

Sarah A. Klahn (ISB #7928)  
Maximilian C. Bricker (ISB #12283)  
SOMACH SIMMONS & DUNN, P.C.  
1155 Canyon St., Suite 110  
Boulder, CO 80302  
[sklahn@somachlaw.com](mailto:sklahn@somachlaw.com)  
[mbricker@somachlaw.com](mailto:mbricker@somachlaw.com)  
*Attorneys for City of Pocatello*

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

CITY OF POCATELLO, CITY OF IDAHO  
FALLS, CITY OF BLISS, CITY OF  
BURLEY, CITY OF CAREY, CITY OF  
DECLO, CITY OF DIETRICH, CITY OF  
GOODING, CITY OF HAZELTON, CITY  
OF HEYBURN, CITY OF JEROME, CITY  
OF PAUL, CITY OF RICHFIELD, CITY OF  
RUPERT, CITY OF SHOSHONE, CITY OF  
WENDELL, BINGHAM GROUND WATER  
DISTRICT, BONNEVILLE-JEFFERSON  
GROUND WATER DISTRICT, and MCCAIN  
FOODS USA, INC.,

Petitioners,

vs.

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

Respondents.

**Case No. CV01-23-08258**

IDWR Docket No. CM-DC-2010-001

**PROOF OF SERVICE**

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

Attached is a signed copy of the *Affidavit of Service* in the above-captioned case, along with a stamped receipt of *Summons* from the Office of the Idaho Attorney General, both dated May 22, 2023.

Respectfully submitted this 24th day of May, 2023.

**SOMACH SIMMONS & DUNN, P.C.**

/s/ Maximilian C. Bricker  
Maximilian C. Bricker, ISB #12283

*ATTORNEYS FOR CITY OF POCA TELLO*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May, 2023, I caused to be filed a true and correct copy of the foregoing document via iCourt E-File and Serve, and upon such filing, the following parties were served via electronic mail:

Idaho Dept. of Water Resources  
Director Gary Spackman  
[file@idwr.idaho.gov](mailto:file@idwr.idaho.gov)  
[Garrick.baxter@idwr.idaho.gov](mailto:Garrick.baxter@idwr.idaho.gov)  
[gary.spackman@idwr.idaho.gov](mailto:gary.spackman@idwr.idaho.gov)  
[sarah.tschohl@idwr.idaho.gov](mailto:sarah.tschohl@idwr.idaho.gov)

John K. Simpson  
MARTEN LAW LLP  
P.O. Box 2139 Boise, ID 83701-2139  
[jsimpson@martenlaw.com](mailto:jsimpson@martenlaw.com)

Travis L. Thompson  
MARTEN LAW LLP P.O. Box 63  
Twin Falls, ID 83303-0063  
[tthompson@martenlaw.com](mailto:tthompson@martenlaw.com)  
[jnielsen@martenlaw.com](mailto:jnielsen@martenlaw.com)

W. Kent Fletcher  
FLETCHER LAW OFFICE  
P.O. Box 248  
Burley, ID 83318  
[wkf@pmt.org](mailto:wkf@pmt.org)

Candice McHugh  
Chris Bromley  
MCHUGH BROMLEY, PLLC  
380 South 4th Street, Suite 103  
Boise, ID 83702  
[cbromley@mchughbromley.com](mailto:cbromley@mchughbromley.com)  
[cmchugh@mchughbromley.com](mailto:cmchugh@mchughbromley.com)

Kathleen Marion Carr  
US Dept. Interior  
960 Broadway Ste 400  
Boise, ID 83706  
[kathleenmarion.carr@sol.doi.gov](mailto:kathleenmarion.carr@sol.doi.gov)

David W. Gehlert  
Natural Resources Section Environment and  
Natural Resources Division U.S. Department  
of Justice  
999 18th St., South Terrace, Suite 370  
Denver, CO 80202  
[david.gehlert@usdoj.gov](mailto:david.gehlert@usdoj.gov)

Matt Howard  
US Bureau of Reclamation  
1150 N Curtis Road  
Boise, ID 83706-1234  
[mhoward@usbr.gov](mailto:mhoward@usbr.gov)

Thomas J. Budge  
Elisheva M. Patterson  
RACINE OLSON  
P.O. Box 1391  
Pocatello, ID 83204-1391  
[tj@racineolson.com](mailto:tj@racineolson.com)  
[elisheva@racineolson.com](mailto:elisheva@racineolson.com)

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO,  
PLLC  
P.O. Box 50130  
Idaho Falls, ID 83405  
[rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

Robert E. Williams  
WILLIAMS, MESERVY, & LOTHSPREICH,  
LLP  
P.O. Box 168  
Jerome, ID 83338  
[rewilliams@wmlattys.com](mailto:rewilliams@wmlattys.com)

Skyler C. Johns  
Nathan M. Olsen  
Steven L. Taggart  
OLSEN TAGGART PLLC  
P.O. Box 3005  
Idaho Falls, ID 83403  
[sjohns@olsentaggart.com](mailto:sjohns@olsentaggart.com)  
[nolsen@olsentaggart.com](mailto:nolsen@olsentaggart.com)  
[staggart@olsentaggart.com](mailto:staggart@olsentaggart.com)

