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ATTORNEYS FOR THE CITY OF POCATELLO

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A & B IRRIGATION DISTRICT,)	
)	Case No. CV 2011-512
Petitioner,)	
)	CITY OF POCATELLO’S RESPONSE TO
vs.)	A&B IRRIGATION DISTRICT’S MOTION
)	TO REMAND PROCEEDING TO IDWR
THE IDAHO DEPARTMENT OF WATER)	
RESOURCES and GARY SPACKMAN in his)	
official capacity as Interim Director of the)	
Idaho Department of Water Resources,)	
)	
Respondents,)	
)	
and)	
)	
THE IDAHO GROUND WATER)	
APPROPRIATORS, INC., and THE CITY OF)	
POCATELLO,)	
)	
Respondents-Intervenors.)	
_____)	
)	
IN THE MATTER OF THE PETITION FOR)	
DELIVERY CALL OF A&B IRRIGATION)	
DISTRICT FOR THE DELIVERY OF)	

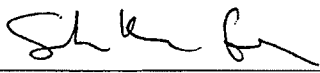
GROUND WATER AND FOR THE)
CREATION OF A GROUND WATER)
MANAGEMENT AREA)
_____)

COMES NOW the City of Pocatello (“City” or Pocatello’), by and through its undersigned counsel, and submits this Response to A&B Irrigation District’s (“A&B”) Motion to Remand Proceeding to IDWR, October 29, 2012 (“Motion”).


A&B requests that this Court remand the above captioned matter to IDWR for entry of a new final order on remand because “neither A&B nor the Director support the April 27 Final Order”. Motion at 3. Pocatello is a respondent-intervenor in this matter, and therefore has standing to defend the Director’s April 27 Final Order, regardless of whether the Department or A&B “support” this order. However, Pocatello does not oppose a remand to the Department so long as Pocatello is not precluded from defending or appealing any findings made on remand simply because it has agreed not to “support” the April 27 Final Order, and so long as the Department is not precluded from making any of the findings found in the April 27 Final Order again on remand. In other words, any procedural decision to remand at A&B’s request should not operate to resolve any of the substantive issues listed in A&B’s Second Amended Notice of Appeal, or for that matter any substantive issue raised by the Department or any other party on remand or on appeal of that remand.

Dated this 9TH day of November, 2012.

CITY OF POCATELLO ATTORNEY’S OFFICE
Attorneys for the City of Pocatello

By 
_____)
A. Dean Tranmer

WHITE & JANKOWSKI, LLP
Attorneys for the City of Pocatello

By  _____
Sarah A. Klahn

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2012, a copy of **Pocatello's Response to A&B Irrigation District's Motion to Remand Proceeding to IDWR in Case CV-2011-512, Minidoka County** was served by facsimile to Snake River Basin Adjudication and by email only to the following parties:



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