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DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF INTEGRATED
MUNICIPAL APPLICATION PACKAGE
("IMAP") OF UNITED WATER IDAHO
INC., BEING A COLLECTION OF
INDIVIDUAL APPLICATIONS FOR
TRANSFERS OF WATER RIGHTS AND
APPLICATIONS FOR AMENDMENT OF
PERMITS.

**UNITED WATER'S STATEMENT
UPDATING AND EXPLAINING THE
IMAP RELAUNCH**

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INTRODUCTION

On December 18, 2003, the Director (Karl Dreher) of the Idaho Department of Water Resources (“Department” or “IDWR”) issued his *Order Re Motion for Stay*. This order was issued over the objection of the Applicant, United Water Idaho Inc. (“United Water,” “UWID,” or the “Company”). The effect of the order was to stay the entire IMAP proceeding (except for rulings on pending motions) pending resolution of United Water’s claims in the Snake River Basin Adjudication (“SRBA”). On October 6, 2011, United Water petitioned the Department to lift the stay. Following a status conference on April 13, 2012, the then Interim Director (Gary Spackman) issued an order lifting the stay on June 6, 2012. The resumed IMAP proceeding is referred to informally as the IMAP “Relaunch.”

At the most recent status conference on July 24, 2012, the Director and Hearing Officer (Gary Spackman) requested United Water to provide an update report and explanation of changes to water rights included in the IMAP (or otherwise bearing on the IMAP) since the stay was imposed in 2003. This statement is provided in compliance with that request.

In addition to today’s statement, United Water has provided three other background documents since the Relaunch commenced that are intended to assist the Department and the parties in understanding the current status of the IMAP:

- Memorandum from Scott Rhead, Chris Meyer and Mike Lawrence to IDWR and IMAP parties (Apr. 13, 2012). This was distributed to those in attendance at the status conference on April 13, 2012 and was formally submitted for the record on July 25, 2012.
- *United Water’s Statement of Issues for July 24 Status Conference* (July 20, 2012).
- Memorandum from Christopher H. Meyer to Parties (July 24, 2012). This was distributed to those in attendance at the status conference on July 24, 2012 and was formally submitted for the record on July 25, 2012.

As these documents have explained, the IMAP Relaunch is a straightforward continuation of the 2003 IMAP. The IMAP seeks no new water rights. The only changes sought by the IMAP are to secure alternate points of diversion (“APODs”), to establish consistent identification of place of use, nature of use, and season of use, and to make downward adjustments in diversion quantities based on the elimination of annual volume limits. In addition, the IMAP seeks to establish and quantify its reasonably anticipated future needs (“RAFN”) and thereby secure the protections of the Municipal Water Rights Act of 1996 (“1996 Act”) for its existing portfolio of rights. (The key provisions of the 1996 Act set out in Exhibit A hereto.)

Today’s update covers a lot of material because of the many water rights involved in United Water’s portfolio. But there is nothing particularly complicated here. Instead, there is a great deal of detail describing how the rights were decreed by the Snake River Basin Adjudication Court, and documenting that neither the IMAP nor developments since 2003 present any injury or enlargement issues to other water users. Indeed, the developments since the stay result in an IMAP Relaunch that is smaller and simpler than the 2003 IMAP. The 2003 IMAP was not particularly complicated either, but it unfortunately was misunderstood by many. United Water is going the extra mile here to explain, in excruciating detail, that there is nothing hiding under the rug.

For the convenience of the Department and the parties, the spreadsheets contained in Tabs J, K, L, M, and N of the 2003 IMAP (identifying water rights and APODs) are reproduced in Exhibit B hereto. Revised spreadsheets (reflecting current circumstances and showing the changes to water right elements since 2003) are set out in Exhibit C (water rights) and Exhibit D (APODs).

DISCUSSION

I. SUBMISSIONS CULMINATING IN THE 2003 IMAP.

The original IMAP was filed with the Department on May 4, 2001. A replacement version was filed on March 20, 2002. Public notice was based on the March 20, 2002 version.

On January 22, 2003, United withdrew four applications for amendment of permits (63-12424, 63-12463, 63-12506 and 63-12552) associated with non-contiguous system components that lie outside of the planning area (the Coventry Place, Carriage Hill, and Danskin Estates subdivisions).¹ On April 2, 2003 the Hearing Officer (Peter Anderson) ordered that the March 20, 2002 IMAP be interlineated to show the changes and other corrections. This was done on April 9, 2003, and the four permits withdrawn in 2003 are shown in strike-through on Tab K of the 2003 IMAP (reproduced in Exhibit B hereto). Corresponding adjustments were also made to the APOD list on Tab N of the 2003 IMAP (reproduced in Exhibit B hereto). Accordingly, the March 20, 2002 version of the IMAP with interlineations shown as of April 9, 2003 was the version in effect when the IMAP was stayed in 2003. We refer to this as the “2003 IMAP.”

II. UPDATED TALLY OF WATER RIGHTS IN THE IMAP RELAUNCH

The 2003 IMAP included 91 licensed rights, two beneficial use statutory claims, and 15 permits, for a total of 108 water rights. These are listed under Tabs J and K of the 2003 IMAP (reproduced in Exhibit B hereto). Of these 108 rights, 107 are ground water rights and one is a surface water permit (No. 63-12055, the Marden Boise River permit).

The number of rights included in the IMAP Relaunch is 106. The SRBA Court split the Marden Ranney collector license (No. 63-2892) into four decrees (one based on the license and

¹ *UWID's Notice of Withdrawal of Four Applications for Amendment of Permit from the IMAP and Motion to Amend the IMAP* (dated Jan. 20, 2003, filed Jan. 22, 2003).

three based on beneficial use) thus adding three water right numbers (Nos. 63-31797, 63-31798, and 63-31879) to the list for the IMAP Relaunch (with no additional diversion rate). See discussion in section V.D(4) at page 22. This gain of three was offset by the removal of another five rights (two withdrawn from the IMAP, one not claimed and effectively relinquished, one conveyed, and one lapsed). These are discussed in turn below.

On March 17, 2010, United Water withdrew two rights (Nos. 63-7066 and 63-12363) from the IMAP so they could be involved in non-IMAP transfers while the stay was pending.² Right No. 63-7066 was claimed and decreed in the SRBA, while 63-12363 was not because it is a post-SRBA commencement license. These rights will not be included in the IMAP Relaunch because they were withdrawn, but the wells originally associated with them (the Goddard and Cassia #2 wells) will remain in the IMAP Relaunch APOD list.

One licensed right (No. 63-7077) was not claimed in the SRBA because it was determined to be redundant with another right (No. 63-4015). This redundancy was recognized in Tab J of the 2003 IMAP, and, although No. 63-7077 was listed, its diversion rate was eliminated from the spreadsheet's total diversion rate calculation. The right now has been effectively relinquished and will not be included in the IMAP Relaunch. Because both rights have the same point of diversion (Boise Industrial Foundation, or "B.I.F.", well) which was included on the 2003 APOD list, there is no need to update the APOD list in the IMAP Relaunch.

Another licensed right (No. 63-10533) is now in the process of being conveyed to another party (The Terteling Company, Inc.) pursuant to a settlement agreement and will no longer be

² Although a transfer was contemplated at the time of withdrawal, no transfer application was ever filed for No. 63-7066. A point of diversion was added to right No. 63-12363 through Transfer No. 72036 (approved September 17, 2010). The right originally was associated with the Cassia #2 well. Transfer No. 72036 authorized

owned by United Water. Accordingly, this right is not included in the IMAP Relaunch. The well associated with that right (the Cartwright well) was previously removed from the list of APODs in the 2003 IMAP, so there is no need to update the APOD list in the IMAP Relaunch.

One of the permits (No. 63-12432) has now lapsed. Accordingly, it will be dropped from the IMAP Relaunch. It identifies the same points of diversion (Island Woods #1 and #2) as the permit for Right No. 63-11467, which remains in the IMAP. Accordingly, there is no need to update the APOD list in the IMAP Relaunch.

Six permits identified on Tab K of the 2003 IMAP (reproduced in Exhibit B hereto) have now gone to license. Thus, rather than seeking an amendment of permit, the IMAP Relaunch will seek a transfer of these licenses. They are otherwise unchanged from the 2003 IMAP, except for minor downward quantity adjustments that are discussed in section XIV at page 51.

In sum, no new water rights or entitlements have been added to the IMAP Relaunch. The only increase in numbers of rights results from a “split” of a single right that was included in the 2003 IMAP. Overall, there has been a small net decline in rights now included in the IMAP. The spreadsheets in Exhibit C and Exhibit D provide updated information on each of the water rights and their associated APODs in the IMAP Relaunch. The changes in the tally of rights described above is summarized in the chart below:

diversions under the right from the already-existing Fisk well. Both the Fisk and the Cassia #2 wells were listed in the 2003 IMAP APOD list, and will remain in the APOD list for the IMAP relaunch.

TABLE 1. Updated tally of all water rights included in IMAP				
Original basis of right >>>	Permits	Licenses	Beneficial Use	Total
Ground water rights included in 2003 IMAP	+14	+91	+2*	+107
Surface water rights included in 2003 IMAP	+1	+0	+0	+1
TOTAL rights included in 2003 IMAP (based on 2003 permit/license status)	15	91	2	108
Additional decreed rights resulting from SRBA split of No. 63-2892	+0	+0	+3	+3
Right in 2003 IMAP not claimed in SRBA and relinquished (No. 63-7077)	+0	-1	+0	-1
Right conveyed to Terteling (No. 63-10533)	+0	-1	+0	-1
Lapsed permit (No. 63-12432)	-1	+0	+0	-1
Rights withdrawn from IMAP in 2010 (Nos. 63-7066 and 63-12363)	+0	-2	+0	-2
TOTAL rights in IMAP Relaunch (based on 2003 permit/license status)	14	87	5	106
Permits in 2003 IMAP that have been licensed after 2003	-6	+6	+0	+0
TOTAL rights in IMAP Relaunch (based on 2012 permit/license status)	8	93	5	106

* The 2003 IMAP included two rights based on beneficial use: Nos. 63-4395 and 63-19456. These were not called out specifically as beneficial use rights, but were included on Tab J of the 2003 IMAP which was labeled "UWID's Current Licensed and Statutory Ground Water Rights." The term "statutory" refers to statutory claims for beneficial use rights.

III. UPDATED TALLY OF RIGHTS EXCLUDED FROM THE IMAP

United Water also owns five ground water rights and has some surface water entitlements that are not included in the IMAP Relaunch.

One ground water permit application (No. 63-31406 for Maple Hills #2) was excluded from the 2003 IMAP, and will remain excluded from the IMAP Relaunch even though it is now a permit. However, the well associated with this right was included in the 2003 IMAP's list of

APODs, and it will remain in the IMAP Relaunch's APOD list. See discussion in section XI.A at page 43.

Four other ground water rights (Nos. 63-2915, 63-3239, 63-31856, and 63-31857) were unknown at the time of the 2003 IMAP but were later identified during the SRBA process. SRBA Claims were filed for these, resulting in four additional decreed rights. These four decreed rights will not be added to the IMAP Relaunch. See discussion in XI.B at page 44.

The 2003 IMAP disclosed six surface water entitlements that were not included in the 2003 IMAP. See 2003 IMAP, Table 10, at 38. Since 2003, United Water has acquired additional surface water entitlements. In order to avoid complication, all of these will remain excluded from the IMAP Relaunch for transfer/amendment purposes. These excluded surface water entitlements are discussed in section XII at page 44.

Despite the fact that these ground water rights and surface water entitlements are not included in the IMAP for transfer/amendment purposes, they are being fully disclosed for purposes of evaluating United Water's long term needs and available water rights.

IV. TALLY OF SRBA DECREES

At the time of the stay, the water rights included in the IMAP substantially overlapped United Water's pending claims in the SRBA. Moreover, some of the fundamental issues then pending in the IMAP—notably allegations of forfeiture—were also before the Court in the SRBA. The stay was intended to avoid duplication of effort and potentially differing determinations by the Department and the SRBA Court. The stay allowed the Court to rule on United Water's claims with resulting *res judicata* effect. This has now been completed.

During the course of the SRBA proceeding, the Department and the SRBA Court evaluated each claimed right in United Water's portfolio. No forfeiture was found. By and

large, United Water's SRBA claims were approved as claimed, except for some downward adjustment in quantity discussed further in section XIV at page 51.

Partial decrees were issued for 76 of the licensed rights identified in the 2003 IMAP.³ One of these (No. 63-10533) is in the process of being conveyed to the Terteling entities and is therefore not a part of the IMAP Relaunch. Another decreed right (No. 63-7066) was withdrawn from the IMAP in 2010 (along with 63-12363, which is a post-SRBA commencement license that was not claimed or decree in the SRBA). Three additional decrees (Nos. 63-31797, 63-31798, and 63-31879) were issued based on beneficial use associated with the Marden Ranney collector wells. (The decreed diversion quantity for the licensed right associated with these collector wells, No. 63-2892, was reduced accordingly. See discussion in section V.D(4) at page 22.) Partial decrees were not sought or obtained for 16 licensed rights with post-commencement priority dates, nor for licensed right No. 63-7077 which was determined to be redundant with another right (No. 63-4015) as described above on page 7. Likewise, none of the 15 permits included in Tab K of the 2003 IMAP (all of which were post-commencement rights) went through the SRBA process. In sum, of the 106 water rights remaining in the IMAP Relaunch, 77 have partial decrees and 29 do not.

This information is summarized in the charts below:

³ Two of the decrees were for post-commencement rights (proof submitted after commencement) but with pre-commencement priority dates (Nos. 63-10405 and 63-10386). The rest of the decrees were for pre-commencement licensed rights (proof submitted prior to commencement).

TABLE 2. SRBA status of 2003 IMAP rights				
Original basis of right >>>	Permits	Licenses	Beneficial Use	Total
2003 IMAP rights for which SRBA decrees were issued	+0	+74	+2	+76
Right in 2003 IMAP not claimed in SRBA and relinquished (No. 63-7077) (from Table 1)	+0	+1	+0	+1
Post-commencement rights in 2003 IMAP not claimed in SRBA (based on 2003 permit/license status)	+15	+16	+0	+31
TOTAL rights included in 2003 IMAP (based on 2003 permit/license status)	15	91	2	108

TABLE 3. SRBA status of IMAP Relaunch rights				
Original basis of right >>>	Permits	Licenses	Beneficial Use	Total
2003 IMAP rights for which SRBA decrees were issued	+0	+74	+2	+76
Additional decreed rights resulting from SRBA split of No. 63-2892 (from Table 1)	+0	+0	+3	+3
Decreed right being conveyed to Terteling (No. 63-10533) (from Table 1)	+0	-1	+0	-1
Decreed right withdrawn in 2010 (No. 63-7066) (from Table 1)	+0	-1	+0	-1
SUBTOTAL of IMAP Relaunch rights for which SRBA decrees were issued (based on 2012 permit/license status)	0	72	5	77
Post-commencement rights in 2003 IMAP not claimed in SRBA (based on 2003 permit/license status) (from Table 2)	+15	+16	+0	+31
Permits in 2003 IMAP that have been licensed after 2003 (from Table 1)	-6	+6	+0	+0
Lapsed permit (No. 63-12432) (from Table 1)	-1	+0	+0	-1
Licensed right withdrawn from IMAP in 2010 (Nos. 63-12363) (from Table 1)	+0	-1	+0	-1
SUBTOTAL of Rights in IMAP Relaunch with <u>no</u> SRBA decrees (based on 2012 permit/license status)	8	21	0	29
TOTAL rights in IMAP Relaunch (based on 2012 permit/license status)	8	93	5	106

V. APODs

When first acquired, each of United Water's water rights identified, at most, four points of diversion. The authorized points of diversion for each right as of 2003 are displayed under Tab J of the 2003 IMAP (for licenses) and Tab K (for permits). These lists are reproduced in Exhibit B hereto. They also appear in the revised water right spreadsheet in Exhibit C.

The IMAP sought to identify all of United Water's then-existing wells and make each of them an alternate point of diversion ("APOD") available to every ground water right. The 2003 IMAP identified 89 APODs for ground water rights.⁴ These are listed in a spreadsheet under Tab N of the 2003 IMAP (reproduced in Exhibit B hereto). For reasons discussed below, the IMAP Relaunch will reduce the list of APODs to 81 wells.

In the SRBA, United Water sought and received APODs for most of its ground water rights based on accomplished transfers (Idaho Code § 42-1425). Of the 77 partial decrees in the IMAP Relaunch, 67 were decreed with APODs. However, the list of APODs was fewer than the 89 APODs sought in the IMAP. The simple reason is that the SRBA is limited to a "snapshot" of water rights in existence in 1987. Accordingly, the APODs approved in the partial decrees corresponded to United Water's more limited diversion and delivery system as it existed in 1987. The number of APODs is also fewer than the number of decreed rights with APODs because, in some cases, more than one right was associated with a single well.

The 67 partial decrees that included APODs may be divided into three groups or categories. These groups and the ten rights with no system-wide APODs are discussed in turn below.

⁴ This counts the three Marden Ranney collector wells (located within the same quarter-quarter) as one APOD. See footnote 9 at page 19. There would have been 91 APODs if these were counted separately. This is academic, however, because the Ranney collectors are being removed from the APOD list for the IMAP Relaunch. See discussion in section V.D(4) at page 22.

A. Forty-eight rights with 42 APODs

The first and largest group of 48 partial decrees each included 42 APODs.⁵ Each of these wells was owned by United Water and was in operation as of 1987 as part of United Water's integrated delivery system. With the exception of the 13th Street well (discussed below), each of these 42 APODs is included on the list of 89 APODs listed in the 2003 IMAP. Except for the 13th Street and Joplin wells (which are being dropped from the Relaunch), all of the 42 APODs are in the IMAP Relaunch's list of 81 APODs. Accordingly, the IMAP Relaunch will add no new APODs.

The 48 decreed rights and their associated 42 APODs are listed in the tables below:

TABLE 4	
48 water rights in IMAP Relaunch decreed with 42 APODs	
1	63-02506
2	63-02576
3	63-02595
4	63-02605
5	63-02668
6	63-02703
7	63-02808
8	63-02954
9	63-02956
10	63-02989
11	63-03064
12	63-03073
13	63-03105
14	63-03112
15	63-03128
16	63-03164
17	63-03172
18	63-03202

TABLE 5					
42 APODs - Locations and well names					
	WELL NAME	TWN	RGE	SEC	TRACT
1	Bali Hai #1	3N	1E	3	SW,SE,NE
2	Maple Hills #1	3N	1E	14	SW,NE,NE
3	Cole	3N	1E	24	NE,NE,SE
4	Amity	3N	1E	36	NW,NW,NE
5	Sunset West #1	3N	1E	36	SE,NE,SE
6	Central Park	3N	2E	2	NW,NE,NW
7	Idaho	3N	2E	4	NE,SW,SW
8	Bethel	3N	2E	7	NE,SW,SW
9	Arctic #1	3N	2E	8	NE,NE,NE
10	16 th St.	3N	2E	9	SW,SE,NW
11	13 th St.	3N	2E	10	NE,NW,NW
12	Longmeadow	3N	2E	13	NW,SW,NW
13	Beacon	3N	2E	14	NW,SE,NW
14	Cliffside	3N	2E	15	SW,NW,NW
15	Roosevelt #1	3N	2E	16	SW,NW,NW
16	Roosevelt #3	3N	2E	16	SW,NW,NW
17	Hilton	3N	2E	17	SE,NE,SW

⁵ Forty-nine such decrees (with 42 APODs) were issued to United Water. We have not included one of them (No. 63-7066) in this group because it was withdrawn from the IMAP in 2010.

19	63-03291
20	63-03292
21	63-03293
22	63-03295
23	63-03411
24	63-03448
25	63-03494
26	63-03562
27	63-04015
28	63-04414
29	63-04424
30	63-04752
31	63-07204
32	63-07282
33	63-07348
34	63-07479
35	63-07577
36	63-07589
37	63-07658
38	63-08059
39	63-08236
40	63-08432
41	63-08990
42	63-09147
43	63-09204
44	63-09205
45	63-09219
46	63-09223
47	63-09671
48	63-09855

18	Franklin Park	3N	2E	18	SW,NW,NE
19	Hummel	3N	2E	18	SW,NE,SW
20	Kirkwood	3N	2E	19	SW,NE,NE
21	Overland #6	3N	2E	19	NW,NE,NW
22	Hillcrest	3N	2E	20	SE,SE,NE
23	Taggart #1	3N	2E	21	SW,NE,NE
24	Chamberlin #1	3N	2E	22	SE,NW,NE
25	Chamberlin #2	3N	2E	22	SE,NW,NE
26	Broadway	3N	2E	22	SE,SE,SE
27	Logger	3N	2E	24	NW,SW,NW
28	Centennial	3N	2E	25	NW,NW,SE
29	B.I.F.	3N	2E	27	SE,NW,SE
30	Vista	3N	2E	28	NE,NE,NE
31	Country Club	3N	2E	28	SE,NW,NW
32	Byrd	3N	2E	33	SW,NE,NW
33	Terteling	3N	2E	36	NE,SW,NE
34	Joplin	4N	1E	27	NW,NW,SW
35	Frontier	4N	1E	34	SE,NE,SW
36	Settlers	4N	1E	35	NW,NE,NW
37	Goddard	4N	1E	36	SW,NE,NW
38	Swift #1	3N	2E	30	SE,SW,SE
39	Westmoreland	4N	2E	31	NE,NW,SW
40	Willow Lane #1	4N	2E	32	NW,NW,NW
41	Willow Lane #2	4N	2E	32	NW,SW,NW
42	Willow Lane #3	4N	2E	32	NW,SW,NW

Note that the 13th Street well was operational in 1987 and therefore was included as an APOD in the SRBA decrees. However, the well has not been operational since 1999 and was stricken from the APOD list in the 2003 IMAP. It will not be included in the IMAP Relaunch. Accordingly no update is required to remove this well in the APOD list in the IMAP Relaunch. The Joplin well was included in the decreed 42 APOD list and the 2003 IMAP, but will not be in the IMAP Relaunch because the well has been decommissioned and the well lot sold. The effect

of the IMAP Relaunch will be to remove the 13th Street and Joplin wells from the decreed APODs.

B. Post-commencement transfer: Four rights with 43 APODs

A second group of four partial decrees includes 43 APODs. This includes all 42 APODs discussed above, plus one more, the 27th Street well.

The four rights decreed with 43 APODs were the subject of successful Transfer Application 4998 initiated by United Water on December 13, 1996 and approved on January 9, 1998. The transfer integrated the three points of diversion previously associated with these four water rights and added a fourth point of diversion (the 27th Street well).⁶ When these rights were reviewed in the SRBA, the court recognized both the accomplished transfer (42 APODs) and the additional post-SRBA well (the 27th Street well) approved in the transfer, thus bringing the total to 43 APODs. This worked only for the four rights in this formal transfer. Since the 27th Street well was not in existence in 1987, it could not be added as an APOD to the other rights in the SRBA.

The 27th Street well was previously included on the list of 89 APODs in the 2003 IMAP. Accordingly, no change to the IMAP Relaunch is necessary to add this well.

The four rights with 43 APODs are listed in the table below:

TABLE 6. Water rights decreed with 43 APODs		
Water Right Number		APODs
1	63-02500	42 APODs above plus 27 th Street well
2	63-02874	42 APODs above plus 27 th Street well
3	63-07067	42 APODs above plus 27 th Street well
4	63-19456	42 APODs above plus 27 th Street well

⁶ Initially, the transfer sought a fifth point of diversion, but that new well was dropped before the transfer was approved.

C. Post-commencement acquisition: Fifteen rights with 12 APODs

Fifteen of the partial decrees were decreed with 12 APODs. These are the South County Water System water rights and wells, which United Water acquired after the commencement of the SRBA making them ineligible to be APODs serving the rest of United Water's water rights under the accomplished transfer statute, Idaho Code § 42-1425. In other words, as of 1987, these rights were integrated with each other as part of the prior owner's water delivery system, and they were decreed that way. That prior owner's delivery system has now been acquired by United Water and integrated into its municipal water delivery system.

These 12 APODs are different from and do not overlap with the groups of 42 and 43 APODs discussed above. However, each of them was included on the list of 89 APODs sought in the 2003 IMAP. Two of them (Five Mile Estates #2 and Lizaso) will not be included in the IMAP Relaunch because the wells have been decommissioned.

These 15 decreed rights and their associated 12 APODs are listed in the tables below:

TABLE 7	
Water rights decreed with 12 APODs	
1	63-07641
2	63-07896
3	63-07979
4	63-07998
5	63-08011
6	63-08248
7	63-08265
8	63-08405
9	63-08635
10	63-09087
11	63-09106
12	63-09198
13	63-09199
14	63-09384
15	63-10391

TABLE 8					
12 APODs – Locations and well names					
	WELL NAME	TWN	RGE	SEC	TRACT
1	Hidden Valley Estates #2	2N	1E	3	NE,SW
2	Hidden Valley Estates #1	2N	1E	3	SE,SE
3	Brookhollow No. 1	3N	1E	15	SE,NE
4	Lizaso Well	3N	1E	15	SE,SW
5	Paradise North	3N	1E	15	NE,SE
6	Country Squire	3N	1E	23	NW,NW
7	Countryman Estates	3N	1E	23	SE,NW
8	Sherman Oaks	3N	1E	23	SE, SE
9	Victory	3N	1E	27	NE,NE
10	Five Mile Estates W. #2	3N	1E	27	SE,NE
11	Five Mile West #12	3N	1E	27	NW,SW
12	La Grange	3N	1E	34	NE,SW

D. Ten rights decreed without system-wide APODs

Ten of the partial decrees did not include any system-wide APODs. Instead, the decrees limited diversions under these rights to one or two specific points of diversion. These ten rights and their associated points of diversion are shown in the table below:

TABLE 9. Decreed Water Rights Without System-wide APODs						
Water Right Number		Well Name	Point(s) of diversion			
			TWN	RGE	SEC	TRACT
1	63-2892	Marden (Ranney collector wells) Veterans Park (Ranney collector well) – dropped in Relaunch	3N 3N	2E 2E	14 05	SE,NE SE,NE
2	63-31797	Marden (Ranney collector wells)	3N	2E	14	SE,NE
3	63-31798	Marden (Ranney collector wells)	3N	2E	14	SE,NE
4	63-31879	Marden (Ranney collector wells)	3N	2E	14	SE,NE
5	63-3457	Warm Springs Mesa #2 / Warm Springs Mesa #3 ⁷	3N	2E	24	SW,NE
6	63-4395	Barber Hills #1	3N	3E	29	SE,NE
7	63-8385	Barber Hills #1	3N	3E	29	SE,NE
8	63-10150	Barber Hills #1 Barber Hills #2	3N 3N	3E 3E	29 28	SE,NE SW,NW
9	63-10386	Marden (well)	3N	2E	14	SE,NE
10	63-10405	River Run	3N	2E	24	SW,SE

In each case, there is a simple explanation for why system-wide APODs were inappropriate in the context of the SRBA decrees. These are discussed in turn below, and the relevant portion of the table is reproduced for each.

