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

CITY OF IDAHO FALLS, CITY OF
POCATELLO, 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, and CITY
OF WENDELL

Petitioners,

vs.

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

Respondents,

and

Case No. CV01-23-13238

**PETITIONERS' MOTION TO
AUGMENT THE RECORD**

Fee Category: Exempt
Idaho Code § 67-2301

IDAHO GROUND WATER
APPROPRIATORS INC., A&B
IRRIGATION DISTRICT, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, TWIN FALLS
CANAL COMPANY, AMERICAN FALLS
RESERVOIR DISTRICT #2, MINIDOKA
IRRIGATION DISTRICT, BONNEVILLE-
JEFFERSON GROUND WATER
DISTRICT, and BINGHAM
GROUNDWATER DISTRICT,

Intervenors.

IN THE MATTER OF THE
DISTRIBUTION OF WATER TO
VARIOUS WATER RIGHTS HELD BY
AND 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

COME NOW the Cities of Idaho Falls, Pocatello, Burley, Bliss, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell, by and through their respective counsel (“Petitioners”), and pursuant to I.R.C.P. 84(l) and the Court’s *Procedural Order* dated August 17, 2023, hereby move the Court to enter an Order augmenting the record in the above-captioned case with the following documents:

1. *Motion for Clarification and Reconsideration of Denial of Request for Hearing and to Engage in Discovery*, Docket No. CM-DC-2010-001 (Sep. 5, 2023).

2. *Surface Water Coalition's Response to Cities' Motion for Clarification and Reconsideration*, Docket No. CM-DC-2010-001 (Sep. 19, 2023).
3. *Order Denying Cities' Motion for Clarification and Reconsideration*, Docket No. CM-DC-2010-001 (Sep. 19, 2023).

GROUNDS FOR MOTION

The Petitioners move to augment the record with the above documents on the grounds that they provide context for the Petitioners' issue on appeal that the Idaho Department of Water Resources ("Department") has denied the Petitioners' rights to due process by limiting discovery in the underlying administrative proceeding. The *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-season Demand and Reasonable Carryover* (Jul. 19, 2023) ("Sixth Methodology Order"), *City of Pocatello's, City of Idaho Falls', and Coalition of Cities' Request for Hearing and Order Authorizing Discovery*, Docket No. CM-DC-2010-001 (Aug. 3, 2023), *Surface Water Coalition's Response to Cities' Request for Hearing and Order Authorizing Discovery*, Docket No. CM-DC-2010-001 (Aug. 22, 2023), and *Order Denying Request for Hearing and Motion to Authorize Discovery*, Docket No. CM-DC-2010-001 (Aug. 23, 2023) are currently in the record in the above-captioned case;¹ the documents requested to be added are not, perhaps because the briefing and order on reconsideration were not concluded prior to the Department's deadline to lodge the record and Petitioners' deadline to object to the record, which were August 31, 2023, and September 14, 2023, respectively. It will be helpful to the Court in considering the Petitioners' due process issues to have a complete record of the

¹ *Settled Agency Record on Appeal*, vii-ix (Sep. 28, 2023).

Petitioners' efforts post-hearing to obtain a hearing on the *Sixth Methodology Order* and to conduct discovery.

Petitioners' counsel has conferred with counsel for Respondents and Intervenors about this motion and understands that they will respond as needed.

WHEREFORE, Petitioners respectfully request that this *Motion to Augment the Record* be granted.

DATED this 19th day of October 2023.


MCHUGH BROMLEY, PLLC

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of October, 2023, I served the foregoing document on the persons below via iCourt and email:

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