with the Department on March 15, 2016 and IGWA timely filed a protest on April 18, 2016.
4. In order to resolve the Protest to the Cities’ Plan:
- a. SWC agrees to provide a letter to IGWA by May 5, 2016, stating that, in the event SWC determines it does not require the 2600 acre-feet of storage water provided pursuant to the Cities Plan in 2016 for irrigation purposes, the SWC commits to using that 2600 acre-feet of water for recharge instead.


¹ Similar language for paragraphs 1 and 2 herein are found in the *Final Order Approving Mitigation Plan for 2016*, In the Matter of Southwest and Goose Creek Irrigation Districts Mitigation Plan for the Surface Water Coalition Delivery Call, Docket No. CM-MP-2010-01, March 29, 2016, at 3.

- b. Upon receipt of the above-referenced letter, IGWA will file a formal withdrawal of its Protest to the Cities Plan.

Therefore, the Parties request that the Director enter an order approving this Stipulation.


DATED this 22nd day of April, 2016.


CITY OF POCA TELLO ATTORNEY'S
OFFICE

By 
A. Dean Tranmer

WHITE & JANKOWSKI, LLP

Attorneys for the City of Pocatello

By 
Sarah A. Klahn

By 
Mitra M. Pemberton

CITY OF IDAHO FALLS ATTORNEY'S
OFFICE

By 
for Randall D. Fife

HOLDEN, KIDWELL, HAHN & CRAPO,
P.L.L.C.

Attorneys for the City of Idaho Falls

By 
Robert L. Harris

WILLIAMS, MESERVY & LOTH SPEICH
LLP

Attorneys for the Coalition of Cities

By 
Robert E. Williams

MCHUGH BROMLEY, PLLC

Attorneys for the Coalition of Cities

By 
Chris M. Bromley

BARKER, ROSHOLT & SIMPSON, LLC

Attorneys for A&B Irrigation District, Burley
Irrigation District, Milner Irrigation District,
North Side Canal Company, and Twin Falls
Canal Company

By  for
John K. Simpson

By 
Travis L. Thompson

By  for
Paul L. Arrington

RACINE, OLSON, NYE, BUDGE & BAILEY, FLETCHER LAW FIRM
CHTD

Attorneys for Idaho Ground Water
Appropriators, Inc.

Attorneys for American Falls Reservoir District
#2 and Minidoka Irrigation District

By 
Randall C. Budge 4/20/2016

By  for _____
W. Kent Fletcher

By 
Thomas J. Budge 4/20/2016

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2016, I caused to be served a true and correct copy of the foregoing **MOTION FOR ORDER APPROVING STIPULATION TO CONDITIONALLY WITHDRAW PROTESTS** in **Docket Nos. CM-MP-2016-001; CM-MP-2015-001, CM-MP-2015-004, CM-MP-2015-005** 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 checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input checked="" type="checkbox"/> Hand Delivery <input 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 checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input checked="" 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
Robert E. Williams Williams, Meservy & Lothspeich, LLC P.O. Box 168 Jerome, ID 83338 rewilliams@cableone.net	<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
Chris M. Bromley McHugh, Bromley, PLLC 380 S. 4 th St., Ste. 103 Boise, ID 83702 cbromley@mchughbromley.com	<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
Randall D. Fife City Attorney City of Idaho Falls P.O. Box 50220 Idaho Falls, ID 83405 rfife@idahofallsidaho.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

Robert L. Harris Holden, Kidwell, Hahn & Crapo, PLLC P.O. Box 50130 1000 Riverwalk Drive, Ste. 200 Idaho Falls, ID 83405 rharris@holdenlegal.com	<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
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