(1) Additional post-commencement acquisitions: Two water systems (Warm Springs Mesa and Barber Hills) and four decreed rights (Nos. 63-3457, 63-4395, 63-6385, and 63-10150)

In addition to the South County water system mentioned above, United Water acquired two additional water systems and four ultimately decreed rights after the SRBA commenced in

⁷ The Warm Springs Mesa wells are sometimes referred to simply as the “Mesa” wells (as they were on Tab N of the 2003 IMAP) and at other times as the “Warm Springs” wells.

1987. (UWID acquired the Warm Springs Mesa water system and associated Water Right No. 63-3457 in 1998,⁸ and the Barber Hills water system and associated Water Right Nos. 63-4395, 63-6385, and 63-10150 in 1999.) Accordingly, based on the “1987 snapshot,” the four wells associated with these four water rights were not eligible to be included in the list of APODs for United Water’s other SRBA claims. Nor were these rights entitled to any of the 42 APODs included in other United Water decreed rights. However, these four wells were included in the list of 89 APODs in the 2003 IMAP. Consequently, no update is required for the IMAP Relaunch.

These water rights and associated points of diversion are shown in the table below:

TABLE 10. Decreed Rights acquired Post-Commencement						
Water Right Number		Well Name	Point(s) of diversion			
			TWN	RGE	SEC	TRACT
1	63-3457	Warm Springs Mesa #2 / Warm Springs Mesa #3	3N	2E	24	SW,NE
2	63-4395	Barber Hills #1	3N	3E	29	SE,NE
3	63-8385	Barber Hills #1	3N	3E	29	SE,NE
4	63-10150	Barber Hills #1	3N	3E	29	SE,NE
		Barber Hills #2	3N	3E	28	SW,NW

(2) One post-commencement proof—well still in operation: River Run well (Water Right No. 63-10405)

United Water sought and obtained a partial decree for the licensed water right associated with its River Run well, despite the fact that proof was not submitted until after commencement of the SRBA. The River Run well was not included in any of the APOD groupings for other decreed water rights, however, because it did not exist as of the SRBA’s commencement (well

⁸ The Warm Springs Mesa system also included associated water right No. 63-10945, which was a post-SRBA commencement permit that was not claimed or decreed in the SRBA and therefore is not included in this discussion about decreed water rights. Right No. 63-10945 authorizes three points of diversion in the same quarter-quarter as right No. 63-3457. One of the points of diversion (Warm Springs Mesa #1) has been decommissioned and is not included in the IMAP Relaunch.

construction commenced on Dec. 1, 1987, and finished on Mar. 21, 1988). For the same reason, the right did not receive APODs itself in its partial decree.

This water right and associated point of diversion are shown in the table below:

TABLE 11. Post-Commencement Proof—Well still in Operation						
Water Right Number		Well Name	Point(s) of diversion			
			TWN	RGE	SEC	TRACT
1	63-10405	River Run	3N	2E	24	SW,SE

**(3) One post-commencement proof—well no longer in operation:
Marden well (Water Right No. 63-10386)**

The Marden well was a traditional ground water well (not a Ranney collector well) located near the Marden Treatment Plant. Like the water right for the River Run well, United Water obtained a decree for this licensed right despite the fact that proof of beneficial use was not submitted until after the commencement of the SRBA. Accordingly, the SRBA Court decreed the right without APODs and did not include this well in the APOD list for the other decreed rights.

Unlike the River Run well, however, the Marden well is no longer in use. Although United Water initially listed the Marden well among the APODs sought when the IMAP was first filed in 2001, the Marden well was stricken from the APOD list in the 2003 IMAP. It will stay that way in the IMAP Relaunch. In sum, the water right associated with the Marden well remains in United Water's portfolio and United Water is seeking APODs for this right as part of the IMAP Relaunch, but as in 2003 it is not seeking to include this well as one of the APODs for this or any other water right.

This water right and associated point of diversion are shown in the table below:

TABLE 12. Post-Commencement Proof—Well No Longer in Operation						
Water Rights Number		Well Name	Point(s) of diversion			
			TWN	RGE	SEC	TRACT
1	63-10386	Marden (well)	3N	2E	14	SE,NE

(4) Special case: Marden Ranney collector wells (Water Right Nos. 63-2892, 63-31797, 63-31798, and 63-31879)

A special case is presented by the four decreed rights associated with United Water's Marden Ranney collector wells.⁹ These three collector wells divert ground water from gravels at a site near the Boise River for use at the Marden Treatment Plant near the Warm Springs Golf Course. Although licensed and decreed as ground water rights, these rights are subject to special mitigation conditions because a fraction of the water diverted was deemed to derive from the Boise River. (See 2003 IMAP at 4, n.1.) Decreed water right No. 63-2892 also authorizes diversion from another Ranney collector well at Veterans Park. That well is no longer in use and will be dropped from the APOD list in the IMAP Relaunch. The decommissioned Veterans Park Ranney collector well should not be confused with the Veterans Park well (aka Veterans Park well), a traditional well associated with a post-SRBA permit (No. 63-12310). The Veterans Park well remains in use and is included on the APOD lists for both the 2003 IMAP and the IMAP Relaunch.)

The Marden Ranney collector right was claimed in the SBRA and listed in the 2003 IMAP as a single water right (No. 63-2892) based on the license. During the SRBA process, the

⁹ A Ranney collector well is a patented type of radial well. The approved transfer of the licensed right (Transfer No. 2605, Right No. 63-2892) expressly calls out that there are three Ranney collector wells authorized within the single listed quarter-quarter. For some reason, the license and decrees for these rights do not expressly call this out. In any event, the IMAP Relaunch will clarify that all three Ranney collectors at the Marden site will remain as points of diversion for these four rights. This is consistent with the 2003 IMAP which identified "Marden Collectors" in the plural in the spreadsheet under Tab N (reproduced in Exhibit B hereto). As discussed in the main text, the IMAP Relaunch will not seek to make the Marden Ranney collectors APODs for other ground water rights, nor will it seek 81 APODs for the water rights associated with the Ranney collectors.

right was split into four water rights with different priority dates but the same total diversion rate of 15 cfs. Thus, in addition to the original license (No. 63-2892), three additional decrees (Nos. 63-31797, 63-31798, and 63-31879) were issued based on beneficial use. All four decreed rights will be included in the IMAP Relaunch.

Although United Water included the Marden Treatment Plant Ranney collector wells in the list of system-wide APODs for the 2003 IMAP, it is dropping the collectors wells for the APOD list for the IMAP Relaunch. Also, as noted above, United Water is no longer using the Ranney collector well associated with these rights at Veterans Park. Accordingly, the IMAP Relaunch is hereby updated to eliminate the request for APODs for the Ranney collector wells at both Marden and Veterans Park, and to request instead that the four points of diversion now decreed for Nos. 63-2892, 63-31797, 63-31798, and 63-31879 be reduced to just the three collector wells (within a single quarter-quarter) at the Marden Treatment Plant. Thus, under the IMAP Relaunch, the only water rights that may be pumped from the Marden Ranney collector wells are the four decreed rights (totaling 15 cfs) associated with that facility.

These water rights and associated points of diversion are shown in the table below:

TABLE 13. Ranney Collector Wells – IMAP Relaunch						
Water rights number		Well Name	Point(s) of diversion			
			TWN	RGE	SEC	TRACT
1	63-2892	Marden Ranney collector wells	3N	2E	14	SE,NE
2	63-31797	Marden Ranney collector wells	3N	2E	14	SE,NE
3	63-31798	Marden Ranney collector wells	3N	2E	14	SE,NE
4	63-31879	Marden Ranney collector wells	3N	2E	14	SE,NE

E. The one surface water right in the IMAP will not use ground water APODs.

The 2003 IMAP included only one surface water right, a permit for the Marden Street Treatment Plant surface water intake from the Boise River (No. 63-12055). (This is distinct from the Marden Ranney collector wells and the Marden well, both of which are ground water rights.) This remains a permit in 2012 and remains the only surface water right included in the IMAP Relaunch for transfer/amendment purposes. As in the 2003 IMAP, United Water is seeking to add one additional point of diversion for this right at the Columbia Treatment Plant. (See note at bottom of page 1 of Tab M of the 2003 IMAP, reproduced in Exhibit B hereto.)

This surface water point of diversion was not included on the list of APODs for ground water rights in the 2003 IMAP. (See 2003 IMAP, at 4 n.3.) Nor will it be included in the APOD list for the IMAP Relaunch.

F. No new wells

No wells have been added to United Water's system that were not included in the 2003 IMAP. Accordingly, no update is required to the IMAP Relaunch to add new APODs.

G. Decommissioned wells

As noted above, United Water has decommissioned the Marden well, the 13th Street well, the Joplin well, the Five Mile Estates #2 well, the Lizaso well, the Warm Springs Mesa #1 well, and the Veterans Ranney collector well. In addition, United Water has decommissioned and does not anticipated re-installing two other wells that were included on the list of 89 APODs in the 2003 IMAP: Empire well and Hope well. The Marden well and the 13th Street well, however, were previously removed from the list of APODs in the 2003 IMAP, so no update to the IMAP Relaunch is required as to them. United Water hereby updates the IMAP Relaunch to remove the following decommissioned wells: the Empire well, the Five Mile Estates #2 well,

the Hope well, the Joplin well, the Lizaso well, the Warm Springs Mesa #1 well, and the Veterans Ranney collector well from the list of APODs

H. Conclusion regarding APOD updates

In sum, the list of 89 APODs in the 2003 IMAP has now been reduced to a list of 81 APODs, composed of the prior APOD list (Tab N of the 2003 IMAP, reproduced in Exhibit B hereto) minus the Ranney collectors at Marden (still in use, but not on APOD list), the Veterans Park Ranney collectors (decommissioned), and six other wells that have been decommissioned since the 2003 IMAP.

The IMAP Relaunch will also have the effect of removing the 13th Street and Joplin wells as APODs for the 48 decreed rights with 42 APODs and the four decreed rights with 43 APODs.

Changes in the APOD lists are summarized in the tables below:

TABLE 14. ADODs in 2003 IMAP that will be dropped from the IMAP Relaunch APOD list		
Well Name		Comment
1.	Marden Ranney collector wells	The Marden Ranney collector wells will be excluded from system-wide APOD list in IMAP Relaunch. The four rights for the Marden collector wells will be the only rights authorized to divert from the Marden Ranney collector wells.
2.	Veterans Park Ranney collector well	This well has been decommissioned and will be dropped from the list of APODs in the IMAP Relaunch. It will also be dropped as an additional point of diversion for the four rights associated with the Marden Ranney collector wells.
3.	Empire well	Decommissioned.
4.	Five Mile Estates well #2	Decommissioned.
5.	Hope well	Decommissioned.
6.	Joplin well	Decommissioned.
7.	Lisazo well	Decommissioned.
8.	Warm Springs Mesa well #1	Decommissioned.

TABLE 15. APODs included in 52 SRBA decreed rights with 42 or 43 APODs that will not be included in the IMAP Relaunch APOD list		
Well Name		Comment
1.	13 th Street well	The 13 th Street well will remain off the APOD list for the IMAP Relaunch. It will be removed as an APOD from 52 decreed rights.
2.	Joplin well	The Joplin well is removed from the APOD list for the IMAP Relaunch. It will be removed as an APOD from 52 decreed rights

TABLE 16. APODs included in 15 SRBA decreed rights with 12 APODs that will not be included in the IMAP Relaunch APOD list		
Well Name		Comment
1.	Five Mile Estates #2 well	The Five Mile Estates #2 well is removed from the APOD list for the IMAP Relaunch. It will be removed as an APOD from 15 decreed rights
2.	Lizaso well	The Lizaso well is removed from the APOD list for the IMAP Relaunch. It will be removed as an APOD from 15 decreed rights

The following table lists the APODs that will be included in the IMAP Relaunch.

TABLE 17. 81 APODs included in IMAP Relaunch					
	Well Name	TwN	Rge	Sec	Tract
1	Amity	3N	1E	36	NW,NW,NE
2	Arctic #1	3N	2E	8	NE,NE,NE
3	B.I.F.	3N	2E	27	SE,NW,SE
4	Bali Hai #1	3N	1E	3	SW,SE,NE
5	Barber #2	3N	3E	28	SW,NW
6	Barber #1	3N	3E	29	SE,NE
7	Beacon	3N	2E	14	NW,SE,NW
8	Bergeson	3N	2E	26	NW,NE,SE
9	Bethel	3N	2E	7	NE,SW,SW
10	Broadway	3N	2E	22	SE,SE,SE
11	Brookhollow No. 1	3N	1E	15	SE,NE
12	Byrd	3N	2E	33	SW,NE,NW
13	Cassia	3N	2E	16	NE,NE,SE
14	Cassia #2	3N	2E	16	NE,NE,SE
15	Centennial	3N	2E	25	NW,NW,SE
16	Central Park	3N	2E	2	NW,NE,NW
17	Chamberlin #1	3N	2E	22	SE,NW,NE
18	Chamberlin #2	3N	2E	22	SE,NW,NE

19	Cliffside	3N	2E	15	SW,NW,NW
20	Clinton	3N	2E	8	SW,NE,SW
21	Cole	3N	1E	24	NE,NE,SE
22	Country Club	3N	2E	28	SE,NW,NW
23	Country Squire	3N	1E	23	NW,NW
24	Countryman Estates	3N	1E	23	SE,NW
25	Edgeview	3N	1E	16	SE,NE
26	Fisk	3N	2E	6	SW,SE,SE
27	Five Mile West #12	3N	1E	27	NW,SW
28	Floating Feather	4N	1E	5	SESW
29	Foxtail	4N	1W	24	SE,SW,SE
30	Franklin Park	3N	2E	18	SW,NW,NE
31	Frontier	4N	1E	34	SE,NE,SW
32	Goddard	4N	1E	36	SW,NE,NW
33	H.P.	4N	1E	27	SW,SE,NE
34	Hidden Valley Estates #1	2N	1E	3	SE,SE
35	Hidden Valley Estates #2	2N	1E	3	NE,SW
36	Hillcrest	3N	2E	20	SE,SE,NE
37	Hilton	3N	2E	17	SE,NE,SW
38	Hummel	3N	2E	18	SW,NE,SW
39	Idaho	3N	2E	4	NE,SW,SW
40	Island Woods #1	4N	1E	16	NE,NW,SW (lot 5)
41	Island Woods #2	4N	1E	21	NW,NW,NW
42	J.R. Flat	2N	2E	2	SW,NW,NW
43	Kirkwood	3N	2E	19	SW,NE,NE
44	La Grange	3N	1E	34	NE,SW
45	Logger	3N	2E	24	NW,SW,NW
46	Longmeadow	3N	2E	13	NW,SW,NW
47	Mac	3N	2E	32	SW,NW,NW
48	Maple Hills #1	3N	1E	14	SW,NE,NE
49	Maple Hills #2	3N	1E	14	SE,NE,NE
50	Market	3N	2E	35	NE,NE,NW
51	McMillan	4N	1E	28	SE,SW,SW
52	Warm Springs Mesa #2	3N	2E	24	NE,SW,NE
53	Warm Springs Mesa #3	3N	2E	24	NE,SW,NE
54	Overland #6	3N	2E	19	NW,NE,NW
55	Paradise North	3N	1E	15	NE,SE
56	Pioneer	2N	2E	22	NE,NW,NE
57	Pleasant Valley	2N	2E	21	NW,NE,NW
58	Raptor	2N	2E	17	NW,NW,NW
59	Redwood Creek	4N	1E	7	SWNW (lot 2)
60	River Run	3N	2E	24	NE,SW,SE
61	Roosevelt #1	3N	2E	16	SW,NW,NW
62	Roosevelt #3	3N	2E	16	SW,NW,NW
63	Settlers	4N	1E	35	NW,NE,NW
64	Sherman Oaks	3N	1E	23	SE, SE
65	Sixteenth St.	3N	2E	9	SW,SE,NW
66	Spurwing	4N	1W	23	NE,SW
67	Sunset West #1	3N	1E	36	SE,NE,SE
68	Swift #1	3N	2E	30	SE,SW,SE

69	Swift #2	4N	2E	31	SE,SW,SE
70	Taggart #1	3N	2E	21	SW,NE,NE
71	Taggart #2	3N	2E	21	SW,NE,NE
72	Tenmile	2N	2E	17	NE,SE,NE
73	Terteling	3N	2E	36	NE,SW,NE
74	Twenty-seventh	3N	2E	4	SW,SW
75	Veterans Park Ranney collector	4N	2E	32	SW,SE,SE
76	Victory	3N	1E	27	NE,NE
77	Vista	3N	2E	28	NE,NE,NE
78	Westmoreland	4N	2E	31	NE,NW,SW
79	Willow Lane #1	4N	2E	32	NW,NW,NW
80	Willow Lane #2	4N	2E	32	NW,SW,NW
81	Willow Lane #3	4N	2E	32	NW,SW,NW

The SRBA has moved United Water part of the way toward recognition of the 81 APODs sought in the IMAP Relaunch. The basic principle of APODs was approved by the SRBA Court and is now *res judicata*. However, the particular APODs listed in the decrees were locked in based on circumstances in 1987 and, in the case of four rights, a post-commencement transfer. And many of United Water's rights have not been through the SRBA at all. So there is more to be completed in the IMAP Relaunch. The circumstances in effect in 1987 leading to the more limited recognition of APODs in the SRBA decrees on the basis of accomplished transfers as of that date do not constrain this formal transfer and amendment process.

I. The APOD condition satisfies the no-injury requirement

Changes to elements of water rights are subject to a no-injury determination. Idaho Code § 42-222(1) (transfers of existing rights); Idaho Code § 42-211 (amendments of permits). The IMAP seeks several types of changes to elements of water rights, the most significant of which is the addition of APODs. (See discussion above and in *United Water's Statement of Issues for July 24 Status Conference* dated July 20, 2012.)

If APODs are approved unconditionally—which is not requested in the IMAP—the water right holder is allowed to pump any water right from any point of diversion without limitation.

This means that no other water user, junior or senior, may complain of well interference once the APODs are approved. If United Water were seeking unconditional APODs, it would face the challenging task of demonstrating that under no circumstance would pumping from any of the APODs cause injury to any existing water right.

However, as United Water has made clear from the very outset—over a decade ago—this is not what it is seeking. This was explained in detail in the 2003 IMAP. That discussion provided, in part:

UWID currently operates a system of wells that each feed into a pressurized and interconnected supply system. In addition to wells and supply lines, the system contains booster pumps, reservoirs and interties which all act to move water throughout the system to most efficiently meet the current localized demands. The current water right descriptions do not recognize this flexibility—which UWID has built into its system at considerable cost and with considerable benefits to its customers.

For example, UWID uses its best and most efficient wells around the clock to meet the base demand of the system. As demand surges at different locations within the system, additional wells are electronically activated. The sequence in which the various wells are used to meet the increased demand is a function of each well's quality and its geographic location in relation to the increased demand. The system maximizes efficiency through a complex, integrated management system which automatically responds to fluctuations in demand, maximizes production of the best wells, stores water, utilizes stored water, and transports water to different service levels.

...
By obtaining alternate points of diversion, UWID does not seek to reallocate water rights among its wells to the detriment of other aquifer pumpers. UWID simply seeks authorization to move licensed quantities around to the most efficient well where this can be done without injury. With this in mind, UWID expects that each existing well will retain the priority date associated with the well for purposes of well interference claims.

2003 IMAP at 15-16 (footnotes omitted) (emphasis supplied).

This, of course, is exactly what the Department recommended for each of United Water's SRBA claims that included APODs. The following language became the standard APOD language for accomplished transfers:

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right at [name of well] located in [quarter-quarter description].

This precise language was approved by the Special Master, the SRBA Court, and the Idaho Supreme Court. *In Re SRBA*, Case No. 39576, Subcase Nos. 29-00271 et al. (Idaho, Fifth Judicial Dist., Nov. 9, 2009), *denying motion to alter or amend*, *In Re SRBA*, Case No. 39576, Subcase Nos. 29-00271 et al. (Idaho, Fifth Judicial Dist. April 12, 2010), *aff'd*, *City of Pocatello v. Idaho*, 152 Idaho 830, 275 P.3d 845 (2012) (upholding the position of *amici curiae* regarding alternate points of diversion). The first of these is reproduced as Exhibit D hereto.

In the SRBA, this APOD language was employed in the context of accomplished transfers. In the IMAP it will be employed in the context of formal transfers and amendments. This makes no difference. The accomplished transfer statute contains a no-injury test identical to that mandated for formal transfers and amendments.¹⁰

In *City of Pocatello*, the Idaho Supreme Court expressly recognized that the APOD condition was necessary and sufficient to protect against injury:

If Pocatello could have each well be an alternate point of diversion for each water right without the attached condition, as stated by IDWR in its supplemental Director's Report, "the City would be allowed to withdraw water under its most senior priority water right from any well location." Recognizing the transfers without

¹⁰ Accomplished transfers are allowed only if "no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right." Idaho Code § 42-1425(2), *see Fremont-Madison Irrigation Dist. v. Idaho Ground Water Appropriators, Inc.*, 129 Idaho 454, 457-58, 926 P.2d 1301, 1304-05 (1996) (upholding constitutionality of accomplished transfer statute only because it contains protections against injury).

the attached condition would injure junior water rights holders by diminishing their priorities. The district court did not err in upholding the attached condition.

City of Pocatello, 152 Idaho at 851, 275 P.3d at 866.

In so ruling, the Court expressly recognized that the condition effectively protected not only injury based on current conditions but injury based on future changes in APOD use that might affect existing rights. Quoting the SRBA Court, the Idaho Supreme Court explained:

Specifically, injury to an existing water right is not limited to the circumstance where immediate physical interference occurs between water rights as of the date of the change. Injury also includes the diminished effect on the priority dates of existing water rights in anticipation of there being insufficient water to satisfy all rights on a source (or in this case a discrete region of the aquifer) and priority administration is sought. Even though the priority administration may occur at some point in the future, injury to the priority date occurs at the time the accomplished transfer is approved.

City of Pocatello, 152 Idaho at 850, 275 P.3d at 865. In so ruling, the court upheld the Department's position: "IDWR asserted that the condition was necessary to avoid injury to other water rights and to assist in the administration of water rights in times of shortage." *Id.*

The condition language accomplishes this protection against injury very simply. It preserves the rights of all existing water right holders to challenge any subsequent use of the APODs based on well interference, even if that well interference does not occur for many years. The effect of the language is to require administration in such well interference cases to be based on the *status quo ante*, that is, without the APOD authorization.¹¹

¹¹ In the *City of Pocatello* litigation, United Water and other municipal providers appeared as *amici curiae* in support of the Department's imposition of the APOD condition. United Water provided a detailed brief explaining how that condition worked in each of three scenarios. That portion of the brief was quoted in full by Judge Melanson under the heading "The Scenarios provided by the Municipal Providers illustrate why the condition is necessary to protect existing rights. The Court concurs with the Provider's assessment of the application of the condition." *In Re SRBA*, Case No. 39576, Subcase Nos. 29-00271 et al., at 16-18. (Idaho, Fifth Judicial Dist., Nov. 9, 2009) (reproduced as Exhibit D hereto).

Judge Melanson of the SRBA Court explained this clearly and succinctly:

The [APOD] condition eliminates the need to establish the highly complex facts that relate to the specific interrelationships or degree of connectivity between specific rights until such a time as priority administration becomes necessary. Pocatello correctly points out that such a determination is typically beyond the scope of the SRBA proceedings and is a determination more appropriately associated with delivery calls. *See American Reservoir Dist. No. 2 v. IDWR*, 143 Idaho 862, 877, 154 P.3d 433, 448 (2006) (partial decree need not contain information on how each water right on a source physically interacts or affects other rights on the same source.) However, if and when that determination is necessary the condition eliminates any injury to the priorities of existing rights.

In Re SRBA, Case No. 39576, Subcase Nos. 29-00271 et al., at 15 (Idaho, Fifth Judicial Dist., Nov. 9, 2009) (emphasis supplied) (reproduced as Exhibit D hereto).

Precisely the same can be said here. Because the applicant has agreed to the APOD condition,¹² it is unnecessary “to establish the highly complex facts that relate to the specific interrelationships or degree of connectivity between specific rights until such a time as priority administration becomes necessary.” *Id.* That may be addressed “if and when that determination is necessary” in “a determination more appropriately associated with delivery calls.” *Id.*

In the *City of Pocatello* case, the city insisted, incorrectly, that other water users were required to come forward in the SRBA and object—or forever hold their peace:

According to Pocatello, “[N]o injury analysis should even be triggered under § 42–1425 unless there has been a third party objection filed to a claim” and “Future injury is also not a proper

¹² On November 24, 2003, United Water entered into a proposed settlement with the Cities of Meridian and Caldwell. The settlement was conditioned upon IDWR approval of eight proposed water right conditions, and a separate agreement among the parties stated that the settlement was subject to IDWR approval of the conditions. As noted in the Memorandum from Scott Rhead, Chris Meyer and Mike Lawrence to IDWR and IMAP parties (April 13, 2012) at 5, the required approval by IDWR has not occurred and the settlement, therefore, has not gone into effect. In any event, the conditions contemplated in 2003 have been overtaken by subsequent events, notably the *Pocatello* litigation and the Idaho Supreme Court’s approval of the standard APOD language. Accordingly, United Water is withdrawing those proposed conditions. In lieu thereof, United Water agrees to the inclusion of the standard APOD condition (or other language accomplishing the same thing) on each of United Water’s IMAP rights that include APODs.

concern under the terms of § 42-1425, as only injuries to the other water right holders on the date of the change could justify denial of a claim.”

City of Pocatello, 152 Idaho at 850, 275 P.3d at 865. The court made fast work of that argument: “Pocatello is wrong on both counts.” *Id.* The same is true here. Just as with claimants and objectors in the SRBA, it is not necessary for protestants to make their case of injury in this IMAP proceeding, and it is equally unnecessary for the applicant to disprove hypothetical future injury when all existing rights are protected by the APOD condition.

In sum, injury, including potential future injury, is a factor that must be addressed in any change case. No one, least of all United Water, disputes this. But where the alleged injury occurs as a result of the inclusion of APODs among the elements of a water right, injury is fully addressed by inclusion of the APOD condition developed by the Department. The Department clearly hit the nail on the head in developing this language. It was upheld consistently and unanimously by the Special Master, the SRBA Court, and the Idaho Supreme Court. Indeed, the issue was so straightforward that the Department sought attorney fees against the City of Pocatello—an almost unprecedented action. Clearly, now that the APOD condition has received the Supreme Court’s blessing, there is no foundation for arguing that it does not fully protect other water users from injury.

