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DEPARTMENT OF
WATER RESOURCES

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**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,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES and GARY SPACKMAN in his
official capacity as Director of the Idaho
Department of Water Resources,

Respondents,

and

THE IDAHO GROUND WATER
APPROPRIATORS, INC., and THE CITY OF
POCATELLO,

Respondents-Intervenors.

CASE NO. CV-2011-512

**A&B IRRIGATION DISTRICT'S
OBJECTION TO AGENCY
RECORD**

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 Petitioner, A&B Irrigation District (“A&B”), by and through its undersigned counsel, and pursuant to I.R.C.P. 84(j) hereby submits this *Objection to Agency Record*. The Idaho Department of Water Resources (“IDWR”) lodged the record with the Court by letter dated November 13, 2012. In its letter, IDWR recited its understanding of the agency record on appeal in this case.

A&B agrees in part with IDWR’s assessment of the agency record in this case. A&B agrees the following documents referenced in IDWR’s letter should be included in the agency record:

- 1) CD Agency Record and Transcript (Case No. CV-2009-647) (October 29, 2012)
- 2) Documents referenced in the Court’s *Order Granting Motion to Augment and Correct Agency Record* (Case No. CV-2009-647) (February 26, 2010)
- 3) *Petition for Reconsideration of Interim Director’s April 27, 2011 Final Order on Remand / Request for Hearing* (IDWR Case No. CM-DC-2011-001)

A&B objects to the proposed inclusion of IDWR’s amended notice of appeal and the parties’ briefing before the District Court in Case No. CV-2009-647. *See IDWR November 13, 2012 Letter* (bullet items at page 2). Although those documents were included in the “Clerk’s Record” on appeal to the Idaho Supreme Court, they are not part of the agency’s record identified in Rule 84(f).

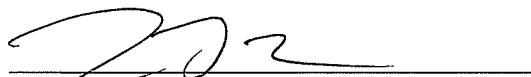
A&B further requests IDWR include the following documents in the agency record (except for the Court order, all documents filed under IDWR case no. CM-DC-2011-001):

- 1) *Order Granting Motion to Enforce in Part and Denying Motion to Enforce in Part* (Case No. CV-2009-647)
- 2) *Motion for the Director to Consider City of Pocatello’s Proposed Order on Remand* (March 14, 2011)
- 3) *City of Pocatello’s Proposed Order on Remand* (March 14, 2011)

- 4) *A&B Irrigation District's Motion to Strike* (March 16, 2011)
- 5) *Response to City of Pocatello's Motion for Director to Consider the City of Pocatello's Proposed order on Remand* (March 29, 2011)
- 6) *A&B Irrigation District's Motion to Strike* (March 30, 2011)
- 7) *City of Pocatello's and IGWA's Joint Response to Motions to Strike* (April 4, 2011)
- 8) *Order Denying Motions to Strike* (April 7, 2011)
- 9) *Notice of Intent to Issue Final Order by April 15, 2011* (April 7, 2011)
- 10) *A&B Irrigation District's Motion for Clarification and Request for Opportunity to Submit Proposed Order on Remand* (April 8, 2011)
- 11) *Order Authorizing Filing of Proposed Order; and Amended Notice of Intent to Issue Final Order* (April 11, 2011)
- 12) *A&B Irrigation District's Proposed Order on Remand* (April 18, 2011)
- 13) *Final Order on Remand Regarding A&B Irrigation District Delivery Call* (April 27, 2011)
- 14) *Stipulated Motion and Proposed Order to Stay Proceedings on Remand* (May 11, 2011)
- 15) *Order Denying Request for Stay of Final Order* (May 23, 2011)

DATED this 26th day of November, 2012.

BARKER ROSHOLT & SIMPSON LLP


Travis L. Thompson

Attorneys for Petitioner A&B Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of November, 2012, I served true and correct copies of **A&B IRRIGATION DISTRICT'S OBJECTION TO AGENCY RECORD** upon the following by U.S. Mail, postage prepaid:

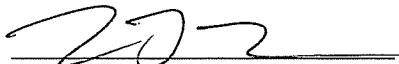
Deputy Clerk
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- U.S. Mail, Postage Prepaid
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