Randall D. Fife  
City Attorney  
City of Idaho Falls  
P.O. Box 50220  
Idaho Falls, ID 83405  
[rfife@idahofallsidaho.gov](mailto:rfife@idahofallsidaho.gov)

Corey Skinner  
IDWR—Southern Region  
1341 Fillmore St., Ste. 200  
Twin Falls, ID 83301-3033  
[corey.skinner@idwr.idaho.gov](mailto:corey.skinner@idwr.idaho.gov)

Dylan Anderson  
Dylan Anderson Law  
P. O. Box 35  
Rexburg, ID 83440  
208-684-7701  
[dylan@dylanandersonlaw.com](mailto:dylan@dylanandersonlaw.com)

Tony Olenichak IDWR—Eastern Region  
900 N. Skyline Drive, Ste. A  
Idaho Falls, ID 83402  
[Tony.Olenichak@idwr.idaho.gov](mailto:Tony.Olenichak@idwr.idaho.gov)

*Courtesy copies to:*

William A. Parsons  
PARSONS SMITH & STONE  
P.O. Box 910  
Burley, ID 83318  
[wparsons@pmt.org](mailto:wparsons@pmt.org)

Paul R. Harrington  
SRBA District Court  
[pharrington@idcourts.net](mailto:pharrington@idcourts.net)

/s/ Maximilian C. Bricker  
Maximilian C. Bricker, ISB #12283

Sarah A. Klahn (ISB #7928)  
Maximilian C. Bricker (ISB #12283)  
SOMACH SIMMONS & DUNN, P.C.  
[sklahn@somachlaw.com](mailto:sklahn@somachlaw.com)  
[mbricker@somachlaw.com](mailto:mbricker@somachlaw.com)  
*Attorneys for City of Pocatello*

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

CITY OF POCA TELLO, CITY OF BLISS, CITY  
OF BURLEY, CITY OF CAREY, CITY OF  
DECL O, CITY OF DIETRICH, CITY OF  
GOODING, CITY OF HAZELTON, CITY OF  
HEYBURN, CITY OF JEROME, CITY OF  
PAUL, CITY OF RICHFIELD, CITY OF  
RUPERT, CITY OF SHOSHONE, CITY OF  
WENDELL, BINGHAM GROUND WATER  
DISTRICT, BONNEVILLE-JEFFERSON  
GROUND WATER DISTRICT, and MCCAIN  
FOODS USA, INC.,

Petitioners,

vs.

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

Respondents.

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

**Case No. CV01-23-8258**

**IDWR Docket No. CM-DC-2010-001**

**AFFIDAVIT OF SERVICE**

I certify:

1. I am a resident of Ada County, State of Idaho, over the age of eighteen (18) years, and not a party to the above-entitled action.
2. On the 22 day of May, 2023, I personally served copies of the Plaintiff's *Complaint for Declaratory Relief, Petition for Writ of Prohibition and Petition for Writ of Mandamus* and a court-issued *Summons* on the IDAHO DEPARTMENT OF WATER RESOURCES, and GARY SPACKMAN, the above-named Defendants, in the County of Ada, State of Idaho, at the Executive Office of the Attorney General, located at:

700 W. Jefferson Street, Suite 210  
Boise, Idaho 83720-0010

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Date: 5/22/2023

Kristina Whipkey  
Typed/Printed Name

Kristina Whipkey  
Signature

Barton, Peter G

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

CV01-23-08258

Case No. \_\_\_\_\_

IDWR Docket No. CM-DC-2010-001

**SUMMONS**

CITY OF POCA TELLO, CITY OF BLISS,  
CITY OF BURLEY, CITY OF CAREY, CITY  
OF DECLO, CITY OF DIETRICH, CITY OF  
GOODING, CITY OF HAZELTON, CITY OF  
HEYBURN, CITY OF JEROME, CITY OF  
PAUL, CITY OF RICHFIELD, CITY OF  
RUPERT, CITY OF SHOSHONE, CITY OF  
WENDELL, BINGHAM GROUND WATER  
DISTRICT, BONNEVILLE-JEFFERSON  
GROUND WATER DISTRICT, and MCCAIN  
FOODS USA, INC.,

Petitioners,

vs.

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

Respondents.

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

**OFFICE OF THE  
ATTORNEY GENERAL**

**INTERNAL RECORD RECEIPT**

This document was received by:

Signature [Signature]

Name Jeffery Ventrella

Date 5/22/2023

Time 3:18 p.m.

Name(s) of person(s) delivering doc-  
ument:

[Signature]  
Kristina Whipple

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF:  
THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT  
FURTHER NOTICE UNLESS YOU RESPOND WITHIN 21 DAYS. READ  
THE INFORMATION BELOW.

TO: IDAHO DEPARTMENT OF WATER RESOURCES; and  
GARY SPACKMAN in his capacity as Director of the Idaho Department of  
Water Resources; and

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada at 200 W. Front Street, Boise, ID 83702, telephone of the Clerk of the Court (208-287-7500, within 21 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the petitioners in the Complaint.

A copy of the Complaint is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 2 and other Idaho Rules of Civil Procedure and must also include:

1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to plaintiff's attorney, as designated above. To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 19th day of May, 2023.

Trent Tripple

CLERK OF THE DISTRICT COURT



By

*Eric Rowell*

Deputy Clerk