The Department and the parties are now entitled to rely on this language and this precedent. By agreeing to the APOD condition, the rights of other water users are fully protected and the injury test is satisfied.

VI. PLACE OF USE

One of the objectives of the IMAP is to consistently describe the place of use for all of United Water's water rights as the United Water service area.¹³ As the 2003 IMAP explained:

For most of UWID's rights, amending the place of use description is not a true change in place of use, but is simply a change in terminology. For example, many of UWID's rights have a place of use described as "City of Boise and vicinity" or some similar variation. Others include the phrase "Within Boise Water Corp. service area" which errs only by employing the former company name. Many water rights describe the place of use as "City of Boise" or "within the city limits of Boise" which contemplates an evolving service area as the city grows but does not explicitly recognize that UWID serves customers outside the city limits.

Several rights, however, have a place of use limited to specified legal descriptions or designated subdivisions. The vast majority of these rights were rights originally obtained by smaller water delivery companies for servicing small and discrete areas. Subsequently, UWID acquired the delivery systems and the associated water rights and integrated the systems to UWID's large municipal delivery system. Rights with these limited place of use descriptions need to be changed to the larger service area place of use to reflect that water diverted pursuant to these rights is diverted into an integrated and interconnected delivery system. The following table identifies those rights that need to have the place of use element changed.

2003 IMAP at 17.

The 2003 IMAP identified 28 water rights in the table referenced in the quotation above (Table 2 in part D(3) at pages 17-18 of the 2003 IMAP). United Water has now obtained partial decrees for 25 of those rights. In each case, the place of use was changed to "the service area of

¹³ The term "service area" is defined in the 1996 Act as "that area within which a municipal provider is or becomes entitled or obligated to provide water for municipal purpose." I. C. § 42-202B(9) (reproduced in full in Exhibit A). Idaho common law and the 1996 Act recognize that the service area of municipal providers is constantly changing and that changes therein do not constitute a change in the place of use requiring a transfer. In the case of United Water, its service area corresponds to its "certificated area" as determined by the Idaho Public Utilities Commission. See discussion in XIII at 47.

United Water Idaho as provided for under Idaho law.” Accordingly, the requested change has already been achieved for those 25 rights.

The rights in the 2003 IMAP’s Table 2 for which partial decrees were not obtained by United Water are discussed in turn below.

One of the rights (No. 63-8357) had been conveyed to Garden City prior to the initiation of the IMAP and its partial decree was issued to the city. The right was not included among the rights subject to transfer in the 2003 IMAP nor was the associated well listed as an APOD. Indeed, its inclusion on Table 2 of the 2003 IMAP was probably an oversight.

Another of the rights listed in Table 2 of the 2003 IMAP (No. 63-7077) was not claimed in the SRBA because it was determined to be redundant with another right (No. 63-4015). As discussed in section II at page 7, this right is being dropped from the IMAP Relaunch.

The third licensed right listed on Table 2 for which United Water did not receive a partial decree is No. 63-11990. This is a post-commencement right for which no SRBA claim was filed and no partial decree was obtained. Accordingly, it is the only right listed in the 2003 IMAP’s Table 2 for which United Water still seeks a change in place of use to reflect United Water’s service area.

Table 2 of the 2003 IMAP was limited to licensed rights. (This limitation was probably inadvertent.) In addition, two permits included in the 2003 IMAP (No. 63-10945 and No. 63-12362) required place of use changes because they were authorized for discrete places of use associated with the original applications filed by United Water’s predecessors, who were subdivision developers.¹⁴ These were not called out individually in the 2003 IMAP, and both

¹⁴ Permit No. 63-10945’s place of use is the Warm Springs Mesa subdivision; the permit was assigned to United Water in 1998 by the developer. Permit No. 63-12362’s place of use is the Foxtail subdivision; the permit was assigned to United Water in 1999 by the developer.

have since been licensed consistent with the permitted places of use. For purposes of clarity, the IMAP Relaunch calls these licenses out expressly as requiring changes in place of use.

In sum, the IMAP Relaunch seeks a change in place of use for three licensed rights (Nos. 63-11990, 63-10945 and 63-12362) to reflect United Water's service area. In addition, United Water continues to seek a ministerial correction of places of use identified incorrectly as "within city limits of Boise," "certificated area," "within the Boise Water Corp. service area," and the like, which should be conformed to read "the service area of United Water Idaho as provided for under Idaho law."

VII. NATURE OF USE

Another of the objectives of the IMAP is to establish a consistently described municipal nature of use for each of United Water's water rights. As the 2003 IMAP explained:

The majority of UWID's water rights are licensed for a municipal purpose of use. Several rights in the portfolio, however, are licensed for domestic, fire protection and/or irrigation purposes of use. As with those water rights that need place of use adjustments, the majority of rights needing nature of use changes were originally held by small delivery companies with more distinctly defined service obligations. Consequently, these rights were often licensed with two or three specific purposes of use rather than the general municipal designation. Nothing in the quantity element of the water rights, nor the context of their creation, indicates that any actual limitation was intended by the choice of language for describing nature of use.

. . . Maintaining an accounting of each water right would serve no public purpose, while significantly increasing costs to UWID's customers. To accurately reflect the broad uses made of water from UWID's system, each of UWID's rights should list a municipal nature of use.

2003 IMAP at 18.

The 2003 IMAP identified 30 water rights in the table provided in conjunction with the quotation above (Table 3 in part D(4) at page 19 of the 2003 IMAP). United Water has now

obtained partial decrees for 27 of those rights. In each case, the nature of use was changed to municipal. Accordingly, the requested change has already been achieved for those 27 rights.

The rights in the 2003 IMAP's Table 3 for which partial decrees were not obtained by United Water are discussed in turn below.

One of the rights (No. 63-8357) had been conveyed to Garden City prior to the initiation of the IMAP and its partial decree was issued to the city. The right was not included among the rights subject to transfer in the 2003 IMAP nor was the associated well listed as an APOD. Thus, its inclusion on Table 3 of the 2003 IMAP appears to be in error.

Another of the rights listed in Table 3 of the 2003 IMAP (No. 63-7077) was not claimed in the SRBA because it was determined to be redundant with another right (No. 63-4015). And yet another (63-7066) was withdrawn from the IMAP in 2010. As discussed in section II at page 7, these rights are being dropped from the IMAP Relaunch.

The third licensed right listed on Table 3 for which United Water did not receive a partial decree is No. 63-11990. This is a post-commencement right for which no SRBA claim was filed and no partial decree was obtained. Accordingly, it is the only licensed right for which United Water still seeks a change in nature of use.

Table 3 of the 2003 IMAP was limited to licensed rights. (This limitation was probably inadvertent.) In addition, two permits included in the 2003 IMAP required nature of use changes (No. 63-10945, authorized for irrigation, domestic, and fire protection, and No. 63-12362, authorized for fire protection¹⁵). These were not called out individually in the 2003 IMAP, and

¹⁵ Current departmental policy provides: "A non-RAFN application for municipal use that includes additional [diversion] rate justified for fire protection purposes should not be permitted for that additional rate under a municipal use, particularly where the applicant has not sought water for RAFN and offered no evidence to support the future appropriation and use of additional water." Jeff Peppersack, *Administrator's Memorandum – Application Processing No. 18, Licensing No. 1* ("Peppersack Memo"), at 4 (Oct. 19, 2009); see also Peppersack Memo at 5, 6. Here, of course, United Water is seeking a RAFN right, so this guidance does not constrain the IMAP.

both have since been licensed consistent with their permitted nature of use. For purposes of clarity, the IMAP Relaunch calls these licenses out expressly as requiring changes in nature of use to municipal purposes.

In sum, the IMAP Relaunch seeks a change in nature of use for three licenses (No. 63-11990, 63-10945 and No. 63-12362) to reflect municipal purposes.

VIII. SEASON OF USE

Another of the objectives of the IMAP is to establish a consistent year-round season of use each of United Water's water rights. As the 2003 IMAP explained:

Ten of UWID's water rights, typically those with an irrigation purpose of use, contain a season of use that limits use of the right to the irrigation season.

UWID proposes that a year round season of use be added to all these rights for the sake of consistency. UWID seeks to amend these water rights to permit diversion of the right during any day of the year. UWID does not propose to divert additional volumes of water under these rights, but simply desires management discretion to decide when the quantity diverted under the right should be diverted. (The annual volume issue is addressed in Part D6 below.)

2003 IMAP at 19-20 (footnote omitted).

United Water has now obtained partial decrees for all ten of the rights listed there (Table 4 in part D(5) at page 20 of the 2003 IMAP). In each case the SRBA Court decreed a year-round season of use. Accordingly, this issue is eliminated from the IMAP Relaunch for those ten rights.

Table 4 of the 2003 IMAP was limited to licensed rights. (This limitation was probably inadvertent.) In addition, one permit included in the 2003 IMAP required a season of use change (No. 63-10945, which authorized year-round for domestic and fire protection uses, but only March 15 through November 15 for irrigation). This was not called out individually in the 2003 IMAP, and it has since been licensed consistent with the permitted seasons of use. For purposes

of clarity, the IMAP Relaunch calls this license out expressly as requiring a change in season of use to year-round.

The change in water right No. 63-10945's season of use from irrigation season to year-round will not enlarge the use because the IMAP Relaunch proposes to reduce the right's diversion rate to reflect the rate required to produce the licensed volume (239 acre-feet per annum ("afa") for irrigation; 154 afa for domestic) based on a year-round continuous flow. This reduction is described in more detail in the next section.

In sum, the IMAP Relaunch seeks a change in season of use for one license (No. 63-10945) to reflect year-round use.

IX. VOLUME LIMITATIONS AND ADJUSTMENTS IN DIVERSION RATE

Another of the objectives of the IMAP is to eliminate volume limitations from its water rights. In order to avoid injury or enlargement, this will be accomplished with corresponding reductions in diversion rate, as appropriate. As the 2003 IMAP explained:

Sixteen of UWID's licen[s]ed water rights are limited by an annual diversion volume. Once again, the majority of these rights were obtained by UWID from other municipal providers that obtained domestic and irrigation rather than municipal water rights which typically not are limited by volume. Another was obtained from a private individual through a transfer. In other cases, it is not clear why the volume limitation was originally placed on the right. Table 5 below identifies each of the rights in UWID's portfolio which has a volume limitation. The last column shows the delivery system with which the right originally was associated.

The few diversion volume limitations in UWID's portfolio add an unnecessary layer of complexity to the administration of UWID's system. If this IMAP is approved, and UWID is permitted to move water rights around freely among its various points of diversion (subject to the well interference conditions), the volume limitation would be nearly impossible to track.

As a result, UWID proposes to eliminate the volume limitation from the 16 licensed rights and 3 permits listed in the following two tables. To prevent enlargement, UWID proposes to adjust the authorized diversion rates on each license downward to reflect the rate required to produce the licensed volume based on a

year-round continuous flow. Table 5 below shows this conversion. In making this conversion, UWID will lose 9.24 cfs from its portfolio of water rights. However, UWID believes this concession is worth the added flexibility the Company and its customers will be afforded by removal of the volume limitations.

2003 IMAP at 20-21.

Of the 16 licensed rights mentioned in the quotation above (Table 5 in part D(6) at page 21 of the 2003 IMAP), United Water has now obtained partial decrees for 14 of these rights. Of these partial decrees, two rights (Nos. 63-3448 and 63-7896) were decreed without any annual volume limitations and without adjustment in diversion rate because continuous, year-round pumping at their authorized diversion rates would not exceed the annual volume limitation.¹⁶ In other words, the annual volume limit was superfluous. One right (No. 63-3457) was decreed with a lower total annual volume limitation than had been in the license and that was listed in the 2003 IMAP because the SRBA Court did not include the licensed fire protection component.¹⁷ The other 11 rights were decreed with the same annual volume limitations that had been in the licenses.¹⁸

The two licensed rights listed on Table 5 for which United Water did not receive partial decrees (Nos. 63-11090A and 63-11990) were post-commencement rights for which no SRBA claim was filed and no partial decree was obtained. Accordingly, they have the same annual volume limitations today as in the 2003 IMAP.

¹⁶ Right No. 63-3448 was licensed and decreed for 4.90 cfs, which would not exceed the licensed volume limitation of 3,540 afa if pumped continuously year-round. Right No. 63-7896 was licensed and decreed for 0.25 cfs, which would not exceed the licensed volume limitation of 181 afa if pumped continuously year-round.

¹⁷ Right No. 63-3457 was listed in the 2003 IMAP as having a 1,209 afa volume limitation. This corresponded to the total volume limitation in the license, which included irrigation, domestic, and fire protection purposes. However, the SRBA Court decreed the right for municipal purposes and eliminated the fire protection volume. As a result, the only annual volume limit was 168 afa for the irrigation and domestic purposes. The IMAP Relaunch proposes to eliminate the 168 afa decreed volume limitation as described in the main text.

¹⁸ One of the 11 rights decreed with the same volume limitation as contained in the license (No. 63-8248) was incorrectly listed in the 2003 IMAP with a 843.0 afa volume limitation; it should have said 843.3 afa.

No decrees were sought or obtained for the three permits listed in Table 6 in part D(6) at page 22 of the 2003 IMAP. Two of these permits (Nos. 63-11467 and 63-12334) have been licensed since 2003 with the same annual volume limitations listed in the 2003 IMAP. The other (No. 63-11878) still is a permit with the same annual volume limitation as in the 2003 IMAP.

In addition to the three permits listed in Table 6 of the 2003 IMAP, another permit (No. 63-10945) has been licensed with an annual volume limitation of 393 afa (239 afa for irrigation, and 154 afa for domestic), whereas the permit contained no volume limitations.

Accordingly, the IMAP Relaunch proposes to reduce the authorized diversion rates for the rights shown in the following table to reflect the rate required to produce the authorized annual volume based on a year-round continuous flow.

TABLE 18. Elimination of Annual Volume Limitations -- IMAP Relaunch

	Right Number	Priority Date	Licensed Quantity (cfs)	Licensed Volume (AFA)	Adjusted Quantity (cfs)	Reduction in Quantity (cfs)
1	63-03411	6/17/1964	1.50	178.00	0.25	1.25
2	63-03457	7/14/1965	1.67	168.00	0.23	1.44
3	63-07979	5/13/1974	2.00	1268.00	1.75	0.25
4	63-07998	6/25/1974	1.27	658.00	0.91	0.36
5	63-08011	7/18/1974	3.00	276.00	0.38	2.62
6	63-08248	1/2/1976	1.57	843.30	1.16	0.41
7	63-08385	11/6/1977	0.49	182.40	0.25	0.24
8	63-08405	1/12/1977	2.00	1320.00	1.82	0.18
9	63-08635	8/17/1983	0.89	106.20	0.15	0.74
10	63-09384	5/27/1980	1.00	420.00	0.58	0.42
11	63-10150	7/1/1983	0.48	56.10	0.08	0.40
12	63-10391	11/14/1986	0.30	62.40	0.09	0.21
13	63-11090A	1/21/1990	1.73	376.40	0.52	1.21
14	63-11990	1/27/1993	1.80	624.00	0.86	0.94
15	63-11467	2/21/1991	2.27	520.00	0.72	1.55
16	63-11878	6/15/1992	0.99	190.50	0.26	0.73
17	63-12334	3/8/1995	0.38	42.00	0.06	0.32
18	63-10945	10/29/1989	1.72	393.00	0.54	1.18

X. FIVE GROUND WATER RIGHTS SERVING NON-CONTIGUOUS SERVICE AREAS WERE EXCLUDED FROM THE 2003 IMAP AND REMAIN EXCLUDED.

As noted in section I at page 7, four ground water permits (63-12424, 63-12463, 63-12506 and 63-12552) serving non-contiguous areas were withdrawn from the IMAP in 2003. These remain outside of United Water's planning area in 2012. These rights and associated wells have been conveyed to other municipal providers (the cities of Nampa and Kuna) since 2003. Accordingly, they will not be included in the IMAP Relaunch. Nor are they part of United Water's available supply for purposes of RAFN.

Another water right permit (No. 63-31243 for the Belmont Heights subdivision) was held by United Water at the time of the 2003 IMAP and was also later conveyed to the City of

Nampa. It is unclear why it was not referenced in the 2003 IMAP, but, in any event, it is no longer owned by United Water and will not be included in the IMAP Relaunch.

XI. SEVEN GROUND WATER RIGHTS SERVING UNITED WATER'S INTEGRATED DELIVERY SYSTEM ARE NOT INCLUDED IN THE IMAP

Seven ground water rights serving United Water's integrated delivery system (as opposed to non-contiguous areas) were excluded from the 2003 IMAP for transfer/amendment purposes. See discussion in III at page 10. One was only a permit application at the time; four were not discovered until later. As discussed above, two of these seven water rights (Nos. 63-7066 and 63-12363) were withdrawn from the IMAP in 2010. None will be added to the IMAP Relaunch. Of course, each is being fully disclosed for purposes of evaluating future needs and available water rights. These rights (not including Nos. 63-7066 and 63-12363) are discussed below.

A. Maple Hills #2 (No. 63-31406)

One ground water permit application (No. 63-31406 associated with the Maple Hills #2 well) was excluded from the 2003 IMAP because, at the time, no permit had yet issued.¹⁹ It has a January 18, 2002 priority date, and the permit was issued on April 15, 2004. Being a post-commencement right, United Water did not seek or obtain a partial decree for this permit.

Although the right itself is not included in the IMAP, United Water anticipated that this permit would be issued (which it was) and therefore the Maple Hills #2 well was included in the 2003 IMAP as an APOD for the other water rights. This is the reason that this APOD is listed on page 2 of Tab N of the 2003 IMAP (reproduced in Exhibit B hereto).

¹⁹ Of course, United Water could have included this permit application in the 2003 IMAP (in a third category of change: "amendments to permit applications"). However, at the time, this was a contested case and United Water elected not to complicate the IMAP by including it. It is unclear why this right was not mentioned in the 2003 IMAP. In any event, it was well known to the Department and the parties and would have been considered as the IMAP progressed for purposes of evaluating long term needs and available water rights.

The IMAP Relaunch makes no change in this regard. Thus, Water Right No. 63-31406 is not included in the IMAP Relaunch for transfer/amendment purposes but its associated well remains included on the list of APODS for those rights that are included.

B. Four water rights discovered after the 2003 IMAP (Nos. 63-2915, 63-3239, 63-31856, and 63-31857)

After the IMAP was stayed in 2003 and United Water turned its attention to the SRBA, it discovered four overlooked water rights. It filed SRBA claims for these and received partial decrees for each. In each case, the partial decrees were issued for the same 42 APODs discussed in section V.A at page 15. Accordingly, there is no need to update the APOD list in IMAP Relaunch. In order to avoid added complexity, United Water will not modify IMAP Relaunch to include these four decreed rights for transfer/amendment purposes. As with all other excluded rights, they are being fully disclosed for purposes of evaluation of future needs and available water rights.

XII. MOST SURFACE WATER ENTITLEMENTS SERVING UNITED WATER'S INTEGRATED DELIVERY SYSTEM ARE NOT INCLUDED IN THE IMAP.

As noted above, the 2003 IMAP included all of United Water's ground water rights and permits (except the five discussed in the preceding section), and one of its surface water permits (the Marden Boise River permit). In addition, in 2003 United Water held six other surface water entitlements. For several reasons (e.g., the rights were held in other entities' names), the latter were not included in the 2003 IMAP. See 2003 IMAP, Part E(7), at 38. Nor will they be included in the IMAP Relaunch.

Subsequent to the 2003 IMAP, United Water acquired additional surface water rights and entitlements. The IMAP Relaunch will not be modified to add these for transfer/amendment purposes. All of the rights not included in the IMAP, however, are disclosed for purposes of

evaluating United Water's long term needs and available water rights. See 2003 IMAP, Part E(7), at 38.

The excluded surface water entitlements are discussed in turn below.

A. Six surface rights were excluded from the 2003 IMAP and remain excluded.

The 2003 IMAP identified six surface water entitlements. See 2003 IMAP, Table 10, at 38 and 2003 IMAP at 4, n.1 (discussing Anderson Ranch storage entitlement). Each of these entitlements remain in United Water's portfolio today.

United Water's entitlement to Anderson Ranch storage water is used in part for mitigation of its Marden Ranney collector water rights.²⁰ Thus, part of this right facilitates use of another right and does not add additional diversion capacity contributing to United Water's available water supply. The portion of this right that is not used for mitigation is available to be diverted through the Marden Treatment Plant's surface water intake.²¹

The other five surface water rights and entitlements identified in, but expressly excluded from, the 2003 IMAP contribute directly to United Water's water supply. Four of these rights were not held in United Water's name in 2003. See 2003 IMAP, Part E(7), at 38. Three of the four have since been decreed to United Water.²² All of these rights will remain excluded from the IMAP Relaunch for transfer/amendment purposes, but are disclosed for purposes of

²⁰ As discussed above, the single, 15 cfs Marden Ranney collector right included in the 2003 IMAP (No. 63-2892) was split into four rights totaling 15 cfs through the SRBA process (Nos. 63-2892, 63-31797, 63-31798, and 63-31879).

²¹ The watermaster makes an after-the-fact calculation to determine how much of the Anderson Ranch water was used for mitigation based on the total volume pumped from the Ranney collectors in a year.

²² As of the 2003 IMAP, one surface water right was owned by Thurman Mill Ditch Company (No. 63-00169F) and two were owned by the South Boise Mutual Canal Company (63-00243E and 63-00243H). In the SRBA, they were decreed to UWID for municipal purposes. Thus, the reason for excluding them from the 2003 IMAP (they were not held in United Water's name) is no longer operative. Nevertheless, in order to avoid complicating the IMAP Relaunch, they will remain excluded. The Boise City Canal Company water right (No. 63-165L) remains in that entity's ownership.

evaluating United Water's long term needs and available water rights. United Water held an exchange right out of the Snake River.

They are summarized in the following table:

TABLE 19. Entitlements to Use of Surface Water Disclosed in 2003 IMAP (Based on decreed rights, owned shares, or long-term contracts)			
Name/Description	Water right number	Quantity (cfs)	Season available
Boise City Canal Company	63-00165L	0.68	Irrigation season
Thurman Mill Ditch Company	63-00169F	0.81	Irrigation season
South Boise Mutual Canal Company	63-00243E	3.30	Irrigation season
South Boise Mutual Canal Company	63-00243H	0.93	Irrigation season
Wilson Exchange (Snake River right diverted from Boise River)	02-02339	11.00	Salmon flow augmentation
Anderson Ranch Reservoir (storage)		1,000 afa	Year-round

B. The new surface water entitlements acquired since 2003 will not be included in the IMAP Relaunch

Since the 2003 stay, United Water has acquired additional surface water entitlements (and has expanded its ownership of one of the prior entitlements). These new rights will not be added to the IMAP Relaunch for transfer/amendment purposes, though they, too, are being disclosed. These rights are summarized in the following table:

TABLE 20. Post-2003 Entitlements to Use of Surface Water			
Name/Description	Water right number	Quantity	Dates available
Recurring rentals	n/a	2,500 afa	Year-round
Spot market rentals	n/a	As needed	Year round
Leased shares (short term)	n/a	As needed	Irrigation season
Lucky Peak Reservoir	n/a	1,100 afa	Year-round
Columbia Treatment Plant (Boise River)	63-31409	20.00 cfs	Flood releases
Initial Butte Exchange (Snake River right diverted from Boise River)	63-31871 2-02341 2-02358 2-02420	35.21 cfs	Salmon flow augmentation

Note that most of United Water’s surface right entitlements are available only for discrete and, to some extent, non-overlapping times. Accordingly, their contribution to available supply is not strictly cumulative. For example, the two Snake River exchanges are available only when flow augmentation water is released from Lucky Peak Reservoir by the Bureau of Reclamation for salmon recovery. The Marden and Columbia Treatment Plant right (No. 63-31409), on the other hand, is available only when water is being released for flood control purposes, which does not overlap with the salmon flow augmentation water. Thus, their net contribution to United Water’s available water supply, particularly during times of peak demand, is less than the arithmetic sum of their diversion rates.

XIII. PLANNING AREA BOUNDARY

In Idaho, every water right has an associated place of use. This is an element of the water right and may only be changed by a transfer proceeding (or accomplished transfer). In the case of a municipal water provider, the place of use is referred to as its service area. Idaho common law and the 1996 Act recognize that the service area of municipal providers is constantly changing and that changes therein do not constitute a change in the place of use requiring a transfer. In the case of United Water, its service area corresponds to its “certificated area” as determined by the Idaho Public Utilities Commission.

The term “planning area” is used to describe the anticipated service area of a municipal water provider at the end of the planning horizon. Areas may be excluded from the planning area if there is uncertainty about whether the municipal provider will serve that area in the future. Unlike a service area, a planning area is not an element of a water right. It is simply a planning tool employed in quantifying RAFN. Defining the bounds of the planning area and determining the duration of the planning horizon are essential first steps to the quantification of RAFN.

Designation of a planning area does not constitute an entitlement for the municipal provider to serve that area. The Idaho Public Utilities Commission ultimately will determine what areas United Water will serve. United Water has drawn its planning area boundary conservatively. It may end up serving areas outside the planning area. Likewise, it is possible that it will not serve every area included within the boundary. The planning area is simply United Water's best estimate, and a conservative one, of what areas it will be serving fifty years from now.

During the course of the IMAP proceedings prior to the stay, United Water provided a map showing its planning area. This is known as the "2002 Pink Line Map" because the planning area is marked in a pink line. This formed the basis of the RAFN projections calculated by its economist, Dr. John Church.

Subsequent to the stay, a number of events have occurred that have clarified where United Water is likely to be serving in the future. Accordingly, United Water is submitting a revised "2012 Pink Line Map" depicting its revised planning area for the IMAP Relaunch. This map also shows the 2002 Pink Line for comparison. In addition, the 2012 Pink Line Map also shows the locations of quarter sections containing United Water's existing wells (i.e. the APODs requested in the IMAP Relaunch).²³ A copy of the current 2012 Pink Line Map is set out as 0.

The 2012 Pink Line Map shows how United Water's planning area boundary for the IMAP Relaunch largely corresponds with its existing certificated service area, particularly when compared to the 2002 Pink Line Map. Annexations by the Cities of Meridian, Eagle, and Kuna over the past decade have created a more defined common boundary between those

²³ At the request of certain protestants, United Water has included the well locations on the 2012 Pink Line Map.. For security reasons, precise well locations cannot be disseminated without each recipient first signing a confidentiality and nondisclosure agreement.

municipalities and United Water’s service area. As a result, United Water does not expect much change in its certificated service area in these areas over the next fifty years. The bulk of United Water’s expected expansion outside of its existing certificated area will occur in north Ada County and south of Boise.

