

A. Dean Tranmer, ISB # 2793
City of Pocatello
P. O. Box 4169
Pocatello, ID 83201
(208) 234-6149
(208) 234-6297 (Fax)
dtranmer@pocatello.us

Sarah A. Klahn, ISB #7928
Mitra M. Pemberton
White & Jankowski, LLP
511 Sixteenth Street, Suite 500
Denver, Colorado 80202
(303) 595-9441
(303) 825-5632 (Fax)
sarahk@white-jankowski.com
mitrap@white-jankowski.com

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,)
)
Petitioner,)
)
vs.) Case No. CV 2011-512
)
THE IDAHO DEPARTMENT OF WATER) **CITY OF POCATELLO'S RESPONSE TO**
RESOURCES and GARY SPACKMAN) **JOINT MOTION FOR**
Director of the Idaho Department of Water) **RECONSIDERATION**
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 (“Pocatello”) and responds to the Joint Motion for Reconsideration filed February 7, 2014 (“Motion”).

The Motion requesting the Court re-issue a Remittitur that “include[s] a requirement that the parties comply with the terms and conditions of the Stipulation” should be denied. Motion at 3. The Court does not need to modify its Remittitur, as the three movants have agreed to the terms of the December 3, 2013 Stipulation to Dismiss Appeal (“Stipulation”) and the Idaho Department of Water Resources, to whom the matter is being remitted, is a party to the Stipulation. Thus, there is no reason to believe that the Director will not comply with its terms.

However, if this Court issues the requested order requiring all parties to comply with the terms of the Stipulation, it will effectively make Pocatello a party to the Stipulation over its objection to the substantive terms found therein.¹ If the movants want to proceed in the manner prescribed by their Stipulation, they are free to do so and importantly, are free to do so whether Pocatello acquiesces or not. The Court’s Remittitur should stand.

WHEREFORE, Pocatello respectfully requests that the Court deny the Motion.

¹ As detailed in its brief before the Idaho Supreme Court, Pocatello declined to join in the Stipulation because the Stipulation went beyond issues raised by A&B’s appeal before the Idaho Supreme Court, and required the Idaho Supreme Court to order relief that was not relief sought by A&B’s appeal.

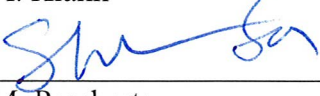
Dated this 11th day of February, 2014.

CITY OF POCA TELLO ATTORNEY'S OFFICE

By 
A. Dean Tranmer

WHITE & JANKOWSKI

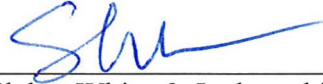
By 
Sarah A. Klahn

By 
Mitra M. Pemberton

ATTORNEYS FOR CITY OF POCA TELLO

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2014, a copy of **City of Pocatello's Response to Joint Motion for Reconsideration in SRBA Case CV-2011-512, Minidoka County** was served to the following parties as noted:



Sarah A. Klahn, White & Jankowski, LLP

Julie Murphy, Deputy Clerk SRBA 253 3 rd Avenue North PO Box 2707 Twin Falls ID 83303-2707 Phone 208-736-3011 Facsimile 208-736-2121 Via Facsimile	IDWR Document Depository PO Box 83720 Boise ID 83720-0098 Via U.S. mail
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Via electronic mail to:

Garrick Baxter Deputy Attorneys General Idaho Dept of Water Resources PO Box 83720 Boise ID 83720-0098 garrick.baxter@idwr.idaho.gov deborah.gibson@idwr.idaho.gov	John K. Simpson Travis L. Thompson Paul L. Arrington Sarah W. Higer Barker Rosholt & Simpson 195 River Vista Place Ste 204 Twin Falls ID 83301-3029 jks@idahowaters.com tlt@idahowaters.com pla@idahowaters.com swh@idahowaters.com	
A. Dean Tranmer City of Pocatello PO Box 4169 Pocatello ID 83201 dtranmer@pocatello.us	Randall Budge Racine Olson Nye Budge & Bailey 201 E Center St PO Box 1391 Pocatello ID 83204-1391 rcb@racinelaw.net	Jerry R. Rigby Rigby Andrus and Moeller 25 N 2 nd East Rexburg ID 83440 jrigby@rex-law.com