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DEPARTMENT OF
WATER RESOURCES

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ATTORNEYS FOR THE CITY OF POCATELLO

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF THE PETITION)
REGARDING STORAGE RESET IN) Docket No. P-WRA-2017-002
WATER DISTRICT 01 FILED BY)
MILNER IRRIGATION DISTRICT) **CITY OF POCATELLO'S STATEMENT**
_____) **OF ISSUES**
)

Pursuant to the Directors November 20, 2017, the City of Pocatello submits its Statement of Issues, to wit:

[December 8 is the] [d]eadline for any party to submit to the Director a statement of issues the party believes the Director should address in this contested case. The statement of issues should include argument and authority in support of the party's position that the Director should consider such issues. Submission of a statement of issues is not mandatory.

Order Requesting Staff Memorandum; Order Adopting Deadlines; Notice of Status Conference; Notice of Hearing (Nov. 20, 2017).

Pocatello raises the general issue and non-exclusive sub-issues specified below:

Issues: The Milner Petition puts at issue the administration of all natural flow and storage water rights in Water District 1, including but not limited to the following list of issues:

1. A determination of the term of the storage season – its length, beginning and end - for Water District 01 water rights.

2. For purposes of reset, what is the relationship between the Director's authority/discretion under I.C. §42-602 and the Water Master's authority/discretion under I.C. §§42-604 and 605?
 - a. To what extent should historical use by natural flow water rights be a limitation on future use (e.g., historical use of natural flow by AFRD2 and Milner in the fall)?
 - b. To what extent should the WD01 Water Master be given discretion in accounting for reservoir fill to maximize use of water above Milner pursuant to the Idaho law?
3. How to resolve the reset issue without undermining the terms and operation of the Refill 1 and Refill 2 stipulations and partial decrees, and how unallocated storage will be administered;
4. Should reset of the water stored under the Winter Water Savings storage rights in American Falls Reservoir and Palisades Reservoir be limited by terms and conditions? (for example, limited to the amount of water that the senior natural flow water rights historical called downstream past American Falls Reservoir and Palisades Reservoir?)
5. How any change in the reservoir reset date from the historical practice will affect the administration of AFRD's water right no. 1-6.

Milner's water rights are not administered in a vacuum, and determinations about Milner's storage water rights under WD01 administration necessarily implicate determinations about natural flow and storage rights in WD01 as outlined in the sub-issues listed above. The Director has jurisdiction to decide these issues based on his authority under, *inter alia*, I.C. § § 42-602, -603, and -605, and based on statutory and case law-based authority to resolve the issue(s) raised by Milner in its letter initiating this contested case.

Dated this 8th day of December, 2017.

WHITE & JANKOWSKI

By  _____
Sarah A. Klahn

ATTORNEYS FOR CITY OF
POCATELLO

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2017, I caused to be served a true and correct copy of the foregoing **CITY OF POCATELLO'S STATEMENT OF ISSUES** in Docket No. P-WRA-2017-002 upon the following by the method indicated below:



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