A. Meridian and Eagle areas.

In the Meridian and Eagle vicinity, the western boundary of the 2012 Pink Line precisely matches United Water’s existing certificated boundary. Compared to the 2002 Pink Line Map, the biggest change in this area is the planning area extension north of Chinden Boulevard, which was not included within the 2002 Pink Line boundary.

Near Eagle, United Water’s current certificated service area includes two “islands” where service has expanded into since 2002. One island area is bordered by Eagle Road, Lanewood, Floating Feather, and Beacon Light. The other island is north of Homer Lane and east of Eagle Road. The 2012 Pink Line Map shows that United Water’s planning boundary for the IMAP Relaunch does not stray from these already certificated boundaries.

B. North Ada and Avimor areas

Since 2002, United Water extended its certificated service area to include the Avimor development in north Ada County. United Water’s planning area boundary for the IMAP Relaunch extends roughly a mile northwest of the current certificated boundary near Avimor, along the Ada County border. It then travels due south until it reaches State Highway 55 near Shadow Valley Golf Course, after which it follows Highway 55 to the south for about a mile until it reaches the City of Eagle’s Area of City Impact. The planning area boundary then follows the Area of City Impact boundary south until it intersects United Water’s current certificated area boundary at Hill Road. United Water expects to serve the proposed Dry Creek

Master Planned Community located east of Highway 55 between the Highway and Hidden Springs.

C. Garden City area

The proposed IMAP Relaunch planning area boundary follows the existing United Water certificated area boundary and the Garden City area of impact.

D. Eastern boundary along foothills

Going southeast from the Avimor area, the proposed IMAP Relaunch planning area boundary follows United Water's current certificated service area boundary until it intersects the City of Boise's Area of City Impact boundary near the Hidden Springs community. To capture Boise City's future potential growth, it then follows the Area of City Impact boundary southeast along the foothills all the way until it reaches Columbia Road south of the Boise River in southeast Boise. This section of the proposed IMAP Relaunch planning area boundary is identical to the 2002 Pink Line Map.

E. Area south of Boise

At Columbia Road in southeast Boise, the proposed IMAP Relaunch planning area boundary turns east for one mile, then heads due south for four miles, turns east again for a mile then south for another two miles until it heads west to form the southern boundary of the proposed planning area. This section of the proposed IMAP Relaunch planning area boundary is identical to the 2002 Pink Line Map, the southern boundary being three miles south of United Water's existing certificated service area to capture expected growth in this area over the next 50 years.

F. City of Kuna and western boundary area

Where the southern boundary of the proposed IMAP Relaunch planning area approaches the City of Kuna, it turns north one mile further east than the 2002 Pink Line Map to avoid the

City's annexations since 2002. After traveling three miles north, the planning area boundary intersects United Water's current certificated service area western boundary all the way through and around the Cities of Meridian, Eagle, and Garden City, as described above. In other words, aside from the area extending three miles south of its existing certificated service area east of Kuna, United Water's proposed IMAP Relaunch planning area is identical to its current certificated service area along its western boundary.

XIV. DOWNWARD ADJUSTMENTS IN AUTHORIZED DIVERSION QUANTITY

The diversion rates for three rights listed in the 2003 IMAP have been reduced through the SRBA process and through licensing.²⁴ In addition, there are combined flow limitations on several sets of rights that reduce the aggregate authorized diversion rate below the sum total of the rates listed on the face of the rights. Both of these types of reductions are addressed below.

A. Three rights with reduced diversion rates through the SRBA and licensing.

Only one of the licensed water rights listed in the 2003 IMAP (No. 63-4395) was decreed by the SRBA Court with a different (i.e. lower) diversion rate than was listed in the 2003 IMAP. This right was licensed for 0.75 cfs for irrigation purposes from April 15 to October 10, and year-round domestic use. The SRBA Court decreed the right for year-round municipal purposes at a lower diversion rate (0.56 cfs) to avoid enlargement of the irrigation component.

Two of the permits listed in the 2003 IMAP (Nos. 63-10945 and 63-12139) were licensed while the IMAP stay was pending for lower diversion rates than permitted. Right No. 63-10945 was licensed for 1.72 cfs instead of the permitted 2.00 cfs, and No. 63-12139 was licensed for 3.2 cfs instead of the permitted 4.90 cfs.

²⁴ This does not include right No. 63-2892, the right whose diversion rate was "reduced" when the SRBA Court split the right among itself and three beneficial use rights (63-31797, 63-31798, and 63-31879), resulting in no net reduction. See discussion in V.D(4) at page 22.

B. Reductions to the aggregate diversion rate caused by combined flow limitations.

The 2003 IMAP reduced the total diversion rate for the then-licensed rights (Tab J) by 1.05 cfs to “reflect combined flow limitations for rights 63-7641 and 63-8405; and 63-8385 and 63-10150.” On their faces, right Nos. 63-7641 and 63-8405 were authorized for a total of 4.00 cfs (2.00 cfs each), but a combined diversion rate limitation authorized a total of 3.12 cfs from the two rights. Similarly, right Nos. 63-8385 and 63-10150 on their faces were authorized for a total of 0.97 cfs, but a combined diversion rate limitation authorized a total of 0.80 cfs from the two rights. The total 1.05 cfs reduction in the 2003 IMAP’s Tab J is comprised of the 0.88 cfs reduction produced by the former pair’s combined flow limitation and the 0.17 cfs reduction produced by the latter pair’s.

Since the 2003 stay, the 63-8385 / 63-10150 limitation has changed (so now decreed right No. 63-4395 is included in the 0.80 cfs combined flow limitation), several new combined flow limitations have been imposed through the SRBA, licensing, and a transfer process. The IMAP Relaunch incorporates the reduced decreed and licensed diversion rates in these rights. The reduced diversion rate based on combined flow limitations for the IMAP Relaunch are summarized in the following table:

TABLE 21: Adjustments to Diversion Rate – IMAP Relaunch			
Water Right	cfs	Combined Flow Limitation	Reduced Flow
63-7641	2.00	3.12	-0.88
63-8405	2.00		
63-8385	0.49	0.80	-0.73
63-10150	0.48		
63-4395	0.56		
63-3457	1.67	3.10	-0.29
63-10945	1.72		
63-11558	2.67	5.50	-1.67
63-12363	4.50		

XV. DURATION OF PLANNING HORIZON

As in the 2003 IMAP, the IMAP relaunch seeks a 50-year planning horizon. United Water is undertaking a revised calculation of its needs based on that 50-year planning horizon for the years 2012 through 2062. See discussion in Memorandum from Scott Rhead, Chris Meyer and Mike Lawrence to IDWR and IMAP parties (Apr. 13, 2012) and *United Water's Statement of Issues for July 24 Status Conference* (July 20, 2012). These documents explain the role of reopener conditions and the Department's authority to impose them.

XVI. DOWNWARD ADJUSTMENT IN FUTURE NEEDS PROJECTION

One of the significant objectives of United Water is to bring its portfolio of municipal water rights under the protection of the 1996 Act. Although United Water's existing municipal water rights are protected from forfeiture by the Growing Communities Doctrine and, for those rights with partial decrees, by *res judicata*, the 1996 Act provides more explicit statutory protection. Idaho Code § 42-223(2). This express statutory protection is provided only to those municipal providers who undertake the substantial planning exercise to establish a long term planning horizon and to quantify their reasonably anticipated future needs ("RAFN") during that

time frame. It bears emphasis that going through this RAFN exercise does not create any new water rights or increase United Water's authority to divert under its existing water rights.

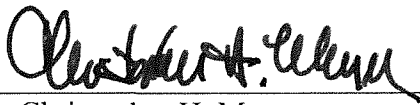
United Water is now undertaking a re-calculation of its future need projections based on current circumstances. This is not yet completed. As noted in *United Water's Statement of Issues for July 24 Status Conference* dated July 20, 2012, however, preliminary work indicates that the population and water demands projected for United Water's service area at the end of the fifty-year planning horizon have moved downward. At this point we anticipate that United Water's RAFN over a 50-year planning horizon beginning in the year 2012 will be fairly close to its current portfolio of water rights. In other words, the principle established by RAFN quantification in the IMAP is unlikely to be that United Water needs to obtain substantial additional water rights. To the contrary, the IMAP will likely establish facts that will preclude United Water from obtaining substantial (or perhaps any) additional water rights with additional net diversion authority—until such time as the planning horizon is extended and/or RAFN is revised in the decades ahead. Precedents established by the IMAP, however, will enable other municipal providers to quantify their own RAFN and, to the extent shown necessary, acquire water rights to meet that long term need.

CONCLUSION

Events occurring in the SRBA and elsewhere have, if anything, narrowed the scope of issues presented by the IMAP and simplified the process going forward. Notably, the SRBA Court and the Idaho Supreme Court have confirmed that the APOD condition included in United Water's SRBA decrees (and agreed to by United Water for all water rights subject to the IMAP Relaunch) address and resolve the injury analysis required in any transfer or permit application.

Respectfully submitted this 14th day of August, 2012.

GIVENS PURSLEY LLP

By 
Christopher H. Meyer

By 
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of August, 2012, the foregoing was filed, served, and copied as follows:

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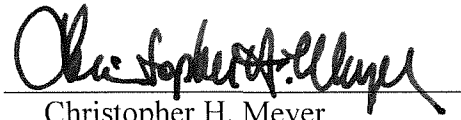

Christopher H. Meyer

Exhibit A MUNICIPAL WATER RIGHTS ACT OF 1996

In 1996, the Idaho Legislature codified the growing communities doctrine and established specific procedures and limitations governing a municipality's ability to acquire water rights (by appropriation or transfer) for long-term growth. Municipal Water Rights Act of 1996 ("1996 Act" or the "Act").²⁵ Because the text of the Act is important, we set it out here in full for reference:

Idaho Code § 42-202(2)	An application proposing an appropriation of water by a municipal provider for reasonably anticipated future needs shall be accompanied by sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.
Idaho Code § 42-202(11)	Provided further, that water rights held by municipal providers prior to July 1, 1996, shall not be limited thereby.
Idaho Code § 42-202B(4)	"Municipality" means a city incorporated under section 50-102, Idaho Code, a county, or the state of Idaho acting through a department or institution.
Idaho Code § 42-202B(5)	"Municipal provider" means: (a) A municipality that provides water for municipal purposes to its residents and other users within its service area; (b) Any corporation or association holding a franchise to supply water for municipal purposes, or a political subdivision of the state of Idaho authorized to supply water for municipal purposes, and which does supply water, for municipal purposes to users within its service area; or (c) A corporation or association which supplies water for municipal purposes through a water system regulated by the state of Idaho as a "public water supply" as described in section 39-103(12), Idaho Code.
Idaho Code § 42-202B(6)	"Municipal purposes" refers to water for residential, commercial, industrial, irrigation of parks and open space, and related purposes, excluding use of water from geothermal sources for heating, which a municipal provider is entitled or obligated to supply to all those users within a service area, including those located outside the boundaries of a municipality served by a municipal provider.
Idaho Code § 42-202B(7)	"Planning horizon" refers to the length of time that the department determines is reasonable for a municipal provider to hold water rights to meet reasonably anticipated future needs. The length of the planning horizon may vary according to the needs of the particular municipal provider.

²⁵ 1996 Idaho Sess. Laws ch. 297 (codified as amended at Idaho Code §§ 42-202(2), 42-202(11), 42-202B, 42-217, 42-219(1), 42-219(2), 42-222(1), 42-223(2)). This list of codified sections excludes some minor "clean up" to other sections of the Water Code that were included in the 1996 Act. References to municipal providers are also found in Idaho Code §§ 43-335 and 43-338, dealing with the right of irrigation districts to lease water to municipal providers. These references were not part of the 1996 Act but came a year later.

Idaho Code § 42-202B(8)	<p>“Reasonably anticipated future needs” refers to future uses of water by a municipal provider for municipal purposes within a service area which, on the basis of population and other planning data, are reasonably expected to be required within the planning horizon of each municipality within the service area not inconsistent with comprehensive land use plans approved by each municipality. Reasonably anticipated future needs shall not include uses of water within areas overlapped by conflicting comprehensive land use plans.</p>
Idaho Code § 42-202B(9)	<p>“Service area” means that area within which a municipal provider is or becomes entitled or obligated to provide water for municipal purposes. For a municipality, the service area shall correspond to its corporate limits, or other recognized boundaries, including changes therein after the permit or license is issued. The service area for a municipality may also include areas outside its corporate limits, or other recognized boundaries, that are within the municipality’s established planning area if the constructed delivery system for the area shares a common water distribution system with lands located within the corporate limits. For a municipal provider that is not a municipality, the service area shall correspond to the area that it is authorized or obligated to serve, including changes therein after the permit or license is issued.</p>
Idaho Code § 42-217	<p>On or before the date set for the beneficial use of waters appropriated under the provisions of this chapter, the permit holder shall submit a statement that he has used such water for the beneficial purpose allowed by the permit. The statement shall include:</p> <p>...</p> <p>4. In the case of a municipal provider, a revised estimate of the reasonably anticipated future needs, a revised description of the service area, and a revised planning horizon, together with appropriate supporting documentation.</p> <p>...</p>
Idaho Code § 42-219(1)	<p>... A license may be issued to a municipal provider for an amount up to the full capacity of the system constructed or used in accordance with the original permit provided that the director determines that the amount is reasonably necessary to provide for the existing uses and reasonably anticipated future needs within the service area and otherwise satisfies the definitions and requirements specified in this chapter for such use. The director shall condition the license to prohibit any transfer of the place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use of amounts held for reasonably anticipated future needs together with such other conditions as the director may deem appropriate.</p>
Idaho Code § 42-219(2)	<p>... If the use is for municipal purposes, the license shall describe the service area and shall state the planning horizon for that portion of the right, if any, to be used for reasonably anticipated future needs.</p>

Idaho Code § 42-222(1)	<p>...</p> <p>When the nature of use of the water right is to be changed to municipal purposes and some or all of the right will be held by a municipal provider to serve reasonably anticipated future needs, the municipal provider shall provide to the department sufficient information and documentation to establish that the applicant qualifies as a municipal provider and that the reasonably anticipated future needs, the service area and the planning horizon are consistent with the definitions and requirements specified in this chapter. The service area need not be described by legal description or by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantity of uses that generally will be made.</p> <p>When a water right or a portion thereof to be changed is held by a municipal provider for municipal purposes, as defined in section 42-202B, Idaho Code, that portion of the right held for reasonably anticipated future needs at the time of the change shall not be changed to a place of use outside the service area, as defined in section 42-202B, Idaho Code, or to a new nature of use.</p> <p>The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter.</p> <p>...</p>
Idaho Code § 42-223(2)	<p>A water right held by a municipal provider to meet reasonably anticipated future needs shall be deemed to constitute beneficial use, and such rights shall not be lost or forfeited for nonuse unless the planning horizon specified in the license has expired and the quantity of water authorized for use under the license is no longer needed to meet reasonably anticipated future needs.</p>

Exhibit B

TABS J, K, L, M, AND N OF 2003 IMAP

J. SPREADSHEET 1: SUMMARY OF PRE-CHANGE LICENSES

UWID's Current Licensed and Statutory Ground Water Rights

RIGHT NUMBER	TRANSFER	SOURCE	PRIORITY	PURPOSE OF USE	AMOUNT (CFS)	AMOUNT (AFA)	POINT TWN	OF RGE	DIV SEC	TRACT	PLACE OF USE	PERIOD OF USE
63-02500	4998	GW	8/30/1934	Municipal	0.80		3N	2E	4	SW,SW	Within the City of Boise and surrounding service area	1/1-12/31
							3N	2E	9	NE,NW		
							3N	2E	9	SE,NW		
							3N	2E	10	NW,NW		
63-02506		GW	6/5/1935	Municipal	1.66		3N	2E	14	NE,NE	City of Boise	
63-02576		GW	4/26/1938	Municipal	1.90		3N	2E	14	NE,NE	Within city limits of Boise	
63-02595		GW	8/31/1966	Municipal	1.34		3N	2E	16	NW,NW	Within city limits of Boise & vicinity	1/1-12/31
63-02605		GW	7/2/1943	Domestic	0.90		3N	2E	4	NE,NW	Within city limits of Boise & adjacent territory	
63-02668		GW	7/15/1947	Municipal	2.14		3N	2E	8	NE,NE	Within city limits of Boise & adjacent territory	
63-02703		GW	6/23/1948	Municipal	5.00		3N	2E	15	NW,NW	Within city limits of Boise & vicinity	
63-02808		GW	4/3/1950	Municipal	3.10		3N	2E	13	SW,NW	Within city limits of Boise & vicinity	
63-02874	4998	GW	8/18/1951	Municipal	4.00		3N	2E	4	SW,SW	Within the City of Boise and surrounding service area	1/1-12/31
							3N	2E	9	NE,NW		
							3N	2E	9	SE,NW		
							3N	2E	10	NW,NW		
63-02892		GW	2/7/1952	Municipal	15.00		3N	2E	5	SE,NE	Within city limits of Boise	
							3N	2E	14	SE,NE		
63-02954		GW	8/27/1953	Domestic	0.90		3N	2E	18	SW,SE	T3N, R2E, S17 NWSW, SWSW; S19 NENE	
63-02956		GW	8/27/1953	Domestic	0.56		3N	2E	18	SE,SE	T3N, R2E, S17 NWSW, SWSW; S19 NENE	
63-02989		GW	6/2/1954	Municipal, Domestic	1.00		3N	1E	1	SE,SE	Within city limits of Boise & vicinity	
63-03064		GW	10/31/1955	Irrigation, Domestic, Fire Protection	1.22		4N	2E	31	NW,SW	Within city limits of Boise & vicinity	
63-03073		GW	1/4/1956	Municipal	2.00		3N	2E	28	NW,NW	Within city limits of Boise & vicinity	
63-03105		GW	12/19/1956	Municipal	2.00		3N	2E	18	NW,NE	T3N, R2E, S18 NWNE, SWNE	
63-03112		GW	9/11/1957	Irrigation, Domestic	1.44		3N	2E	19	NE,NE	T3N, R2E, S17 NWSW, SWSW; S18 SW1/4, SE1/4; S19 NENE	
63-03128		GW	4/24/1958	Municipal	4.44		3N	2E	21	NE,NE	Within city limits of Boise & vicinity	
63-03164		GW	8/5/1959	Domestic	1.73		3N	2E	27	NE,SW	T3N, R2E, S27 SWNE, NW1/4, NESW	
63-03172		GW	10/14/1959	Municipal	2.22		3N	2E	18	NE,SW	Within the boundary of Overland Water Co.	
63-03202		GW	6/8/1960	Municipal	2.89		3N	2E	22	NW,NE	Within city limits of Boise & vicinity	
63-03291		GW	5/21/1962	Municipal	2.40		4N	2E	32	NW,NW	Within city limits of Boise & vicinity	
63-03292		GW	5/21/1962	Municipal	2.26		3N	2E	22	NW,NE	Within city limits of Boise & vicinity	
63-03293		GW	5/21/1962	Municipal	3.56		3N	2E	16	NW,NW	Within city limits of Boise & vicinity	
63-03295		GW	5/24/1962	Municipal	3.24		3N	2E	28	NE,NE	Within city limits of Boise & vicinity	
63-03411		GW	6/17/1964	Municipal	1.50	178.00	4N	2E	32	SW,NW	Within city limits of Boise & vicinity	1/1-12/31
63-03448		GW	4/27/1965	Municipal	4.90	3540.00	3N	2E	14	SE,NW	Within city limits of Boise & vicinity	1/1-12/31

UWID's Current Licensed and statutory Ground Water Rights

RIGHT NUMBER	TRANSFER	SOURCE	PRIORITY	PURPOSE OF USE	AMOUNT (CFS)	AMOUNT (AFA)	POINT TWN	OF RGE	DIV SEC	TRACT	PLACE OF USE	PERIOD OF USE
63-03457		GW	7/14/1965	Irrigation, Domestic, Fire Protection	1.67	1209.00	3N	2E	24	SW,NE	T3N, R3E, S19 SWNE 8, SENW 7, NESW 5, NWSE 10; 30 acres total, place of use for domestic and fire protection is the same.	1/1-12/31 & 3/15-11/15
63-03494		GW	3/8/1966	Municipal	6.44		3N	2E	17	NE,SW	Within city limits of Boise & vicinity	1/1-12/31
63-03562		GW	11/7/1966	Municipal	1.47		3N	2E	19	NE,NW	Within city limits of Boise & vicinity	1/1-12/31
63-04015*		GW	10/17/1960	Domestic, Fire Protection	2.00		3N	2E	27	NW,SE	Within city limits of Boise	1/1-12/31
63-04395		GW	6/1/1950	Irrigation, Domestic	0.75		3N	3E	S29	SE,NE	T3N R3E S26 SENE 18, SWNW 02; S29 NESE 5, 25 acres total; S29 NENE, SENE, NWNW, SWNW, NESE domestic	4/15-10/10, 1/1-12/30
63-04414		GW	7/1/1943	Municipal	1.11		3N	2E	32	NE,NE	Within the city limits of Boise and for Gowen Field Airport	1/1-12/31
63-04424		GW	7/1/1943	Municipal	1.33		3N	2E	33	NE,NW	Within the city limits of Boise and for Gowen Field Airport	1/1-12/31
63-04752		GW	1/1/1947	Municipal	1.11		3N	2E	2	NE,NW	Within city limits of Boise	1/1-12/31
63-07066		GW	2/28/1968	Domestic	5.80		4N	1E	36	NE,NW	Within city of Boise	1/1-12/31
63-07067	4998	GW	2/28/1968	Municipal	2.84		3N	2E	4	SW,SW	Within city of Boise and surrounding service area	1/1-12/31
						3N	2E	9	NE,NW			
						3N	2E	9	SE,NW			
						3N	2E	10	NW,NW			
63-07077*		GW	3/15/1968	Domestic, Fire Protection	1.11		3N	2E	27	NW,SE	T3N, R2E, S27 NWSE	1/1-12/31
63-07204		GW	3/13/1969	Municipal	1.82		3N	2E	8	NE,NE	Within city limits of Boise & vicinity	1/1-12/31
63-07282		GW	12/2/1969	Municipal	4.12		3N	2E	20	SE,NE	Within city limits of Boise & vicinity	1/1-12/31
63-07348		GW	7/14/1970	Municipal	6.60		3N	2E	7	SW,SW	Within city limits of Boise & vicinity	1/1-12/31
63-07479		GW	8/20/1971	Municipal	7.00		3N	2E	22	SE,SE	City of Boise and vicinity	1/1-12/31
63-07577		GW	4/6/1972	Municipal	2.01		3N	2E	36	SW,NE	Within city limits of Boise	1/1-12/31
63-07589		GW	4/20/1972	Municipal	4.40		3N	1E	3	SE,NE	Within city limits of Boise	1/1-12/31
63-07641		GW	8/17/1972	Domestic	2.00		2N	1E	3	SE,SE	T2N, R1E, S3 SWSE, SESE	1/1-12/31
63-07658		GW	1/8/1973	Municipal	1.06		3N	1E	3	SE,NE	Within city limits of Boise	1/1-12/31
63-07896		GW	11/13/1973	Domestic	0.25	181.00	3N	1E	27	NW,SE	T3N, R1E, S27 NWSE	1/1-12/31
63-07979		GW	5/13/1974	Irrigation, Domestic, Fire Protection	2.00	1268.00	2N	1E	3	NESW	T2N, R01E, S2 SW1/4, SWSE, S3 NENW, SENW, NESW, NWSW, SESW, SE1/4; S10 NENE, SENE, S11 NWNE, NW1/4	1/1-12/31, 4/1-10/31
63-07998		GW	6/25/1974	Irrigation, Domestic, Fire Protection	1.27	658.00	3N	1E	27	SE,NE	T3N, R1E, S27 SWNE, SENE,NESE, NWSE	1/1-12/31, 4/1-10/31
63-08011		GW	7/18/1974	Domestic, Fire Protection	3.00	276.00	3N	1E	23	SE,NW	T3N,R1E, S23 NW1/4	1/1-12/31
63-08059		GW	11/12/1974	Municipal	0.57		4N	2E	32	SW,NW	Within city limits of Boise	1/1-12/31
63-08236		GW	11/28/1975	Municipal	3.63		3N	2E	25	NW,SE	City of Boise	1/1-12/31

UWID's Current Licensed and Statutory Ground Water Rights

RIGHT NUMBER	TRANSFER	SOURCE	PRIORITY	PURPOSE OF USE	AMOUNT (CFS)	AMOUNT (AFA)	POINT TWN	OF RGE	DIV SEC	TRACT	PLACE OF USE	PERIOD OF USE
63-08248		GW	1/2/1976	Irrigation, Domestic, Fire Protection	1.57	843.00	3N	1E	27	NE,NE	T3N, R1E, S22 SWSE 20, SESE 20; S27 NENE 32, SWNE 32, SENE 32, NESE 32, NWSW 32, 200 acres total	1/1-12/31, 4/1-10/31
63-08265		GW	2/23/1976	Domestic	2.37		3N	1E	15	SE,NE	T3N, R1E, S15, NWNE, SWNE, SENE	1/1-12/31
63-05385		GW	11/6/1977	Domestic	0.49	182.40	3N	3E	S29	SE,NE	T3N, R3E, S28 SWNW, NWSW; S29 SENE, NESE (152 homes)	1/1-12/30
63-08405		GW	1/12/1977	Irrigation, Domestic, Fire Protection	2.00	1320.00	2N	1E	3	SE,SE	T2N, R1E, S2 NWNW 7, SWNW 7, NESW 7, NWSW 7, SWSW 7, SESW 7; T2N, R1E, S3 NENW 7, SWNW 7, SENW 2, NESW 7, NWSW 2, SESW 4, SWSE 7, SESE 7; T2N, R1E, S10 NENE 3; T2N, R1E, S11 NENW 5, NWNW 7, 100 acres total, place of use same for domestic and fire protection	1/1-12/31, 3/1-10/31
63-05432		GW	2/10/1977	Municipal	1.78		3N	1E	36	NE,SE	T3N, R1E, S31 NE 1/4; S35 NW1/4	1/1-12/31
63-08635		GW	8/17/1983	Irrigation, Domestic, Fire Protection	0.89	106.20	3N	1E	23	SE, SE	T3N, R1E, SEC. 23 SWSE 6, SESE 8, 14 acres total	1/1-12/31, 3/15-11/15
63-08990		GW	7/19/1977	Municipal	4.00		3N	1E	24	NE,SE	Within Boise Water Corp."	1/1-12/31
63-09087		GW	11/25/1977	Municipal	3.40		3N	1E	23	NW,NW	T3N, R1E, S23, NW1/4	1/1-12/31
63-09106		GW	1/23/1978	Domestic, Fire Protection	1.12		3N	1E	15	NE,SE	T3N, R1E, S15 NESE, NWSE	1/1-12/31
63-09147		GW	6/6/1978	Municipal	4.00		3N	2E	30	SW,SE	City of Boise and adjacent area	1/1-12/31
63-09198		GW	1/2/1979	Municipal, Fire Protection	2.45		3N	1E	27	NW,SW	T3N, R1E, S22 SWSE, SESE, S27 NENE, SWNE, SENE, NESW, NWSW, NESE, NWSE	1/1-12/31
63-09199		GW	1/3/1979	Municipal, Fire Protection	3.12		3N	1E	34	NE,SW	T3N, R1E, S2 NENW, SENW, SW1/4; S3 NENW, SENW, NESW, SE 1/4; S34 NESW	1/1-12/31
63-09204		GW	1/9/1979	Municipal	4.00		4N	1E	27	NW,SW	Within Boise Water Corp. service area	1/1-12/31
63-09205		GW	1/9/1979	Municipal	4.00		4N	1E	35	NE,NW	Within Boise Water Corp. service area	1/1-12/31
63-09219		GW	3/20/1979	Municipal	2.23		3N	2E	24	SW,NW	Within the limits of the Boise Water Corp. Service Area	1/1-12/31
63-09223		GW	4/3/1979	Municipal	4.23		3N	1E	36	NW,NE	Within the limits of the Boise Water Corp. Service Area	1/1-12/31
63-09384		GW	5/27/1980	Irrigation, Domestic, Fire Protection	1.00	420.00	3N	1E	15	SE,SW	T3N, R1E, S15 NESW 20, SESW 20, 40 acres total, place of use for domestic and fire protection same as for irrigation	1/1-12/31, 4/1-10/31
63-09671		GW	2/25/1981	Municipal	2.12		3N	1E	14	NE,NE	Within city limits of Boise	1/1-12/31
63-09855		GW	12/23/1981	Municipal	3.34		4N	1E	34	NE,SW	Within city limits of Boise	1/1-12/31
63-10150		GW	7/1/1983	Irrigation Domestic	0.48	58.10	3N	3E	S28	SW,NW	T3N, R3E, S28 NWNW, SWNW, S29 NENE, SENE, place domestic is same as for irrigation	3/15-11/15, 1/1-12/31
63-10386		GW	9/19/1986	Municipal	1.11		3N	2E	14	SE,NE (lot 7)	Within city limits of Boise	1/1-12/31
63-10391		GW	11/14/1986	Irrigation, Domestic, Fire Protection	0.30	62.40	3N	1E	15	SW,SW	T3N, R1E, S15, SWSW 8 Acres total, place of use for irrigation and domestic is same as for irrigation	1/1-12/31, 3/15-11/15
63-10405		GW	3/17/1987	Municipal	1.56		3N	2E	24	SW,SE	Within city limits of Boise	1/1-12/31
63-10533		GW	9/9/1987	Municipal	0.52		4N	2E	27	NW,SE	Within city limits of Boise	1/1-12/31

IMAP Tab J

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UWID's Current Licensed and Statutory Ground Water Rights

RIGHT NUMBER	TRANSFER	SOURCE	PRIORITY	PURPOSE OF USE	AMOUNT (CFS)	AMOUNT (AFA)	POINT TWN	OF RGE	DIV SEC	TRACT	PLACE OF USE	PERIOD OF USE
63-10569		GW	2/5/1988	Municipal	1.78		2N	2E	2	NW,NW	Within city limits of Boise	1/1-12/31
63-10688		GW	8/15/1988	Municipal	2.00		4N	2E	30	SW,SE	Within the city limits of Boise and the surrounding service area	1/1-12/31
63-10862		GW	7/18/1989	Municipal	1.44		3N	2E	26	NW,NE,SE	Within the city limits of Boise and the surrounding service area	1/1-12/31
63-11034		GW	10/22/1989	Municipal	2.74		3N	2E	32	NW,NW	Within the Boise Water Corp. service area	1/1-12/31
63-11068		GW	11/17/1989	Municipal	2.79		3N	2E	8	NE,SW	Within the Boise Water Corp. service area	1/1-12/31
63-11090A		GW	1/21/1990	Municipal	1.73	376.40	4N	1E	5	SE,SW	Within United Water Idaho's municipal service area	1/1-12/31
63-11118		GW	2/1/1990	Municipal	2.78		3N	2E	16	NE,SE	Within the city limits of Boise and the surrounding area served by Boise Water Corp.	1/1-12/31
63-11232		GW	2/12/1990	Municipal	2.83		3N	1E	9	SE,NE	Within city limits of Boise	1/1-12/31
63-11384		GW	8/7/1990	Municipal	3.12		4N	1E	27	SE,NE	Within the city limits of Boise and the surrounding service area	1/1-12/31
63-11385		GW	8/7/1990	Municipal	2.58		3N	2E	35	NE,NW	Within the Boise Water Corp. service area	1/1-12/31
63-11558		GW	6/24/1991	Municipal	2.67		3N	2E	6	SE,SE	Within the city limits of Boise and the surrounding service area	1/1-12/31
63-11950		GW	10/14/1992	Municipal	2.30		3N	2E	21	NE,NE	Within the city limits of Boise and the surrounding service area of United Water Idaho	1/1-12/31
63-11951		GW	10/14/1992	Municipal	0.85		3N	2E	19	NE,NW	Within the city limits of Boise and the surrounding service area of United Water Idaho	1/1-12/31
63-11990**		GW	1/27/1993	Domestic, Fire Protection	1.80	624.00	3N	1E	16	SE,NE	T3N, R1E, S15 NW1/4; S16 NE1/4	1/1-12/31
63-12043		GW	7/23/1993	Municipal	4.46		2N	2E	17	SE,NE	Within the city limits of Boise and the surrounding area served by United Water Idaho.	1/1-12/31
							2N	2E	17	NW,NW		
							2N	2E	21	NE,NW		
							2N	2E	22	NW,NE		
63-12363		GW	9/9/1996	Municipal	4.50		3N	2E	16	NE,SE	City limits of Boise and surrounding service area	1/1-12/31
63-19456	4998	GW	3/31/1953	Municipal	1.60		3N	2E	4	SW,SW	Within the City of Boise and surrounding service area	1/1-12/31
							3N	2E	9	NE,NW		
							3N	2E	9	SE,NW		
							3N	2E	10	NW,NW		
Total CFS					231.35	(reduced by 1.05 cfs to reflect combined flow limitations for rights 63-7641 and 63-8405; and 63-8385 and 63-10150)						

* Water rights 63-04015 and 63-07077 overlap the same use of water. Water right 63-4015 is the statutory claim for the water right out of the B.I.F. well while 63-07077 is an after-acquired license for the use. The total above excludes the 1.11 cfs licensed under right 63-07077

** Water right 63-11990 currently contain the "moratorium condition" that limits the volume and irrigation acreage per household. This condition is not appropriate for municipal providers, and UWID requests that IDWR remove the condition in the transfer process.

UWID also holds contract entitlements for delivery of surface water from the Boise River and a water right from the Snake River diverted using water from the Boise River through an exchange. These rights are identified on page 65 of this application. These rights are not being transferred but should be taken into account in quantifying UWID's total portfolio.

K. SPREADSHEET 2: SUMMARY OF PRE-CHANGE PERMITS

UWID's Current Water Right Permits

RIGHT NUMBER	SOURCE	PRIORITY	PURPOSE OF USE	AMOUNT (CFS)	AMOUNT (AFA)	POINT TWN	OF RGE	DIV SEC	TRACT	PLACE OF USE	PERIOD OF USE
63-10945	GW	10/29/1989	Irrigation, Domestic, Fire Protection	2.00		3N	2E	24	NE,SW,NE (lot 2) 3PODs	T3N, R3E, S19 NWNE, SWSE, SENE, NENW, SWNW, SENW, NESW, NWSW, 67 acres total	1/1-12/31, 3/15-11/15
63-11467	GW	2/21/1991	Municipal	2.27	520.00	4N	1E	16	NW,SW (lot 5)	Within the service area of United Water Idaho	1/1-12/31
63-11878	GW	6/15/1992	Municipal	0.99	190.50	4N	1E	21	NW,NW (lot 4)	Within the service area of United Water Idaho	1/1-12/31
63-12055*	Boise River	9/8/1993	Municipal	24.80		4N	1E	8	SW,NW (lot 2)	Within the service area of United Water Idaho	1/1-12/31
63-12138	GW	8/19/1994	Municipal	3.90		4N	1E		SE,NW		
63-12139	GW	8/19/1994	Municipal	4.90		3N	2E	14	SE,NE (lot 7)	City limits of Boise and the area of certification	1/1-12/31
63-12140	GW	10/19/1994	Municipal	3.50		2N	2E	17	SE,NE	Within the city limits of Boise and the surrounding area served by United Water Idaho.	1/1-12/31
63-12192	GW	3/31/1995	Municipal	5.00		2N	2E	17	NW,NW		
63-12310	GW	1/19/1996	Municipal	3.00		2N	2E	21	NE,NW		
63-12334	GW	3/8/1995	Municipal	0.38	42.00	2N	2E	22	NW,NE		
63-12362	GW	9/30/1996	Fire Protection	2.22		2N	2E	17	SE,NE	Within the city limits of Boise and the surrounding area served by United Water Idaho.	1/1-12/31
63-12424	GW	12/3/1997	Domestic, Fire Protection	3.50		2N	2E	17	NW,NW		
63-12432	GW	1/30/1998	Municipal	4.50		4N	1E	28	SW,SW	Within the city limits of Boise and the surrounding service area	1/1-12/31
63-12452	GW	4/15/1998	Municipal	4.50		4N	1E	5	SE,SW	Within the City limits of Boise and the surrounding area	1/1-12/31
63-12468	GW	3/25/1998	Municipal	6.00		4N	1E	7	SW,NW (lot 2)	Certificated Area	1/1-12/31
63-12464	GW	7/13/1998	Municipal	0.30		3N	3E	S28	SW,NW	Within the Service Area of the Barber Water Corp.	1/1-12/31
63-12506	GW	1/16/1999	Municipal	3.50		3N	3E	S29	SE,NE	Located within the service area of UWID, Inc.	1/1-12/31
63-12516	GW	4/13/1999	Municipal	4.00		4N	1W	23	NE,SW	Within the service area of United Water Idaho	1/1-12/31
63-12552	GW	11/18/1999	Municipal	3.00		4N	1W	24	SW,SE		
Total CFS: 79.20 66.26						2N	1W	11	NW,NW	The place of use is located near Kuna within the non-contiguous service area of United Water Idaho.	

*Water rights 63-12055 and 63-12424 currently contain the "moratorium condition" that limits the volume and irrigation acreage per user. UWID requests that IDWR remove the condition in the transfer process.

IMAP TAB K

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L. SPREADSHEET 3: SUMMARY OF POST-CHANGE WATER RIGHTS

Description of UWID's Ground Water Rights After Transfer

RIGHT NUMBER	SOURCE	PRIORITY	AMOUNT (CFS)	AMOUNT (AFA)	PERIOD OF USE	POINT OF DIVERSION
63-02500	Ground water	8/30/1934	0.80		1/1-12/31	See list behind Tab "N"
63-02506	Ground water	6/5/1935	1.66		1/1-12/31	See list behind Tab "N"
63-02576	Ground water	4/26/1938	1.90		1/1-12/31	See list behind Tab "N"
63-02595	Ground water	8/31/1966	1.34		1/1-12/31	See list behind Tab "N"
63-02605	Ground water	7/2/1943	0.90		1/1-12/31	See list behind Tab "N"
63-02668	Ground water	7/15/1947	2.14		1/1-12/31	See list behind Tab "N"
63-02703	Ground water	6/23/1948	5.00		1/1-12/31	See list behind Tab "N"
63-02808	Ground water	4/3/1950	3.10		1/1-12/31	See list behind Tab "N"
63-02874	Ground water	8/18/1951	4.00		1/1-12/31	See list behind Tab "N"
63-02892	Ground water	2/7/1952	15.00		1/1-12/31	See list behind Tab "N"
63-02954	Ground water	8/27/1953	0.90		1/1-12/31	See list behind Tab "N"
63-02956	Ground water	8/27/1953	0.56		1/1-12/31	See list behind Tab "N"
63-02989	Ground water	6/2/1954	1.00		1/1-12/31	See list behind Tab "N"
63-03064	Ground water	10/31/1955	1.22		1/1-12/31	See list behind Tab "N"
63-03073	Ground water	1/4/1956	2.00		1/1-12/31	See list behind Tab "N"
63-03105	Ground water	12/19/1956	2.00		1/1-12/31	See list behind Tab "N"
63-03112	Ground water	9/11/1957	1.44		1/1-12/31	See list behind Tab "N"
63-03128	Ground water	4/24/1958	4.44		1/1-12/31	See list behind Tab "N"
63-03164	Ground water	8/5/1959	1.73		1/1-12/31	See list behind Tab "N"
63-03172	Ground water	10/14/1959	2.22		1/1-12/31	See list behind Tab "N"
63-03202	Ground water	6/8/1960	2.89		1/1-12/31	See list behind Tab "N"
63-03291	Ground water	5/21/1962	2.40		1/1-12/31	See list behind Tab "N"
63-03292	Ground water	5/21/1962	2.26		1/1-12/31	See list behind Tab "N"
63-03293	Ground water	5/21/1962	3.56		1/1-12/31	See list behind Tab "N"
63-03295	Ground water	5/24/1962	3.24		1/1-12/31	See list behind Tab "N"
63-03411	Ground water	6/17/1964	0.25		1/1-12/31	See list behind Tab "N"
63-03448	Ground water	4/27/1965	4.89		1/1-12/31	See list behind Tab "N"
63-03457	Ground water	7/14/1965	1.67		1/1-12/31	See list behind Tab "N"
63-03494	Ground water	3/8/1966	6.44		1/1-12/31	See list behind Tab "N"
63-03562	Ground water	11/7/1966	1.47		1/1-12/31	See list behind Tab "N"
63-04015*	Ground water	10/17/1960	2.00		1/1-12/31	See list behind Tab "N"
63-04395	Ground water	6/1/1950	0.75		1/1-12/31	See list behind Tab "N"
63-04414	Ground water	7/1/1943	1.11		1/1-12/31	See list behind Tab "N"
63-04424	Ground water	7/1/1943	1.33		1/1-12/31	See list behind Tab "N"
63-04752	Ground water	1/1/1947	1.11		1/1-12/31	See list behind Tab "N"
63-07066	Ground water	2/28/1968	5.80		1/1-12/31	See list behind Tab "N"
63-07067	Ground water	2/28/1968	2.84		1/1-12/31	See list behind Tab "N"
63-07204	Ground water	3/13/1969	1.82		1/1-12/31	See list behind Tab "N"
63-07282	Ground water	12/2/1969	4.12		1/1-12/31	See list behind Tab "N"
63-07348	Ground water	7/14/1970	6.60		1/1-12/31	See list behind Tab "N"
63-07479	Ground water	8/20/1971	7.00		1/1-12/31	See list behind Tab "N"
63-07577	Ground water	4/6/1972	2.01		1/1-12/31	See list behind Tab "N"
63-07589	Ground water	4/20/1973	4.40		1/1-12/31	See list behind Tab "N"
63-07641	Ground water	8/17/1972	2.00		1/1-12/31	See list behind Tab "N"
63-07658	Ground water	1/8/1973	1.06		1/1-12/31	See list behind Tab "N"
63-07896	Ground water	11/13/1973	0.25		1/1-12/31	See list behind Tab "N"
63-07979	Ground water	5/13/1974	1.75		1/1-12/31	See list behind Tab "N"
63-07998	Ground water	6/25/1974	0.91		1/1-12/31	See list behind Tab "N"
63-08011	Ground water	7/18/1974	0.38		1/1-12/31	See list behind Tab "N"
63-08059	Ground water	11/12/1974	0.57		1/1-12/31	See list behind Tab "N"
63-08236	Ground water	11/28/1975	3.63		1/1-12/31	See list behind Tab "N"
63-08248	Ground water	1/2/1976	1.16		1/1-12/31	See list behind Tab "N"

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Description of UWID's Ground Water Rights After Transfer

RIGHT NUMBER	SOURCE	PRIORITY	AMOUNT (CFS)	AMOUNT (AFA)	PERIOD OF USE	POINT OF DIVERSION
63-08265	Ground water	2/23/1976	2.37		1/1-12/31	See list behind Tab "N"
63-08385	Ground water	11/6/1977	0.25		1/1-12/31	See list behind Tab "N"
63-08405	Ground water	1/12/1977	1.82		1/1-12/31	See list behind Tab "N"
63-08432	Ground water	2/10/1977	1.78		1/1-12/31	See list behind Tab "N"
63-08635	Ground water	8/17/1983	0.15		1/1-12/31	See list behind Tab "N"
63-08990	Ground water	7/19/1977	4.00		1/1-12/31	See list behind Tab "N"
63-09087	Ground water	11/25/1977	3.40		1/1-12/31	See list behind Tab "N"
63-09106	Ground water	1/23/1978	1.12		1/1-12/31	See list behind Tab "N"
63-09147	Ground water	6/6/1978	4.00		1/1-12/31	See list behind Tab "N"
63-09198	Ground water	1/2/1979	2.45		1/1-12/31	See list behind Tab "N"
63-09199	Ground water	1/3/1979	3.12		1/1-12/31	See list behind Tab "N"
63-09204	Ground water	1/9/1979	4.00		1/1-12/31	See list behind Tab "N"
63-09205	Ground water	1/9/1979	4.00		1/1-12/31	See list behind Tab "N"
63-09219	Ground water	3/20/1979	2.23		1/1-12/31	See list behind Tab "N"
63-09223	Ground water	4/3/1979	4.23		1/1-12/31	See list behind Tab "N"
63-09384	Ground water	5/27/1980	0.58		1/1-12/31	See list behind Tab "N"
63-09671	Ground water	2/25/1981	2.12		1/1-12/31	See list behind Tab "N"
63-09856	Ground water	12/23/1981	3.34		1/1-12/31	See list behind Tab "N"
63-10150	Ground water	7/1/1983	0.08		1/1-12/31	See list behind Tab "N"
63-10386	Ground water	9/19/1986	1.11		1/1-12/31	See list behind Tab "N"
63-10391	Ground water	11/14/1986	0.09		1/1-12/31	See list behind Tab "N"
63-10405	Ground water	3/17/1987	1.56		1/1-12/31	See list behind Tab "N"
63-10533	Ground water	9/9/1987	0.52		1/1-12/31	See list behind Tab "N"
63-10569	Ground water	2/5/1988	1.78		1/1-12/31	See list behind Tab "N"
63-10688	Ground water	8/15/1988	2.00		1/1-12/31	See list behind Tab "N"
63-10862	Ground water	7/18/1989	1.44		1/1-12/31	See list behind Tab "N"
63-11034	Ground water	10/22/1989	2.74		1/1-12/31	See list behind Tab "N"
63-11068	Ground water	11/17/1989	2.79		1/1-12/31	See list behind Tab "N"
63-11090A	Ground water	1/21/1990	0.52		1/1-12/31	See list behind Tab "N"
63-11118	Ground water	2/1/1990	2.78		1/1-12/31	See list behind Tab "N"
63-11232	Ground water	2/12/1990	2.83		1/1-12/31	See list behind Tab "N"
63-11384	Ground water	8/7/1990	3.12		1/1-12/31	See list behind Tab "N"
63-11385	Ground water	8/7/1990	2.58		1/1-12/31	See list behind Tab "N"
63-11558	Ground water	6/24/1991	2.67		1/1-12/31	See list behind Tab "N"
63-11950	Ground water	10/14/1992	2.30		1/1-12/31	See list behind Tab "N"
63-11951	Ground water	10/14/1992	0.85		1/1-12/31	See list behind Tab "N"
63-11990	Ground water	1/27/1993	0.86		1/1-12/31	See list behind Tab "N"
63-12043	Ground water	7/23/1993	4.46		1/1-12/31	See list behind Tab "N"
63-12363	Ground water	9/9/1996	4.50		1/1-12/31	See list behind Tab "N"
63-19456	Ground water	3/31/1953	1.60		1/1-12/31	See list behind Tab "N"

Total CFS: **222.46** (reduced by 0.70 cfs to reflect combined flow limitation for rights 63-7641 and 63-8405)

Place of use for all rights: Within the Service Area of United Water Idaho

Nature of use for all rights: Municipal

* Water right 63-04016 is a statutory claim that overlaps the license for 63-07077. Water right 63-07077 has been omitted from this list on the assumption that the Department will recognize water right 63-04016. If the Department does not, then water right 63-07077 will be added back to this list

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M. SPREADSHEET 4: SUMMARY OF POST-CHANGE PERMITS

Description of UWID's Permits After Application for Amendment

RIGHT NUMBER	SOURCE	PRIORITY	PURPOSE OF USE	AMOUNT (CFS)	AMOUNT (AFA)	PERIOD OF USE
63-10945	Ground water	10/29/1989	Municipal	2.00		1/1-12/31
63-11467	Ground water	2/21/1991	Municipal	0.72		1/1-12/31
63-11878	Ground water	6/15/1992	Municipal	0.26		1/1-12/31
63-12055	Boise River	9/8/1993	Municipal	24.80		1/1-12/31
63-12138	Ground water	8/19/1994	Municipal	3.90		1/1-12/31
63-12139	Ground water	8/19/1994	Municipal	4.90		1/1-12/31
63-12140	Ground water	10/19/1994	Municipal	3.50		1/1-12/31
63-12192	Ground water	3/31/1995	Municipal	5.00		1/1-12/31
63-12310	Ground water	1/19/1996	Municipal	3.00		1/1-12/31
63-12334	Ground water	3/8/1995	Municipal	0.06		1/1-12/31
63-12362	Ground water	9/30/1996	Municipal	2.22		1/1-12/31
63-12432	Ground water	1/30/1998	Municipal	4.50		1/1-12/31
63-12424	Ground water	12/3/1997	Municipal	0.87		1/1-12/31
63-12452	Ground water	4/15/1998	Municipal	4.50		1/1-12/31
63-12463	Ground water	6/25/1998	Municipal	3.00		1/1-12/31
63-12464	Ground water	7/13/1998	Municipal	0.30		1/1-12/31
63-12506	Ground water	1/15/1999	Municipal	3.50		1/1-12/31
63-12516	Ground water	4/13/1999	Municipal	4.00		1/1-12/31
63-12552	Ground water	11/18/1999	Municipal	3.00		1/1-12/31

Total CFS: ~~74.03~~ 63.66

Sum
04/09/03
SC 4/9/03

Place of use for all permits: "Within the Service Area of UWID"

Point of diversion for all permits: Please see list behind Tab "N", except right 63-12055 for which the point of diversion will be Township 3N, Range 2E, Section 14 SENE (lot 7) (existing Marden Treatment Plant Intake), and Township 2N, Range 3E, Section 4 NWNE (existing pipeline intake for proposed Columbia Treatment Plant).

SUPPORT DATA

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N. SPREADSHEET 5: SUMMARY OF POST-CHANGE POINTS OF DIVERSION

UWID ALTERNATE POINTS OF DIVERSION

WELL NAME	TWN	RGE	SEC	TRACT	CURRENT ASSOCIATED WATER RIGHT NUMBER(s)	INTERFERENCE PRIORITY DATE	INTERFERENCE QUANTITY
Amity	3N	1E	36	NW,NW,NE	63-09223	4/3/1979	4.23
Arctic #1	3N	2E	8	NE,NE,NE	63-02668	7/15/1947	2.14
Arctic #2	3N	2E	8	NE,NE,NE	63-07204	3/13/1969	1.82
B.I.F.	3N	2E	27	SE,NW,SE	63-04015	10/17/1960	2.00
					63-07077	3/15/1968	1.11
Barber #1	3N	3E	29	SE,NE	63-04395	6/1/1950	0.75
					63-08385	11/6/1977	0.49
					63-10150	7/1/1983	0.48
					63-12464	7/13/1998	0.30
Barber #2	3N	3E	29	SW,NW	63-10150	7/1/1983	0.48
					63-12464	7/13/1998	0.30
Barber #3	3N	3E	35	SE,NW,NE	63-31407	1/18/2002	2.00
Bali Hal #1	3N	1E	3	SW,SE,NE	63-07589	4/20/1973	4.40
					63-07658	1/8/1973	1.06
Beacon	3N	2E	14	NW,SE,NW	63-03448	4/27/1965	4.90
Bergeson	3N	2E	26	NW,NE,SE	63-10862	7/18/1989	1.44
Bethel	3N	2E	7	NE,SW,SW	63-07348	7/14/1970	6.60
Biggs	3N	2E	18	SE,SE,SE	63-02956	8/27/1953	0.66
Broadway	3N	2E	22	SE,SE,SE	63-07479	8/20/1971	7.00
Brookhollow No. 1	3N	1E	15	SE,NE	63-08265	2/23/1976	2.37
Byrd	3N	2E	33	SW,NE,NW	63-04424	7/1/1943	1.33
Carnegie Hill	3N	2W	31	SE,NE	63-12463	6/25/1998	3.00
	3N	2W	31	NE,SE	63-12463	6/25/1998	3.00
	3N	2W	31	NW,SE	63-12463	6/25/1998	3.00
Cartwright	4N	2E	27	NW,SE	63-10533	9/9/1987	0.52
Cassia	3N	2E	16	NE,NE,SE	63-11118	2/1/1990	2.78
Cassia #2	3N	2E	16	NE,NE,SE	63-12363	9/9/1996	4.60
Centennial	3N	2E	25	NW,NW,SE	63-08236	11/28/1975	3.63
Central Park	3N	2E	2	NW,NE,NW	63-04752	1/1/1947	1.11
Chamberlin #1	3N	2E	22	SE,NW,NE	63-03202	6/8/1960	2.89
Chamberlin #2	3N	2E	22	SE,NW,NE	63-03292	5/21/1962	2.26
Cliffside	3N	2E	15	SW,NW,NW	63-02703	6/23/1948	5.00
Clinton	3N	2E	8	SW,NE,SW	63-11068	11/17/1989	2.79
Cole	3N	1E	24	NE,NE,SE	63-08990	7/19/1977	4.00
Coventry Place #1	2N	2W	10	NW,SE	63-12424	12/3/1997	3.50
					63-12606	1/15/1999	3.50
Coventry Place #2	2N	2W	10	NW,SE	63-12424	12/3/1997	3.50
					63-12606	1/15/1999	3.50
Country Club	3N	2E	28	SE,NW,NW	63-03073	1/4/1956	2.00
Country Squire	3N	1E	23	NW,NW	63-09087	11/25/1977	3.40
Countryman Estates	3N	1E	23	SE,NW	63-08011	7/18/1974	3.00
Danekin #1	2N	1W	11	NW,NW	63-12552	11/18/1999	3.00
Danekin #2	2N	1W	11	NW,NW	63-12552	11/18/1999	3.00
Edgeview	3N	1E	16	SE,NE	63-11990	1/27/1993	1.80
Empire	3N	2E	18	NE,SW,SE	63-02954	8/27/1953	0.90
Fisk	3N	2E	6	SW,SE,SE	63-11558	6/24/1991	2.67

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UWID ALTERNATE POINTS OF DIVERSION

Five Mile Estates W. #1	3N	1E	27	NW, SE	63-07898	11/19/1979	0.25
Five Mile Estates W. #2	3N	1E	27	SE, NE	63-07998	6/25/1974	1.27
Five Mile West #12	3N	1E	27	NW, SW	63-09198	1/2/1979	2.45
Floating Feather	4N	1E	5	SESW	63-11090A	1/21/1990	1.73
					63-12192	3/31/1995	5.00
					63-12452	4/15/1998	4.50
Foxtail	4N	1W	24	SE, SW, SE	63-12334	3/8/1995	0.38
					63-12362	9/30/1996	2.22
					63-12516	4/13/1999	4.00
Franklin Park	3N	2E	18	SW, NW, NE	63-03105	12/19/1956	2.00
Frontier	4N	1E	34	SE, NE, SW	63-08855	12/23/1981	3.34
Goddard	4N	1E	36	SW, NE, NW	63-07066	2/28/1968	5.80
H.P.	4N	1E	27	SW, SE, NE	63-11384	8/7/1990	3.12
Hidden Valley Estates #1	2N	1E	3	SE, SE	63-07641	8/17/1972	2.00
					63-08405	1/12/1977	2.00
Hidden Valley Estates #2	2N	1E	3	NE, SW	63-07979	6/13/1974	2.00
Hillcrest	3N	2E	20	SE, SE, NE	63-07282	12/2/1969	4.12
Hilton	3N	2E	17	SE, NE, SW	63-03494	3/8/1966	6.44
Hope	3N	1E	9	NE, SE, NE	63-11232	2/12/1990	2.83
Hummel	3N	2E	18	SW, NE, SW	63-03172	10/14/1959	2.22
Idaho	3N	2E	4	NE, SW, SW	63-07067	2/28/1968	2.84
Island Woods #1	4N	1E	16	NE, NW, SW (lot 5)	63-11467	2/21/1991	2.27
					63-12432	1/30/1998	4.50
Island Woods #2	4N	1E	21	NW, NW, NW	63-11467	2/21/1991	2.27
					63-12432	1/30/1998	4.50
J.R. Flat	2N	2E	2	SW, NW, NW	63-10569	2/5/1988	1.78
Joplin	4N	1E	27	NW, NW, SW	63-09204	1/9/1979	4.00
Junker	3N	2E	32	SE, NE, NE	63-04414	7/14/1943	1.41
Kirkwood	3N	2E	19	SW, NE, NE	63-03112	9/11/1957	1.44
La Grange	3N	1E	34	NE, SW	63-09199	1/3/1979	3.12
Lizaso Well	3N	1E	15	SE, SW	63-09384	5/27/1980	1.00
Logger	3N	2E	24	NW, SW, NW	63-09219	3/20/1979	2.23
Longmeadow	3N	2E	13	NW, SW, NW	63-02808	4/3/1950	3.10
Mac	3N	2E	32	SW, NW, NW	63-11034	10/22/1989	2.74
Maple Hills #1	3N	1E	14	SW, NE, NE	63-09671	2/25/1981	2.12
Maple Hills #2	3N	1E	14	SE, NE, NE	63-31406	1/18/2002	2.00
Marden	3N	2E	14	NE, SE, NE	63-10386	9/19/1986	1.44
Marden Collectors	3N	2E	14	SE, SE, NE	63-02892	2/7/1952	15.00
Market	3N	2E	35	NE, NE, NW	63-11385	8/7/1990	2.58
McMillan	4N	1E	28	SE, SW, SW	63-12140	10/19/1994	3.50
Mesa #1	3N	2E	24	NE, SW, NE	63-03457	7/14/1965	1.67
					63-10945	8/31/1989	2.00
Mesa #2	3N	2E	24	NE, SW, NE	63-03457	7/14/1965	1.67
					63-10945	8/31/1989	2.00
Mesa #3	3N	2E	24	NE, SW, NE	63-10945	8/31/1989	2.00
Mountain View	3N	2E	14	SW, NE, NE	63-02506	6/5/1935	1.66
Orchid	3N	2E	14	SE, NE, NE	63-02576	4/26/1938	1.00
Overland	3N	2E	10	NW, NE, NW	63-11961	10/14/1992	0.85
Overland #8	3N	2E	19	NW, NE, NW	63-03562	11/7/1966	1.47
Paradise North	3N	1E	15	NE, SE	63-09106	1/23/1978	1.12

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UWID ALTERNATE POINTS OF DIVERSION

Pioneer	2N	2E	22	NE,NW,NE	63-12043	7/23/1993	4.46
					63-12138	8/19/1994	3.90
					63-12139	8/19/1994	4.90
Pleasant Valley	2N	2E	21	NW,NE,NW	63-12043	7/23/1993	4.46
					63-12138	8/19/1994	3.90
					63-12139	8/19/1994	4.90
Raptor	2N	2E	17	NW,NW,NW	63-12043	7/23/1993	4.46
					63-12138	8/19/1994	3.90
					63-12139	8/19/1994	4.90
Redwood Creek	4N	1E	7	SWNW (lot 2)	63-11878	6/15/1992	0.99
					63-12192	3/31/1995	5.00
					63-12452	4/15/1998	4.50
River Run	3N	2E	24	NE,SW,SE	63-10405	3/17/1987	1.56
Roosevelt #1	3N	2E	16	SW,NW,NW	63-02595	8/31/1966	1.34
Roosevelt #3	3N	2E	16	SW,NW,NW	63-03293	5/21/1962	3.56
Settlers	4N	1E	35	NW,NE,NW	63-09205	1/9/1979	4.00
Sherman Oaks	3N	1E	23	SE, SE	63-08635	8/17/1983	0.89
Sixteenth St.	3N	2E	9	SW,SE,NW	63-02874	8/18/1951	4.00
Spurwing	4N	1W	23	NE,SW	63-12334	3/8/1995	0.38
					63-12515	4/13/1999	4.00
Sunrise	3N	2E	27	NE,NE,SW	63-09164	8/5/1959	1.73
Sunset West #1	3N	1E	36	SE,NE,SE	63-08432	2/10/1977	1.78
Swift #1	3N	2E	30	SE,SW,SE	63-09147	6/8/1978	4.00
Swift #2	4N	2E	31	SE,SW,SE	63-10688	8/15/1988	2.00
Taggart #1	3N	2E	21	SW,NE,NE	63-03128	4/24/1958	4.44
Taggart #2	3N	2E	21	SW,NE,NE	63-11950	10/14/1992	2.30
Tenmile	2N	2E	17	NE,SE,NE	63-12043	7/23/1993	4.46
					63-12138	8/19/1994	3.90
					63-12139	8/19/1994	4.90
Terteling	3N	2E	36	NE,SW,NE	63-07577	4/6/1972	2.01
Thirteenth	3N	2E	10	NE,NW,NW	63-02500	8/30/1934	0.66
Twenty-seventh	3N	2E	4	SW,SW	63-10456	3/31/1953	1.60
Veterans	4N	2E	32	SW,SE,SE	63-12310	1/19/1996	3.00
Veterans collectors	3N	2E	5	SE, NE	63-02892	2/17/1952	15.00
Victory	3N	1E	27	NE, NE	63-08248	1/2/1976	1.57
Vista	3N	2E	28	NE, NE, NE	63-03295	5/24/1962	3.24
Westmoreland	4N	2E	31	NE, NW, SW	63-03064	10/31/1955	1.22
Willow Lane #1	4N	2E	32	NW, NW, NW	63-03291	5/21/1962	2.40
Willow Lane #2	4N	2E	32	NW, SW, NW	63-03411	6/17/1964	1.50
Willow Lane #3	4N	2E	32	NW, SW, NW	63-08059	11/12/1974	0.57

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UWID's Water Rights (excluding water bank rentals and short term leases)

Right Number	Source	Priority as of 2012 (in brackets if different than 2003)	Purpose of Use as of 2003 (for IMAP rights)	Purpose of Use as of 2012	Purpose of Use sought in IMAP Relaunch	CFS as of 2003 (for IMAP rights)	CFS as of 2012	CFS sought in IMAP Relaunch	AFA as of 2003 (for IMAP rights)	AFA as of 2012	AFA sought in IMAP Relaunch	Original well or diversion name (for IMAP rights)	Original POD(s) (for water rights with system-wide APOD conditions)	POD(s) as of 2012	PODs sought in IMAP Relaunch	Original Place of Use (for IMAP rights)	Place of Use as of 2012	Place of Use sought in IMAP Relaunch	Original Period of Use (for IMAP rights)	Period of Use as of 2012	Period of Use sought in IMAP Relaunch	Current basis (or basis prior to decree, if any)	SRBA status	Included in 2003 IMAP? J=Licenses K=Permits	Included in IMAP Relaunch?	In UWID portfolio in 2012?	Foot-notes	
RIGHTS ORIGINALLY INCLUDED IN 2003 IMAP TAB J																												
63-02500	GW	8/30/1934	Municipal	Municipal	Municipal	0.80	0.80	0.80				Thirteenth	T3N, R2E, S 10, NW,NW T3N, R2E, S 4, SW,SW T3N, R2E, S 9, NE,NW T3N, R2E, S 9, SE,NW	43 APODs	81 APODs	Within the City of Boise and surrounding service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	13	
63-02506	GW	6/5/1935	Municipal	Municipal	Municipal	1.66	1.66	1.66				Mountain View	T3N, R2E, S 14, NE,NE	42 APODs	81 APODs	City of Boise	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02576	GW	4/26/1938	Municipal	Municipal	Municipal	1.90	1.90	1.90				Orchid	T3N, R2E, S 14, NE,NE	42 APODs	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02595	GW	8/31/1966	Municipal	Municipal	Municipal	1.34	1.34	1.34				Roosevelt #1	T3N, R2E, S 16, NW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes		
63-02605	GW	7/2/1943	Domestic	Municipal	Municipal	0.90	0.90	0.90				27th & Lemp	T3N, R2E, S 4, NE,NW	42 APODs	81 APODs	Within city limits of Boise & adjacent territory	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02668	GW	7/15/1947	Municipal	Municipal	Municipal	2.14	2.14	2.14				Arctic #1	T3N, R2E, S 8, NE,NE	42 APODs	81 APODs	Within city limits of Boise & adjacent territory	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02703	GW	6/23/1948	Municipal	Municipal	Municipal	5.00	5.00	5.00				Cliffside	T3N, R2E, S 15, NW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02808	GW	4/3/1950	Municipal	Municipal	Municipal	3.10	3.10	3.10				Longmeadow	T3N, R2E, S 13, SW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02874	GW	8/18/1951	Municipal	Municipal	Municipal	4.00	4.00	4.00				Sixteenth St.	T3N, R2E, S 9, SE,NW T3N, R2E, S 4, SW,SW T3N, R2E, S 9, NE,NW T3N, R2E, S 10, NW,NW	43 APODs	81 APODs	Within the City of Boise and surrounding service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	13	
63-02892	GW	2/7/1952	Municipal	Municipal	Municipal	15.00	6.18	6.18				Marden Collectors		Marden Collectors (3 PODs)	Marden Collectors (3 PODs)	Within city limits of Boise	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	1
												Veterans Collectors																
63-31797	GW	6/1/1895		Municipal	Municipal		2.63	2.63				Marden Collectors		Marden Collectors (3 PODs)	Marden Collectors (3 PODs)		UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	Beneficial use	Partial Decree	No	Yes	Yes	1
63-31798	GW	6/1/1899		Municipal	Municipal		1.55	1.55				Marden Collectors		Marden Collectors (3 PODs)	Marden Collectors (3 PODs)		UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	Beneficial use	Partial Decree	No	Yes	Yes	1
63-31879	GW	12/31/1910		Municipal	Municipal		4.64	4.64				Marden Collectors		Marden Collectors (3 PODs)	Marden Collectors (3 PODs)		UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	Beneficial use	Partial Decree	No	Yes	Yes	1
63-02954	GW	8/27/1953	Domestic	Municipal	Municipal	0.90	0.90	0.90				Empire	T3N, R2E, S 18, SW,SE	42 APODs	81 APODs	T3N, R2E, S17 NWSW, SWSW, S19 NENE	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02956	GW	8/27/1953	Domestic	Municipal	Municipal	0.56	0.56	0.56				Biggs	T3N, R2E, S 18, SE,SE	42 APODs	81 APODs	T3N, R2E, S17 NWSW, SWSW, S19 NENE	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-02989	GW	6/2/1954	Municipal, Domestic	Municipal	Municipal	1.00	1.00	1.00				Westland Acres	T3N, R1E, S 1, SE,SE	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03064	GW	10/31/1955	Irrigation, Domestic, Fire Protection	Municipal	Municipal	1.22	1.22	1.22				Westmoreland	T4N, R2E, S 31, NW,SW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03073	GW	1/4/1956	Municipal	Municipal	Municipal	2.00	2.00	2.00				Country Club	T3N, R2E, S 28, NW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03105	GW	12/19/1956	Municipal	Municipal	Municipal	2.00	2.00	2.00				Franklin Park	T3N, R2E, S 18, NW,NE	42 APODs	81 APODs	T3N, R2E, S18 NWNE, SWNE	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03112	GW	9/11/1957	Irrigation, Domestic	Municipal	Municipal	1.44	1.44	1.44				Kirkwood	T3N, R2E, S 19, NE,NE	42 APODs	81 APODs	T3N, R2E, S17 NWSW, SWSW, S18 SW1/4, SE1/4, S19 NENE	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03128	GW	4/24/1958	Municipal	Municipal	Municipal	4.44	4.44	4.44				Taggart #1	T3N, R2E, S 21, NE,NE	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03164	GW	8/5/1959	Domestic	Municipal	Municipal	1.73	1.73	1.73				Sunrise	T3N, R2E, S 27, NE,SW	42 APODs	81 APODs	T3N, R2E, S27 SWNE, NW1/4, NESW	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03172	GW	10/14/1959	Municipal	Municipal	Municipal	2.22	2.22	2.22				Hummel	T3N, R2E, S 18, NE,SW	42 APODs	81 APODs	Within the boundary of Overland Water Co.	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03202	GW	6/8/1960	Municipal	Municipal	Municipal	2.89	2.89	2.89				Chamberlin #1	T3N, R2E, S 22, NW,NE	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03291	GW	5/21/1962	Municipal	Municipal	Municipal	2.40	2.40	2.40				Willow Lane #1	T4N, R2E, S 32, NW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03292	GW	5/21/1962	Municipal	Municipal	Municipal	2.26	2.26	2.26				Chamberlin #2	T3N, R2E, S 22, NW,NE	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03293	GW	5/21/1962	Municipal	Municipal	Municipal	3.56	3.56	3.56				Roosevelt #3	T3N, R2E, S 16, NW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03295	GW	5/24/1962	Municipal	Municipal	Municipal	3.24	3.24	3.24				Vista	T3N, R2E, S 28, NE,NE	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03411	GW	6/17/1964	Municipal	Municipal	Municipal	1.50	1.50	0.25		178.00	178.00	Willow Lane #2	T4N, R2E, S 32, SW,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes		
63-03448	GW	4/27/1965	Municipal	Municipal	Municipal	4.90	4.90	4.90		3540.00		Beacon	T3N, R2E, S 14, SE,NW	42 APODs	81 APODs	Within city limits of Boise & vicinity	UWID Service Area	UWID Service Area		1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-03457	GW	7/14/1965	Irrigation, Domestic, Fire Protection	Municipal	Municipal	1.67	1.67	0.23		1209.00	168.00	Warm Springs Mesa #1 and #2	T3N, R2E, S 24, SW,NE (2 PODs in Q-Q)	T3N, R2E, S 24, SW,NE (2 PODs in Q-Q)	81 APODs													

UWID's Water Rights (excluding water bank rentals and short term leases)

Right Number	Source	Priority as of 2012 (in brackets if different than 2003)	Purpose of Use as of 2003 (for IMAP rights)	Purpose of Use as of 2012	Purpose of Use sought in IMAP Relaunch	CFS as of 2003 (for IMAP rights)	CFS as of 2012	CFS sought in IMAP Relaunch	AFA as of 2003 (for IMAP rights)	AFA as of 2012	AFA sought in IMAP Relaunch	Original well or diversion name (for IMAP rights)	Original POD(s) (for water rights with system-wide APOD conditions)	POD(s) as of 2012	PODs sought in IMAP Relaunch	Original Place of Use (for IMAP rights)	Place of Use as of 2012	Place of Use sought in IMAP Relaunch	Original Period of Use (for IMAP rights)	Period of Use as of 2012	Period of Use sought in IMAP Relaunch	Current basis (or basis prior to decree, if any)	SRBA status	Included in 2003 IMAP? J=Licenses K=Permits	Included in IMAP Relaunch?	In UWID portfolio in 2012?	Foot- notes
63-07641	GW	8/17/1972	Domestic	Municipal	Municipal	2.00	2.00	2.00				Hidden Valley Estates	T2N, R1E, S 3, SE, SE	12 APODs	81 APODs	T2N, R1E, S3 SWSE, SESE	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-07658	GW	1/8/1973	Municipal	Municipal	Municipal	1.06	1.06	1.06				Bali Hai #1	T3N, R1E, S 3, SE, NE	42 APODs	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-07896	GW	11/13/1973	Domestic	Municipal	Municipal	0.25	0.25	0.25	181.00			Five Mile Estates W	T3N, R1E, S 27, NW, SE	12 APODs	81 APODs	T3N, R1E, S27 NWSE	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-07979	GW	5/13/1974	Irrigation, Domestic, Fire Protection	Municipal	Municipal	2.00	2.00	1.75	1268.00	1268.00		Hidden Valley Estates #2	T2N, R1E, S 3, NESW	12 APODs	81 APODs	T2N, R01E, S2 SW1/4, SWSE, S3 NENW, SENW, NESW, NWSW, SESW, SE1/4, S10 NENE, SENE, S11 NWNW, NW1/4	UWID Service Area	UWID Service Area	1/1-12/31, 4/1-10/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-07998	GW	6/25/1974	Irrigation, Domestic, Fire Protection	Municipal	Municipal	1.27	1.27	0.91	658.00	658.00		Five Mile Estates W. #2	T3N, R1E, S 27, SE, NE	12 APODs	81 APODs	T3N, R1E, S27 SWNE, SENE, NESE, NWSE	UWID Service Area	UWID Service Area	1/1-12/31, 4/1-10/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08011	GW	7/18/1974	Domestic, Fire Protection	Municipal	Municipal	3.00	3.00	0.38	276.00	276.00		Countryside Estates	T3N, R1E, S 23, SE, NW	12 APODs	81 APODs	T3N, R1E, S23 NW1/4	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08059	GW	11/12/1974	Municipal	Municipal	Municipal	0.57	0.57	0.57				Willow Lane #3	T4N, R2E, S 32, SW, NW	42 APODs	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08236	GW	11/28/1975	Municipal	Municipal	Municipal	3.63	3.63	3.63				Centennial	T3N, R2E, S 25, NW, SE	42 APODs	81 APODs	City of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08248	GW	1/2/1976	Irrigation, Domestic, Fire Protection	Municipal	Municipal	1.57	1.57	1.16	843.30	843.30		Victory	T3N, R1E, S 27, NE, NE	12 APODs	81 APODs	T3N, R1E, S22 SWSE 20, SESE 20, S27 NENE 32, SWNE 32, SENE 32, NESE 32, NWSE 32, 200 acres total	UWID Service Area	UWID Service Area	1/1-12/31, 4/1-10/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	4
63-08265	GW	2/23/1976	Domestic	Municipal	Municipal	2.37	2.37	2.37				Brookhollow No. 1	T3N, R1E, S 15, SE, NE	12 APODs	81 APODs	T3N, R1E, S15, NWNW, SWNE, SENE	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08385	GW	11/6/1977	Domestic	Municipal	Municipal	0.49	0.49	0.25	182.40	182.40		Barber #1	T3N, R3E, S 29, SE, NE	T3N, R3E, S 28, SW, NW T3N, R3E, S 29, SE, NE	81 APODs	T3N, R3E, S28 SWNW, NWSW, S29 SENE, NESE (152 homes)	UWID Service Area	UWID Service Area	1/1-12/30	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08405	GW	1/12/1977	Irrigation, Domestic, Fire Protection	Municipal	Municipal	2.00	2.00	1.82	1320.00	1320.00		Hidden Valley Estates #1	T2N, R1E, S 3, SE, SE	12 APODs	81 APODs	T2N, R1E, S2 NWNW 7, SWNW 7, NESW 7, NWSW 7, SWSW 7, SESW 7, T2N, R1E, S3 NENW 7, SWNW 7, SENW 2, NESW 7, NWSW 2, SESW 4, SWSE 7, SESE 7, T2N, R1E, S10 NENE 3, T2N, R1E, S11 NENW 5, NWNW 7, 100 acres total, place of use same for domestic and fire protection	UWID Service Area	UWID Service Area	1/1-12/31, 3/1-10/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08432	GW	2/10/1977	Municipal	Municipal	Municipal	1.78	1.78	1.78				Sunset West #1	T3N, R1E, S 36, NE, SE	42 APODs	81 APODs	T3N, R1E, S31 NE 1/4, S35 NW1/4	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08635	GW	8/17/1983	Irrigation, Domestic, Fire Protection	Municipal	Municipal	0.89	0.89	0.15	106.20	106.20		Sherman Oaks	T3N, R1E, S 23, SE, SE	12 APODs	81 APODs	T3N, R1E, SEC. 23 SWSE 6, SESE 6, 14 acres total	UWID Service Area	UWID Service Area	1/1-12/31, 3/15-11/15	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-08990	GW	7/19/1977	Municipal	Municipal	Municipal	4.00	4.00	4.00				Cole	T3N, R1E, S 24, NE, SE	42 APODs	81 APODs	Within Boise Water Corp."	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09087	GW	11/25/1977	Municipal	Municipal	Municipal	3.40	3.40	3.40				Country Squire	T3N, R1E, S 23, NW, NW	12 APODs	81 APODs	T3N, R1E, S23, NW1/4	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09106	GW	1/23/1978	Domestic, Fire Protection	Municipal	Municipal	1.12	1.12	1.12				Paradise North	T3N, R1E, S 15, NE, SE	12 APODs	81 APODs	T3N, R1E, S15 NESE, NWSE	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09147	GW	6/6/1978	Municipal	Municipal	Municipal	4.00	4.00	4.00				Swift #1	T3N, R2E, S 30, SW, SE	42 APODs	81 APODs	City of Boise and adjacent area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09198	GW	1/2/1979	Municipal, Fire Protection	Municipal	Municipal	2.45	2.45	2.45				Five Mile West #12	T3N, R1E, S 27, NW, SW	12 APODs	81 APODs	T3N, R1E, S22 SWSE, SESE, S27 NENE, SWNE, SENE, NESW, NWSW, NESE, NWSE	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09199	GW	1/3/1979	Municipal, Fire Protection	Municipal	Municipal	3.12	3.12	3.12				La Grange	T3N, R1E, S 34, NE, SW	12 APODs	81 APODs	T3N, R1E, S2 NENW, SENW, SW1/4, S3 NENW, SENW, NESW, SE 1/4, S34 NESW	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09204	GW	1/8/1979	Municipal	Municipal	Municipal	4.00	4.00	4.00				Joplin	T4N, R1E, S 27, NW, SW	42 APODs	81 APODs	Within Boise Water Corp. service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09205	GW	1/8/1979	Municipal	Municipal	Municipal	4.00	4.00	4.00				Settlers	T4N, R1E, S 35, NE, NW	42 APODs	81 APODs	Within Boise Water Corp. service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09219	GW	3/20/1979	Municipal	Municipal	Municipal	2.23	2.23	2.23				Logger	T3N, R2E, S 24, SW, NW	42 APODs	81 APODs	Within the limits of the Boise Water Corp. Service Area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09223	GW	4/3/1979	Municipal	Municipal	Municipal	4.23	4.23	4.23				Amity	T3N, R1E, S 36, NW, NE	42 APODs	81 APODs	Within the limits of the Boise Water Corp. Service Area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09384	GW	5/27/1980	Irrigation, Domestic, Fire Protection	Municipal	Municipal	1.00	1.00	0.58	420.00	420.00		Lizaso Well	T3N, R1E, S 15, SE, SW	12 APODs	81 APODs	T3N, R1E, S15 NESW 20, SESW 20, 40 acres total, place of use for domestic and fire protection same as for irrigation	UWID Service Area	UWID Service Area	1/1-12/31, 4/1-10/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09671	GW	2/25/1981	Municipal	Municipal	Municipal	2.12	2.12	2.12				Maple Hills #1	T3N, R1E, S 14, NE, NE	42 APODs	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-09855	GW	12/23/1981	Municipal	Municipal	Municipal	3.34	3.34	3.34				Frontier	T4N, R1E, S 34, NE, SW	42 APODs	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-10150	GW	7/1/1983	Irrigation	Municipal	Municipal	0.48	0.48	0.08	56.10	56.10		Barber #1	T3N, R3E, S 29, SE, NE	T3N, R3E, S 29, SE, NE	81 APODs	T3N, R3E, S28 NWNW, SWNW, S29 NENE, SENE	UWID Service Area	UWID Service Area	3/15-11/15, 1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-10386	GW	9/19/1986	Municipal	Municipal	Municipal	1.11	1.11	1.11				Barber #2	T3N, R3E, S 28, SW, NW	T3N, R3E, S 28, SW, NW	81 APODs	T3N, R1E, S15, SWSW 8 Acres total, place of use for irrigation and domestic is same as for irrigation	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-10391	GW	11/14/1986	Irrigation, Domestic, Fire Protection	Municipal	Municipal	0.30	0.30	0.09	62.40	62.40		Marden (well)	T3N, R2E, S 14, SE, NE (lot 7)	T3N, R2E, S 14, SE, NE (lot 7)	81 APODs	Overland Estates	UWID Service Area	UWID Service Area	1/1-12/31, 3/15-11/15	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-10405	GW	3/17/1987	Municipal	Municipal	Municipal	1.56	1.56	1.56				River Run	T3N, R2E, S 24, SW, SE	T3N, R2E, S 24, SW, SE	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	Yes	Yes	
63-10533	GW	9/9/1987	Municipal	Municipal	Municipal	0.52	0.52	0.52				Cartwright	T4N, R2E, S 27, NW, SE	T4N, R2E, S 27, NW, SE	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Partial Decree	Tab J	No	No	5
63-10569	GW	2/5/1988	Municipal	Municipal	Municipal	1.78	1.78	1.78				J R. Flat	T2N, R2E, S 2, NW, NW	T2N, R2E, S 2, NW, NW	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-10688	GW	8/15/1988	Municipal	Municipal	Municipal	2.00	2.00	2.00				Swift #2	T4N, R2E, S 30, SW, SE	T4N, R2E, S 30, SW, SE	81 APODs	Within the city limits of Boise and the surrounding service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-10862	GW	7/18/1989	Municipal	Municipal	Municipal	1.44	1.44	1.44				Bergeson	T3N, R2E, S 26, NW, NE, SE	T3N, R2E, S 26, NW, NE, SE	81 APODs	Within the city limits of Boise and the surrounding service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11034	GW	10/22/1989	Municipal	Municipal	Municipal	2.74	2.74	2.74				Mec	T3N, R2E, S 32, NW, NW	T3N, R2E, S 32, NW, NW	81 APODs	Within the Boise Water Corp. service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11068	GW	11/17/1989	Municipal	Municipal	Municipal	2.79	2.79	2.79				Clinton	T3N, R2E, S 8, NE, SW	T3N, R2E, S 8, NE, SW	81 APODs	Within the Boise Water Corp. service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11090A	GW	1/21/1990	Municipal	Municipal	Municipal	1.73	1.73	0.52	376.40	376.40		Floating Feather	T4N, R1E, S 5, SE, SW	T4N, R1E, S 5, SE, SW	81 APODs	Within United Water Idaho's municipal service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11118	GW	2/1/1990	Municipal	Municipal	Municipal	2.78	2.78	2.78				Cassia	T3N, R2E, S 16, NE, SE	T3N, R2E, S 16, NE, SE	81 APODs	Within the city limits of Boise and the surrounding area served by Boise Water Corp.	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11232	GW	2/12/1990	Municipal	Municipal	Municipal	2.83	2.83	2.83				Hope	T3N, R1E, S 9, SE, NE	T3N, R1E, S 9, SE, NE	81 APODs	Within city limits of Boise	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11384	GW	8/7/1990	Municipal	Municipal	Municipal	3.12	3.12	3.12				H.P.	T4N, R1E, S 27, SE, NE	T4N, R1E, S 27, SE, NE	81 APODs	Within the city limits of Boise and the surrounding service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11385	GW	8/7/1990	Municipal	Municipal	Municipal	2.58	2.58	2.58				Market	T3N, R2E, S 35, NE, NW	T3N, R2E, S 35, NE, NW	81 APODs	Within the Boise Water Corp. service area	UWID Service Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	

UWID's Water Rights (excluding water bank rentals and short term leases)

Right Number	Source	Priority as of 2012 (in brackets if different than 2003)	Purpose of Use as of 2003 (for IMAP rights)	Purpose of Use as of 2012	Purpose of Use sought in IMAP Relaunch	CFS as of 2003 (for IMAP rights)	CFS as of 2012	CFS sought in IMAP Relaunch	AFA as of 2003 (for IMAP rights)	AFA as of 2012	AFA sought in IMAP Relaunch	Original well or diversion name (for IMAP rights)	Original POD(s) (for water rights with system-wide APOD conditions)	POD(s) as of 2012	PODs sought in IMAP Relaunch	Original Place of Use (for IMAP rights)	Place of Use as of 2012	Place of Use sought in IMAP Relaunch	Original Period of Use (for IMAP rights)	Period of Use as of 2012	Period of Use sought in IMAP Relaunch	Current basis (or basis prior to decree, if any)	SRBA status	Included in 2003 IMAP? J=Licenses K=Permits	Included in IMAP Relaunch?	In UWID portfolio in 2012?	Foot-notes
63-11558	GW	6/24/1991	Municipal	Municipal	Municipal	2.67	2.67	2.67				Fisk	T3N, R2E, S.6, SE,SE	T3N, R2E, S.6, SE,SE	81 APODs	Within the city limits of Boise and the surrounding service area	Within the city limits of Boise and	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11950	GW	10/14/1992	Municipal	Municipal	Municipal	2.30	2.30	2.30				Taggart #2	T3N, R2E, S.21, NE,NE	T3N, R2E, S.21, NE,NE	81 APODs	Within the city limits of Boise and the surrounding service area of United Water Idaho	Within the city limits of Boise and the surrounding service area of United Water Idaho	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11951	GW	10/14/1992	Municipal	Municipal	Municipal	0.85	0.85	0.85				Overland	T3N, R2E, S.19, NE,NW	T3N, R2E, S.19, NE,NW	81 APODs	Within the city limits of Boise and the surrounding service area of United Water Idaho	Within the city limits of Boise and the surrounding service area of	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	
63-11990	GW	1/27/1993	Domestic, Fire Protection	Domestic, Fire Protection	Municipal	1.80	1.80	0.86	624.00	624.00		Edgeview	T3N, R1E, S.16, SE,NE	T3N, R1E, S.16, SE,NE	81 APODs	T3N, R1E, S15 NW1/4, S16 NE1/4	T3N, R1E, S15 NW1/4, S16 NE1/4	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	6
63-12043	GW	7/23/1993	Municipal	Municipal	Municipal	4.46	4.46	4.46				Tennile Raptor Pleasant Valley Pioneer	T2N, R2E, S.17, SE,NE T2N, R2E, S.17, NW,NW T2N, R2E, S.21, NE,NW T2N, R2E, S.22, NW,NE	T2N, R2E, S.17, SE,NE T2N, R2E, S.17, NW,NW T2N, R2E, S.21, NE,NW T2N, R2E, S.22, NW,NE	81 APODs	Within the city limits of Boise and the surrounding area served by United Water Idaho.	Within the service area of United Water Idaho, generally described as the city limits of Boise and surrounding service area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab J	Yes	Yes	7
63-12363	GW	9/9/1996	Municipal	Municipal		4.50	4.50	4.50				Cassia #2	T3N, R2E, S.16, NE,SE	T3N, R2E, S.16, NENESE T3N, R2E, S.06, SWSESE		City limits of Boise and surrounding service area	Within the service area of United Water Idaho, generally described as the city limits of Boise and surrounding service area		1/1-12/31	1/1-12/31		License	Post-SRBA	Tab J	No	Yes	3, 8
63-19456	GW	3/31/1953	Municipal	Municipal	Municipal	1.60	1.60	1.60				Twenty-seventh	T3N, R2E, S.4, SW,SW T3N, R2E, S.9, NE,NW T3N, R2E, S.9, SE,NW T3N, R2E, S.10, NW,NW	43 APODs	81 APODs	Within the City of Boise and surrounding service area	Within the service area of United Water Idaho, generally described as the city limits of Boise and surrounding service area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Beneficial use	Partial Decree	Tab J	Yes	Yes	13
RIGHTS ORIGINALLY INCLUDED IN 2003 IMAP TAB K																											
63-10945	GW	10/29/1989	Irrigation, Domestic, Fire Protection	Irrigation, Domestic, Fire Protection	Municipal	2.00	1.72	0.54	393.00			Warm Springs Mesa #1, #2, and #3	T3N, R2E, S.24, NE,SW,NE (lot 2) 3PODs	T3N, R2E, S.24, NE,SW,NE (lot 2) 3PODs	81 APODs	T3N, R3E, S19 NWNE, SWSE, SENE, NENW, SWNW, SENW, NESW, NWSW, 67 acres total		UWID Service Area	1/1-12/31, 3/15-11/15	1/1-12/31, 3/15-11/15	1/1-12/31	License	Post-SRBA	Tab K	Yes	Yes	
63-11467	GW	2/21/1991	Municipal	Municipal	Municipal	2.27	2.27	0.72	520.00	520.00		Island Woods #1 Island Woods #2	T4N, R1E, S.16, NW,SW (lot 5) T4N, R1E, S.21, NW,NW (lot 4)	T4N, R1E, S.16, NW,SW (lot 5) T4N, R1E, S.16, SW,SW	81 APODs	Within the service area of United Water Idaho	Within the service area of United	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab K	Yes	Yes	
63-11878	GW	6/15/1992	Municipal	Municipal	Municipal	0.99	0.99	0.26	190.50	190.50		Redwood Creek	T4N, R1E, S.7, SW,NW (lot 2) T4N, R1E, S.8, SE,NW	T4N, R1E, S.7, SW,NW (lot 2) T4N, R1E, S.8, SE,NW	81 APODs	Within the service area of United Water Idaho	Within the service area of United	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	
63-12055	Boise River	9/8/1993	Municipal	Municipal	Municipal	24.80	24.80	24.80				Marden surface water intake	T3N, R2E, S.14, SE,NE (lot 7)	T3N, R2E, S.14, SE,NE (lot 7)	T3N, R2E, S.14, SE,NE (lot 7)	City limits of Boise and the area of certification	City limits of Boise and the area of certification	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	6
63-12138	GW	8/19/1994	Municipal	Municipal	Municipal	3.90	3.90	3.90				Tennile Raptor Pleasant Valley Pioneer	T2N, R2E, S.17, SE,NE T2N, R2E, S.17, NW,NW T2N, R2E, S.21, NE,NW T2N, R2E, S.22, NW,NE	T2N, R2E, S.17, SE,NE T2N, R2E, S.17, NW,NW T2N, R2E, S.21, NE,NW T2N, R2E, S.22, NW,NE	81 APODs	Within the city limits of Boise and the surrounding area served by United Water Idaho.	Within the city limits of Boise and served by United Water Idaho.	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab K	Yes	Yes	
63-12139	GW	8/19/1994	Municipal	Municipal	Municipal	4.90	3.20	3.20				Tennile Raptor Pleasant Valley Pioneer	T2N, R2E, S.17, SE,NE T2N, R2E, S.17, NW,NW T2N, R2E, S.21, NE,NW T2N, R2E, S.22, NW,NE	T2N, R2E, S.17, SE,NE T2N, R2E, S.17, NW,NW T2N, R2E, S.21, NE,NW T2N, R2E, S.22, NW,NE	81 APODs	Within the city limits of Boise and the surrounding area served by United Water Idaho.	Within the city limits of Boise and served by United Water Idaho.	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab K	Yes	Yes	
63-12140	GW	10/19/1994	Municipal	Municipal	Municipal	3.50	3.50	3.50				McMillan	T4N, R1E, S.28, SW,SW	T4N, R1E, S.28, SW,SW	81 APODs	Within the city limits of Boise and the surrounding service area	Within the city limits of Boise and the surrounding service area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	
63-12192	GW	3/31/1995 (8/6/2002)	Municipal	Municipal	Municipal	5.00	5.00	5.00				Floating Feather	T4N, R1E, S.5, SE,SW	T4N, R1E, S.5, SE,SW	81 APODs	Certificated Area	Certificated Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	7, 9
63-12310	GW	1/19/1996 (8/29/2001)	Municipal	Municipal	Municipal	3.00	3.00	3.00				Redwood Creek Veterans	T4N, R1E, S.7, SW,NW (lot 2) T4N, R2E, S.32, SE,SE (lot 1)	T4N, R1E, S.7, SW,NW (lot 2) T4N, R2E, S.32, SE,SE (lot 1)	81 APODs	Certificated Area	Certificated Area	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	10
63-12334	GW	3/8/1995	Municipal	Municipal	Municipal	0.38	0.38	0.06	42.00	42.00		Spurwing Foxtail	T4N, R1W, S.23, NE,SW T4N, R1W, S.24, SW,SE	T4N, R1W, S.23, NE,SW T4N, R1W, S.24, SW,SE	81 APODs	Within the service area of United Water Idaho	Within the service area of United	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab K	Yes	Yes	
63-12362	GW	9/30/1996	Fire Protection	Fire Protection	Municipal	2.22	2.22	2.22				Foxtail	T4N, R1W, S.24, SW,SE	T4N, R1W, S.24, SW,SE	81 APODs	T4N, R1W, S24 SWSE	T4N, R1W, S24 SWSE	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	License	Post-SRBA	Tab K	Yes	Yes	
63-12424	GW	12/3/1997	Domestic, Fire Protection			3.50						Coventry Place #1 and #2	T2N, R2W, S.10, NW,SE	T2N, R2W, S.10, NW,SE		Coventry Place Subdivision (P)			1/1-12/31			Lapsed Permit	Post-SRBA	Removed from Tab K	No	No	12
63-12432	GW	1/30/1998	Municipal			4.50						Island Woods #1 Island Woods #2	T4N, R1E, S.16, NW,SW (lot 5) T4N, R1E, S.21, NW,NW (lot 4)	T4N, R1E, S.16, NW,SW (lot 5) T4N, R1E, S.21, NW,NW (lot 5)		Within the service area of United Water Idaho			1/1-12/31			Lapsed Permit	Post-SRBA	Tab K	No	No	11
63-12452	GW	4/15/1998	Municipal	Municipal	Municipal	4.50	4.50	4.50				Floating Feather Redwood Creek	T4N, R1E, S.5, SE,SW T4N, R1E, S.7, SW,NW (lot 2)	T4N, R1E, S.5, SE,SW T4N, R1E, S.7, SW,NW (lot 2)	81 APODs	Within the City limits of Boise and the surrounding area	Within the service area of United Water Idaho	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	7
63-12463	GW	6/25/1998	Municipal			3.00						Carriage Hill 1	T3N, R2W, S.31, SE,NE	T3N, R2W, S.31, SE,NE		Within the service area of United Water Idaho			1/1-12/31			License (sold)	Post-SRBA	Removed from Tab K	No	No	12
63-12464	GW	7/13/1998	Municipal	Municipal	Municipal	0.30	0.30	0.30				Carriage Hill 2 Carriage Hill 3	T3N, R2W, S.31, NE,SE T3N, R2W, S.31, NW,SE	T3N, R2W, S.31, NE,SE T3N, R2W, S.31, NW,SE		Within the Service Area of the Barber Water Corp.	Within the Service Area of the	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	
63-12506	GW	1/15/1999	Municipal			3.50						Barber #1 Barber #2	T3N, R3E, S.29, SE,NE T3N, R3E, S.28, SW,NW	T3N, R3E, S.29, SE,NE T3N, R3E, S.28, SW,NW	81 APODs	Located within the service area of UWID, Inc			1/1-12/31			License (sold)	Post-SRBA	Removed from Tab K	No	No	12
63-12516	GW	4/13/1999	Municipal	Municipal	Municipal	4.00	4.00	4.00				Spurwing Foxtail	T4N, R1W, S.23, NE,SW T4N, R1W, S.24, SW,SE	T4N, R1W, S.23, NE,SW T4N, R1W, S.24, SW,SE	81 APODs	Within the service area of United Water Idaho	Within the service area of United	UWID Service Area	1/1-12/31	1/1-12/31	1/1-12/31	Permit	Post-SRBA	Tab K	Yes	Yes	
63-12552	GW	11/18/1999	Municipal			3.00						Danskin # 1	T2N, R1W, S.11, NW,NW	T2N, R1W, S.11, NW,NW		The place of use is located near Kuna within the non-contiguous service area of United Water Idaho						License (sold)	Post-SRBA	Removed from Tab K	No	No	12

UWID's Water Rights (excluding water bank rentals and short term leases)

Right Number	Source	Priority as of 2012 (in brackets if different than 2003)	Purpose of Use as of 2003 (for IMAP rights)	Purpose of Use as of 2012	Purpose of Use sought in IMAP Relaunch	CFS as of 2003 (for IMAP rights)	CFS as of 2012	CFS sought in IMAP Relaunch	AFA as of 2003 (for IMAP rights)	AFA as of 2012	AFA sought in IMAP Relaunch	Original well or diversion name (for IMAP rights)	Original POD(s) (for water rights with system-wide APOD conditions)	POD(s) as of 2012	PODs sought in IMAP Relaunch	Original Place of Use (for IMAP rights)	Place of Use as of 2012	Place of Use sought in IMAP Relaunch	Original Period of Use (for IMAP rights)	Period of Use as of 2012	Period of Use sought in IMAP Relaunch	Current basis (or basis prior to decree, if any)	SRBA status	Included in 2003 IMAP? J=Licenses K=Permits	Included in IMAP Relaunch?	In UWID portfolio in 2012?	Footnotes
RIGHTS NOT INCLUDED IN 2003 IMAP TAB J OR K																											
63-31406	GW	1/18/2002		Municipal		1.11								T3N, R1E, Sec. 14, NE,NE			Within the service area of United Water Idaho		1/1-12/31		Permit	Post-SRBA	No	No	Yes		
63-02915	GW	11/17/1952		Municipal		2.00				1031.40				42 APODs			UWID Service Area		1/1-12/31		License	Partial decree	No	No	Yes		
63-03239	GW	6/22/1961		Municipal		2.80				1197.00				42 APODs			UWID Service Area		1/1-12/31		License	Partial decree	No	No	Yes		
63-31856	GW	6/2/1890		Municipal		2.12								42 APODs			UWID Service Area		1/1-12/31		Beneficial use	Partial decree	No	No	Yes		
63-31857	GW	7/21/1928		Municipal		2.48								42 APODs			UWID Service Area		1/1-12/31		Beneficial use	Partial decree	No	No	Yes		
63-00165L	Boise River	6/1/1866		Municipal		0.68								Marden Plant			UWID Service Area		3/1-11/15			Recommendation	No	No	Yes	14	
63-00169F	Boise River	6/1/1868		Municipal		0.81				199.00				Marden surface water intake			UWID Service Area		3/1-11/15			Partial decree	No	No	Yes		
63-00243E	Boise River	5/1/1889		Municipal		3.30				682.00				Marden surface water intake			UWID Service Area		3/1-11/15			Partial decree	No	No	Yes		
63-00243H	Boise River	5/1/1889		Municipal		0.93				172.00				Marden surface water intake			UWID Service Area		3/1-11/15			Partial decree	No	No	Yes		
63-31409	Boise River	11/16/2001		Municipal		20.00								Marden and Columbia surface water intakes			UWID Service Area		1/1-12/31		Permit	Post-SRBA	No	No	Yes		
2-02339	Wilson Exchange	12/7/1964		Irrigation		11.00				2745.00				Marden surface water intake			UWID Service Area		3/15-11/15		Exchange	Partial decree	No	No	Yes		
2-02341	Initial Butte Exchange	12/28/1964		Irrigation		12.52				2817.00				Marden and Columbia surface water intakes			UWID Service Area		3/15-11/15		Exchange	Partial decree	No	No	Yes		
2-02358	Initial Butte Exchange	7/28/1964		Irrigation		14.50				3262.50				Marden and Columbia surface water intakes			UWID Service Area		3/15-11/15		Exchange	Partial decree	No	No	Yes		
2-02420	Initial Butte Exchange	12/31/1963		Irrigation		14.08				3168.00				Marden and Columbia surface water intakes			UWID Service Area		3/15-11/15		Exchange	Partial decree	No	No	Yes		
63-31871	Initial Butte Exchange	2/4/1900		Irrigation		35.21				9247.50				Marden and Columbia surface water intakes			UWID Service Area		3/15-11/15		Exchange	Post-SRBA	No	No	Yes		
Anderson Ranch	Boise River									1000.00				Marden and Columbia surface water intakes			UWID Service Area		1/1-12/31		40-year contract	not claimed	No	No	Yes		
Lucky Peak	Boise River									1100.00				Marden and Columbia surface water intakes			UWID Service Area		1/1-12/31		40-year contract	not claimed	No	No	Yes		

Footnotes:

1. The Marden Ranney collectors were included in the 2003 IMAP APOD list for other ground water rights, but are not included as APODs for other rights in the IMAP Relaunch.
2. Water rights 63-04015 and 63-07077 both were included in the 2003 IMAP, although it was noted that the rights overlap the same use of water. Water right 63-04015 is the statutory claim for the water right out of the B.I.F. well while 63-07077 is an after-acquired license for the use. 63-07077 was not claimed or decreed in the SRBA. The 2003 IMAP "Total CFS" excluded the 1.11 cfs licensed under right 63-07077, and the "Total CFS" shown above for 2003 and 2012 also excludes the 1.11 cfs associated with that license.
3. Right nos. 63-07066 and 63-12363 are not included in the IMAP Relaunch. These rights were withdrawn from the IMAP on March 17, 2010 for potential non-IMAP transfers to add additional points of diversion while the IMAP was stayed. No transfer was filed for 63-07066, which has been decreed in the SRBA for 5.80 cfs with 42 APODs for year-round municipal purposes in the UWID service area, with no annual volume or combined limits. Right no. 63-12363 was changed through Transfer 72036 to add a point of diversion (the existing Fisk well) and was combined with right no. 63-11558 for 5.50 cfs.
4. The 2003 IMAP inaccurately correctly listed the licensed annual volume limit as 843.0 afa; the license actually stated 843.3 afa.
5. Right no. 63-10533 was decreed to UWID, but is not included in the IMAP Relaunch because it is being sold to Terteling.
6. Water right nos. 63-11990 and 63-12055 contain the "moratorium condition" that limits the volume and irrigation acreage per household. As in the 2003 IMAP, the IMAP Relaunch requests that this condition be removed from these rights in the transfer process.
7. The 2003 IMAP inaccurately described the licensed place of use for right nos. 63-12043, 63-12192, and 63-12452.
8. The 2003 IMAP inaccurately described the licensed point of diversion and place of use for right no. 63-12363.
9. Right no. 63-12192's priority date was advanced by IDWR's December 16, 2010 Order reinstating lapsed permit.
10. Right no. 63-12310's priority date was advanced because proof of beneficial use was submitted late (it was due April 1, 2001, but submitted on August 29, 2001).
11. Permit no. 63-12432 lapsed. It is not included in the IMAP Relaunch.
12. "Removed from Tab K" denotes the rights removed by John Marshall and Steve Lester via handwritten changes on April 9, 2003. These rights will not be included in the IMAP Relaunch.
13. Right nos. 63-02500, 63-02874, 63-07067, and 63-19456 were involved in Transfer 4998 (approved on January 9, 1998), which added a new point of diversion (the 27th Street well) to these rights. The SRBA Court decreed these four rights with the 42 APODs authorized under the accomplished transfer statute, plus the addition POD approved in Transfer 4998.
14. Recommended in the SRBA to Boise City Canal Company under right no. 63-20041.

Exhibit D **REVISED SPREADSHEET OF APODS**

Well Name	Tw	Rge	Sec	Tract	Included in APOD list for 2003 IMAP? (Tab N)	Included in APOD list for 2012 IMAP Relaunch?	SRBA Partial Decree APOD Category
Amity	3N	1E	36	NW,NW,NE	Yes	Yes	42 APODs
Arctic #1	3N	2E	8	NE,NE,NE	Yes	Yes	42 APODs
Arctic #2	3N	2E	8	NE,NE,NE	No	No	
B.I.F	3N	2E	27	SE,NW,SE	Yes	Yes	42 APODs
Bali Hai #1	3N	1E	3	SW,SE,NE	Yes	Yes	42 APODs
Barber #2	3N	3E	28	SW,NW	Yes	Yes	
Barber #3	3N	3E	33	SE,NW,NE	No	No	
Barber #1	3N	3E	29	SE,NE	Yes	Yes	
Beacon	3N	2E	14	NW,SE,NW	Yes	Yes	42 APODs
Bergeson	3N	2E	26	NW,NE,SE	Yes	Yes	
Bethel	3N	2E	7	NE,SW,SW	Yes	Yes	42 APODs
Blggs	3N	2E	18	SE,SE,SE	No	No	
Broadway	3N	2E	22	SE,SE,SE	Yes	Yes	42 APODs
Brookhollow No. 1	3N	1E	15	SE,NE	Yes	Yes	12 APODs
Byrd	3N	2E	33	SW,NE,NW	Yes	Yes	42 APODs
Carriage Hill 1	3N	2W	31	SE,NE	No	No	
Carriage Hill 2	3N	2W	31	NE,SE	No	No	
Carriage Hill 3	3N	2W	31	NW,SE	No	No	
Cartwright	4N	2E	27	NW,SE	No	No	
Cassia	3N	2E	16	NE,NE,SE	Yes	Yes	
Cassia #2	3N	2E	16	NE,NE,SE	Yes	Yes	
Centennial	3N	2E	25	NW,NW,SE	Yes	Yes	42 APODs
Central Park	3N	2E	2	NW,NE,NW	Yes	Yes	42 APODs
Chamberlin #1	3N	2E	22	SE,NW,NE	Yes	Yes	42 APODs
Chamberlin #2	3N	2E	22	SE,NW,NE	Yes	Yes	42 APODs
Cliffside	3N	2E	15	SW,NW,NW	Yes	Yes	42 APODs
Clinton	3N	2E	8	SW,NE,SW	Yes	Yes	
Cole	3N	1E	24	NE,NE,SE	Yes	Yes	42 APODs
Country Club	3N	2E	28	SE,NW,NW	Yes	Yes	42 APODs
Country Squire	3N	1E	23	NW,NW	Yes	Yes	12 APODs
Countryman Estates	3N	1E	23	SE,NW	Yes	Yes	12 APODs
Coventry Place #1	2N	2W	10	NW,SE	No	No	
Coventry Place #2	2N	2W	10	NW,SE	No	No	
Danskin # 1	2N	1W	11	NW,NW	No	No	
Danskin # 2	2N	1W	11	NW,NW	No	No	
Edgeview	3N	1E	16	SE,NE	Yes	Yes	
Empire	3N	2E	18	NE,SW,SE	Yes	No	
Fisk	3N	2E	6	SW,SE,SE	Yes	Yes	
Five Mile Estates #1	3N	1E	27	NW,SE	No	No	
Five Mile Estates #2	3N	1E	27	SE,NE	Yes	No	12 APODs
Five Mile West #12	3N	1E	27	NW,SW	Yes	Yes	12 APODs
Floating Feather	4N	1E	5	SESW	Yes	Yes	
Foxtail	4N	1W	24	SE,SW,SE	Yes	Yes	
Franklin Park	3N	2E	18	SW,NW,NE	Yes	Yes	42 APODs
Frontier	4N	1E	34	SE,NE,SW	Yes	Yes	42 APODs
Goddard	4N	1E	36	SW,NE,NW	Yes	Yes	42 APODs
H.P.	4N	1E	27	SW,SE,NE	Yes	Yes	
Hidden Valley Estates #1	2N	1E	3	SE,SE	Yes	Yes	12 APODs
Hidden Valley Estates #2	2N	1E	3	NE,SW	Yes	Yes	12 APODs
Hillcrest	3N	2E	20	SE,SE,NE	Yes	Yes	42 APODs
Hilton	3N	2E	17	SE,NE,SW	Yes	Yes	42 APODs
Hope	3N	1E	9	NE,SE,NE	Yes	No	
Hummel	3N	2E	18	SW,NE,SW	Yes	Yes	42 APODs
Idaho	3N	2E	4	NE,SW,SW	Yes	Yes	42 APODs
Island Woods #1	4N	1E	16	NE,NW,SW (lot 5)	Yes	Yes	
Island Woods #2	4N	1E	21	NW,NW,NW	Yes	Yes	

Well Name	Twn	Rge	Sec	Tract	Included in APOD list for 2003 IMAP? (Tab N)	Included in APOD list for 2012 IMAP Relaunch?	SRBA Partial Decree APOD Category
J.R. Flat	2N	2E	2	SW,NW,NW	Yes	Yes	
Joplin	4N	1E	27	NW,NW,SW	Yes	No	42 APODs
Junker	3N	2E	32	SE,NE,NE	No	No	
Kirkwood	3N	2E	19	SW,NE,NE	Yes	Yes	42 APODs
La Grange	3N	1E	34	NE,SW	Yes	Yes	12 APODs
Lizaso	3N	1E	15	SE,SW	Yes	No	12 APODs
Logger	3N	2E	24	NW,SW,NW	Yes	Yes	42 APODs
Longmeadow	3N	2E	13	NW,SW,NW	Yes	Yes	42 APODs
Mac	3N	2E	32	SW,NW,NW	Yes	Yes	
Maple Hills #1	3N	1E	14	SW,NE,NE	Yes	Yes	42 APODs
Maple Hills #2	3N	1E	14	SE,NE,NE	Yes	Yes	
Marden well	3N	2E	14	NE,SE,NE	No	No	
Marden Ranney collectors	3N	2E	14	SE,SE,NE	Yes	No	
Market	3N	2E	35	NE,NE,NW	Yes	Yes	
McMillan	4N	1E	28	SE,SW,SW	Yes	Yes	
Warm Springs Mesa #1	3N	2E	24	NE,SW,NE	Yes	No	
Warm Springs Mesa #2	3N	2E	24	NE,SW,NE	Yes	Yes	
Warm Springs Mesa #3	3N	2E	24	NE,SW,NE	Yes	Yes	
Mountain View	3N	2E	14	SW,NE,NE	No	No	
Orchid	3N	2E	14	SE,NE,NE	No	No	
Overland	3N	2E	19	NW,NE,NW	No	No	
Overland #6	3N	2E	19	NW,NE,NW	Yes	Yes	42 APODs
Paradise North	3N	1E	15	NE,SE	Yes	Yes	12 APODs
Pioneer	2N	2E	22	NE,NW,NE	Yes	Yes	
Pleasant Valley	2N	2E	21	NW,NE,NW	Yes	Yes	
Raptor	2N	2E	17	NW,NW,NW	Yes	Yes	
Redwood Creek	4N	1E	7	SWNW (lot 2)	Yes	Yes	
River Run	3N	2E	24	NE,SW,SE	Yes	Yes	
Roosevelt #1	3N	2E	16	SW,NW,NW	Yes	Yes	42 APODs
Roosevelt #3	3N	2E	16	SW,NW,NW	Yes	Yes	42 APODs
Settlers	4N	1E	35	NW,NE,NW	Yes	Yes	42 APODs
Sherman Oaks	3N	1E	23	SE, SE	Yes	Yes	12 APODs
Sixteenth St.	3N	2E	9	SW,SE,NW	Yes	Yes	42 APODs
Spurwing	4N	1W	23	NE,SW	Yes	Yes	
Sunrise	3N	2E	27	NE,NE,SW	No	No	
Sunset West #1	3N	1E	36	SE,NE,SE	Yes	Yes	42 APODs
Swift #1	3N	2E	30	SE,SW,SE	Yes	Yes	42 APODs
Swift #2	4N	2E	31	SE,SW,SE	Yes	Yes	
Taggart #1	3N	2E	21	SW,NE,NE	Yes	Yes	42 APODs
Taggart #2	3N	2E	21	SW,NE,NE	Yes	Yes	
Tenmile	2N	2E	17	NE,SE,NE	Yes	Yes	
Terteling	3N	2E	36	NE,SW,NE	Yes	Yes	42 APODs
Thirteenth	3N	2E	10	NE,NW,NW	No	No	42 APODs
Twenty-seventh	3N	2E	4	SW,SW	Yes	Yes	43d APOD
Veterans well	4N	2E	32	SW,SE,SE	Yes	Yes	
Veterans Ranney collectors	3N	2E	5	SE,NE	Yes	No	
Victory	3N	1E	27	NE,NE	Yes	Yes	12 APODs
Vista	3N	2E	28	NE,NE,NE	Yes	Yes	42 APODs
Westmoreland	4N	2E	31	NE,NW,SW	Yes	Yes	42 APODs
Willow Lane #1	4N	2E	32	NW,NW,NW	Yes	Yes	42 APODs
Willow Lane #2	4N	2E	32	NW,SW,NW	Yes	Yes	42 APODs
Willow Lane #3	4N	2E	32	NW,SW,NW	Yes	Yes	42 APODs

Exhibit E

SRBA COURT DECISION IN *POCATELLO* LITIGATION (NOV. 9, 2009)

RECEIVED

NOV 11 2009

Givens Pursley, LLP

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED _____

2009 NOV 9 PM 1 04

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576) Subcase Nos. 29-00271, *et al.*
) (See Attached Exhibit A)
)
) MEMORANDUM DECISION AND
) ORDER ON CHALLENGE
) (City of Pocatello)
_____)

Ruling: Order of the Special Master is affirmed.

I.

APPEARANCES

JOSEPHINE P. BEEMAN, Beeman & Associates, P.C., Boise, Idaho, on behalf of
Challenger City of Pocatello ("Pocatello").

SHASTA KILMINSTER-HADLEY, Deputy Attorney General, Boise, Idaho, on behalf
of Respondent State of Idaho.

CHRISTOPHER H. MEYER AND JOHN M. MARSHALL, Givens Pursley, LLP,
Boise, Idaho, appearing *amici curiae* on behalf of United Water Idaho, City of Nampa,
and the City of Blackfoot ("Municipal Providers or Providers").

JOHN M. MELANSON, Presiding Judge of the SRBA, presiding.

MEMORANDUM DECISION AND ORDER ON CHALLENGE (City of Pocatello)

Page 1 of 30

II.

PROCEDURAL BACKGROUND

1. The above-captioned water rights were claimed in the SRBA by the City of Pocatello.¹ Pocatello filed *Objections* to the recommendations contained in the *Director's Reports* issued by the Idaho Department of Water Resources ("IDWR"). The State of Idaho filed responses to Pocatello's *Objections*.

2. Following summary judgment proceedings and a trial, the Special Master issued a *Master's Report and Recommendation and Order on Motion to Reconsider* on October 2, 2007. The Special Master recommended that 1) the ground water wells could not be included as alternative points of diversion for Pocatello's surface water rights; 2) a remark identifying the location, date, and quantity of the original right was necessary for the interconnected well system where multiple points of diversion were established under the accomplished transfer provisions of Idaho Code § 42-1425 to prevent injury to existing water rights; 3) water rights 29-7118 and 29-7119 should be decreed with a municipal purpose of use, while water right 29-7770 should be decreed with an irrigation purpose of use; and 4) the priority date for 29-13558 should be July 16, 1924, as recommended in the *Director's Report*, while the priority date for 29-13639 should be October 21, 1952, which is one day earlier than the date recommended in the *Director's Report*.

3. On October 30, 2007, the Special Master issued an *Amended Master's Report and Recommendation and Order on Motion to Reconsider*, which amended the Place of Use description for Pocatello's municipal rights.

4. On May 28, 2008, the Special Master issued an *Order Denying Motion to Alter or Amend*.

¹ The claims are based on state law. Pocatello also claimed the use of the water pursuant to federal law under a single water right claim. The federal law basis for the water was resolved in a separate proceeding.

5. On June 11, 2008, Pocatello timely filed a *Notice of Challenge* to the ***Master's Report and Recommendation***. Also on June 11, 2008, Pocatello filed a *Motion to Stay Proceedings*, due to Pocatello's pending *Petition for Certiorari* before the United States Supreme Court on the federal law basis for these claims. After a hearing, this Court granted Pocatello's *Motion to Stay Proceedings*. However, *certiorari* was later denied. On December 18, 2009, the Court issued a ***Challenge Scheduling Order***, initiating the resumption of the *Challenge* proceedings.

6. On April 10, 2009, United Water of Idaho, City of Nampa, and City of Blackfoot filed a *Motion for Leave to Participate or to Participate as Amici Curiae*. After a hearing, the Court granted the *Motion to Participate as Amici Curiae*.

III.

MATTER DEEMED FULLY SUBMITTED FOR DECISION

Oral argument on *Challenge* occurred August 13, 2009. The Court granted Pocatello's request for additional briefing. The final post-hearing brief was filed September 18, 2009. Therefore, this matter is deemed fully submitted for decision the next business day, or September 19, 2009.

IV.

BRIEF STATEMENT OF MATERIAL FACTS

At issue are thirty state-law based claims filed by the City of Pocatello.² The water rights are used to provide municipal water service to residents and water users

² The water rights include: 29-00271, 29-00272, 29-00273, 29-2274, 29-2338, 29-2401, 29-2499, 29-4221, 29-1222, 29-4223, 29-4224, 29-4225, 29-4226, 29-7106, 29-7118, 29-7119, 29-7322, 29-7375, 29-7450, 29-7770, 29-11339, 29-11348, 29-13558, 29-13559, 29-13560, 29-13561, 29-13562, 29-13637, 29-13638, and 29-13639. Pocatello filed a total of thirty-nine claims in the SRBA. In addition to the thirty claims at issue Pocatello also has eight water rights that have been decreed and one federal claim that was disallowed. Those claims are not at issue.

within Pocatello's in-town service area and to its airport facility. The two water services are independent of each other. Water for the in-town service area is provided through an interconnected system supplied by twenty-one ground water rights delivered through twenty-two wells.³ The wells were developed at different times and are located throughout the in-town service area. Pocatello claimed the wells as alternative points of diversion for each of the twenty-one ground water rights, meaning Pocatello would be authorized to withdraw water under its most senior priority right from any well location. Pocatello also holds four surface rights diverted from Mink and Gibson Jack Creeks, both tributary to the Portneuf River and the Lower Portneuf River Valley Aquifer.⁴ The Lower Portneuf River Valley Aquifer provides the source for the ground water rights. The surface rights carry the most senior priorities. Pocatello also claimed the twenty-two ground water wells as alternative points of diversion for the surface water rights meaning Pocatello would be authorized to withdraw water for its surface rights from any well location.

Water service for the airport is provided through a smaller separate interconnected system supplied by three ground water rights associated with three wells. Pocatello claimed two of the wells as alternative points of diversion for each other. Pocatello relies on the accomplished transfer provisions of Idaho Code § 42-1425 for establishing the wells as alternative points of diversion for each other and for its surface rights. The interconnected water systems for both the in-town service area and airport were in existence and in operation prior to the commencement of the SRBA on November 19, 1987, as required by Idaho Code § 42-1425.

IDWR recommended the wells as alternative points of diversion for the ground water rights as claimed based on the application of Idaho Code § 42-1425, with one exception. In order to prevent injury to existing ground water rights of third parties IDWR recommended that the following condition or remark appear in the face of the

³ The system is supplied by twenty-three (23) water rights but only twenty-one of the ground water rights are at issue: 29-2274, 29-2338, 29-2401, 29-2499, 29-4221, 29-4223, 29-4224, 29-4225, 29-4226, 29-7106, 29-7322, 29-7375, 29-11339, 29-11348, 29-13558, 29-13559, 29-13560, 29-13561, 29-13562, 29-13637 and 29-13639.

⁴ Mink Creek rights: 29-271, 29-272, and 29-273; Gibson Jack Creek right: 29-4222.

Partial Decree for eighteen of the water rights in the in-town service area⁵ and for two of the three water rights supplying water to the airport.⁶

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from Pocatello well [description] in the amount of ____ cfs.

IDWR's basis for recommending the condition was twofold, "number one, well interference that could happen in the future as a result of increased pumping at wells and, secondly, conjunctive administration concerns relative to diversion from one location as compare [sic] with diversion from another location." *Amended Master's Report and Recommendation and Order on Motion to Reconsider* at 17 (quoting Tuthill testimony). IDWR did not recommend the ground water wells as alternative points of diversion for the surface rights. Pocatello objected to the inclusion of the conditions and to IDWR's recommendation that the ground water wells not be decreed as alternative points of diversion for the surface rights. No third party ground water right holder filed an *Objection* or *Response* to IDWR's recommendation.

Water right 29-7770 was licensed with an "irrigation" purpose of use in 2003. Pocatello asserts that an accomplished transfer has changed the purpose of use for this licensed right from "irrigation" to "municipal." IDWR recommended 29-7770 with an "irrigation" purpose of use in its *Director's Report* consistent with the license.

Finally, Pocatello claimed a priority date of June 30, 1905 for water right 29-13558, based in part on newspaper articles about the early history of the cities of Pocatello and Alameda. However, the *Director's Report* for 29-13558 recommended a priority date of July 16, 1924, which is one day before the City of Alameda was founded. Similarly, Pocatello claimed a priority date of December 31, 1940 for water right 29-13639. The *Director's Report* for 29-13639 recommended a priority date of October 22, 1952, based on an application for a permit for the right. The Special Master concluded

⁵ Three of Pocatello's groundwater rights (29-2274, 29-2338, and 29-7375) were recommended without the condition because those rights were subject to administrative transfer No. 5452, which did not include the condition and occurred after 1987.

⁶ Water rights 29-7450 and 29-13638 were recommended with the condition.

that the priority date should be one day earlier than recommended in the *Director's Report*, or October 21, 1952.

V.

ISSUES RAISED ON CHALLENGE

The City of Pocatello raises a number of issues on Challenge. The Court summarizes the issues as follows:

1. Whether the Special Master erred in applying the amnesty provisions of I.C. § 42-1425 by conducting a hearing on injury in the absence of an objection by a third party?
2. Whether the Special Master erred in recommending a condition on certain ground water rights used for Pocatello's interconnected well system in order to prevent injury to existing rights?
3. Whether the Special Master erred in not listing interconnected ground water wells as alternative points of diversion for the Pocatello's surface water rights?
4. Whether the Special master erred in striking an affidavit filed by Pocatello in conjunction with its post-trial brief?
5. Whether the Special Master erred in recommending water right 29-7770 with an irrigation instead of a municipal purpose of use?
6. Whether the Special Master erred in recommending certain priority dates for water rights 29-13558 and 29-13639?

VI.
STANDARD OF REVIEW OF SPECIAL MASTER'S FINDINGS OF FACT AND
CONCLUSIONS OF LAW

A. Findings of fact of a special master.

In Idaho, the district court is required to adopt a special master's findings of fact unless they are clearly erroneous. *AOI*, section 13f; I.R.C.P. 53(e)(2); *Rodriguez v. Oakley Valley Stone, Inc.*, 120 Idaho 370, 377, 816 P.2d 326, 333 (1991); *Higley v. Woodard*, 124 Idaho 531, 534, 861 P.2d 101, 104 (Ct. App. 1993). Exactly what is meant by the phrase "clearly erroneous," or how to measure it, is not always easy to discern. The United States Supreme Court has stated that "[a] finding is 'clearly erroneous' when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *U.S. v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948). A federal court of appeals stated as follows:

It is idle to try to define the meaning of the phrase "clearly erroneous"; all that can be profitably said is that an appellate court, though it will hesitate less to reverse the findings of a judge than that of an administrative tribunal or of a jury, will nevertheless reverse it most reluctantly and only when well persuaded.

U.S. v. Aluminum Co. of America, 148 F.2d 416, 433 (2nd Cir. 1945) (L. Hand, J.).

A special master's findings, which a district court adopts in a non-jury action, are considered to be the findings of the district court. I.R.C.P. 52(a); *Higley*, 124 Idaho at 534, 861 P.2d at 104. Consequently, a district court's standard for reviewing a special

master's findings of fact is to determine whether they are supported by substantial,⁷ although perhaps conflicting, evidence. *Higley*, 124 Idaho at 534, 861 P.2d at 104.

B. Conclusions of law of a special master.

A special master's conclusions of law are not binding upon a district court, but they are expected to be persuasive. I.C. § 42-1412(5); *State v. Hagerman Water Right Owners, Inc.*, 130 Idaho 736, 740, 947 P.2d 409, 413 (1997). To the degree that the district court adopts the special master's conclusions of law, those conclusions become those of the court. *Id.* at 740, 947 P.2d at 413; *Oakley Valley Stone* 120 Idaho at 378, 816 P.2d at 334. This permits a district court to adopt a special master's conclusions of law only to the extent they correctly state the law. *Id.* Stated another way, the conclusions of law of a special master are not protected by or cloaked with the "clearly erroneous" standard. Further, the label put on a determination by a special master is not decisive. If a finding is designated as one of fact, but is in reality a conclusion of law, it is freely reviewable. Wright and Miller, Federal Practice and Procedure § 2588 (1995); *East v. Romine, Inc.*, 518 F.2d 332, 338 (5th Cir. 1975).

The bottom line is that findings of fact supported by competent and substantial evidence, and conclusions of law correctly applying legal principles to the facts found will be sustained on challenge or review. *MH&H Implement, Inc. v. Massey-Ferguson, Inc.*, 108 Idaho 879, 881, 702 P.2d 917, 919 (Ct. App. 1985).

⁷ Substantial does not mean that the evidence was uncontradicted. All that is required is that the evidence be of such sufficient quantity and probative value that reasonable minds *could* conclude that the finding -- whether it be by a jury, trial judge, or special master -- was proper. It is not necessary that the evidence be of such quantity or quality that reasonable minds must conclude, only that they *could* conclude. Therefore, a special master's findings of fact are properly rejected only if the evidence is so weak that reasonable minds could not come to the same conclusion the special master reached. *Mann v. Safeway Stores, Inc.*, 95 Idaho 732, 518 P.2d 1194 (1974); *see also Evans v. Hara's Inc.*, 123 Idaho 473, 478, 849 P.2d 934, 939 (1993). Substantial evidence is defined "as such relevant evidence as a reasonable mind might accept to support a conclusion; it is more than a scintilla but less than a preponderance." *Clear Springs Foods, Inc. v. Clear Lakes Trout Co.*, 136 Idaho 761, 765, 40 P.3d 119, 123 (2002).

VII. DISCUSSION

A. The Special Master did not err procedurally by conducting a hearing on injury in the absence of a third-party objection to Pocatello's accomplished transfer claim.

Pocatello argues the Special Master erred procedurally by conducting a hearing on injury despite the absence of a third-party objection to its accomplished transfer claim. Pocatello argues Idaho Code § 42-1425 limits inquiry into injury to existing rights only to situations where an existing water right holder (other than the claimant) objects to the accomplished transfer. This Court disagrees. A plain reading of the statutory language provides just the opposite.

Idaho Code § 42-1425 specifically provides a mechanism for memorializing in the SRBA previously unauthorized transfers. I.C. § 42-1425 (2). While the statute waives the otherwise mandatory administrative transfer requirements of Idaho Code §§ 42-108 and 42-222, it does not waive the rest of the SRBA procedures for processing a claim. Accordingly, the statute should be read in the context of the rest of the SRBA adjudication processes. The statute does not eliminate the Director's authority and statutory duty to investigate the claim and file a *Director's Report*. See Idaho Code 42-1410 and 42-1411. The statute contemplates the filing of an initial *Director's Report*. In the event an objection is filed to a claim for an accomplished transfer then IDWR is required to file a "supplemental report." (i.e. *supplemental* to the initial report.) I.C. § 42-1425 (2) (a). A *Director's Report* necessarily includes the authorization to determine "conditions on the exercise of any water right included in any decree, license, or approved transfer application" and "such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director." I.C. § 42-1411 (2) (i) and (j).

Idaho Code § 42-1425 (1)(c) provides that "the legislature further finds and declares that examination of these changes by the director through the procedures of section 42-222, Idaho Code, would be impractical and unduly burdensome. The *more limited examination of these changes provided for in this section, constitutes a*

reasonable procedure for an expeditious review by the director while ensuring that the changes do not injure other existing rights or constitutes an enlargement of use of the original right.” I.C. § 42-1425(1)(c) (emphasis added). Idaho Code § 42-1425 (2) sets forth the criteria required to qualify for an accomplished transfer under the statute. Injury to existing rights is not the only inquiry into whether a claim qualifies under the statute. In addition, the subsequent changes to the original right as claimed must have occurred prior to the commencement date of the SRBA; the changes to the original right are limited to the elements provided for in the statute, and the transfer cannot result in an enlargement of the original water right. *See* I.C. § 42-1425 (2). Nowhere does the statute require IDWR to accept Pocatello’s claim as a *prima facie* showing of compliance with the statutory criteria nor does Idaho Code § 42-1425(2) limit these criteria to the circumstance where an objection is filed by a third party.⁸ This would potentially eliminate any review by the Director as contemplated by I.C. § 42-1425 (1)(c). Rather, in the event an objection is filed to the accomplished transfer then Idaho Code § 42-1425 requires additional measures and procedures including a supplemental report filed by the Director. I.C. § 41-1425 (2)(a). In this case an objection was filed by Pocatello thereby appropriately triggering an inquiry into injury.

A similar issue presented itself in the context of an administrative transfer in *Barron v. IDWR*, 135 Idaho 414, 18 P.3d 219 (2001). In *Barron*, the Idaho Supreme Court rejected transfer applicant’s argument that because no party came forward to protest the proposed transfer, IDWR was required to accept the applicant’s showing of non-injury, non-enlargement and favorable public interest without an examination. *Id.* at 441, 18 P.3d at 226. Although the amnesty provisions of I.C. § 42-1425 waive the application of the formal transfer requirements, the purpose of the statute is not to put the claimant in a better position than had the transfer requirements been followed by overlooking whether the transfer results in injury or enlargement in the absence of an objection by a third party. Accordingly, the Special Master did not err in inquiring into the issue of injury to existing water rights.

⁸ For example, the statute is not applicable to a claim based on an enlargement of use irrespective of whether or not an objection is filed. I.C. § 42-1425(c)(2)(b). Accordingly, the only way in which the existence of an enlargement can be determined is through an investigation by IDWR.

B. The Special Master did not err in recommending the condition in order to prevent injury to existing water rights of third parties.

Pocatello argues the Special Master erred in concluding that the interconnected system of wells could not be decreed as alternate points of diversion under the provisions of the accomplished transfer statute without also including a condition specifying the date and particular well from which each water right was first established. For the reasons set forth below this Court affirms the ruling of the Special Master.

Idaho Code § 42-1425 authorizes changes to the place of use, point of diversion, nature or purpose of use, or period of use elements of a water right made prior to the commencement date of the SRBA (November 19, 1987) where the water right holder failed to comply with the statutorily defined transfer requirements.⁹ *See* I.C. § 42-

⁹ Idaho Code § 42-1425 provided as follows:

Accomplished transfers. – (1) Legislative findings regarding accomplished transfers and the public interest.

(a) The legislature finds and declares that prior to the commencement of the Snake River basin adjudication, many persons entitled to the use of water or owning land to which water has been made appurtenant either by decree of the court or under provisions of the constitution and statutes of this state changed the place of use, point of diversion, nature or purpose of use, or period of use of their water rights without compliance with the transfer provisions of sections 42-108 and 42-222, Idaho Code.

(b) The legislature finds that many of these changes occurred with the knowledge of other water users and that the water has been distributed to the right as changed. The legislature further finds and declares that the continuation of the historic water use patterns resulting from these changes is in the local public interest provided no other existing water right was injured at the time of the change. Denial of a claim based solely upon a failure to comply with sections 42-108 and 42-222, Idaho Code, where no injury or enlargement exists, would cause significant undue financial impact to a claimant and the local economy. Approval of the accomplished transfer through the procedure set forth in this section avoids the harsh economic impacts that would result from a denial of the claim.

(c) The legislature further finds and declares that examination of these changes by the director through the procedures of section 42-222, Idaho Code, would be impractical and unduly burdensome. The more limited examination of these changes provided for in this section, constitutes a reasonable procedure for an expeditious review by the director while ensuring that the changes do not injure other existing water rights or constitute an enlargement of use of the original right.

(2) Any change of place of use, point of diversion, nature or purpose of use or period of use of a water right by any person entitled to use of water or owning any land to which water has been made appurtenant either by decree of the court or under the provisions of the constitution and statutes of this state, prior to November 19, 1987, the date of commencement of the Snake River basin adjudication, may be claimed in a general

1425(2). The statute authorizes the change only where no existing water right is injured at the time of change or where the change does not result in an enlargement of the original water right. *Id.* The statute does not expressly define what constitutes “injury” to existing water rights. Pocatello argues that IDWR’s reasoning in support of the condition incorrectly takes into account future injury as opposed to injury that occurred at the time of the change to the water right. This Court disagrees. Pocatello’s argument incorrectly assumes that the concept of “injury” is limited to immediate physical interference with the existing right of another at the time the change to the water right was made. The SRBA Court previously rejected that same argument in the context of a contest made to the application of the other amnesty statute, Idaho Code § 42-1426, with respect to enlargement claims.

At issue in *Order on Challenge (A & B Irrigation District)* Subcase Nos. 36-02080 *et. al.* (April 25, 2003) (Hon. R. Burdick) was a contest to a subordination condition recommended by IDWR with respect to enlargement claims where the claimant failed to provide mitigation for the injury as required by statute. The claimant in protesting the subordination condition argued that there was no injury to other water users. The SRBA Court disagreed and held that to the extent an enlargement claim is

adjudication even though the person has not complied with sections 42-108 and 42-222, Idaho Code, provided no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right. Except for the consent requirements of section 42-108, Idaho Code, all requirements of sections 42-108 and 42-222, Idaho Code, are hereby waived in accordance with the following procedures:

(a) If an objection is filed to a claim for accomplished change of place of use, point of diversion, nature or purpose of use or period of use, the district court shall remand the water right to the director for further hearing to determine whether the change injured a water right existing on the date of the change or constituted an enlargement of the original right. After a hearing, the director shall submit a supplemental report to the district court setting forth his findings and conclusions. If the claimant or any person who filed an objection to the accomplished transfer is aggrieved by the director’s determination, they may seek review before the district court. If the change is disallowed, the claimant shall be entitled to resume use of the original water right, provided such resumption of use will not cause injury or can be mitigated to prevent injury to existing water rights. The unapproved change shall not be deemed a forfeiture or abandonment of the original water right.

(b) This section is not applicable to any claim based upon an enlargement of use. [I.C., § 42-1425, as added by 1994, ch. 454, § 31, p. 1443; am. 1996, ch. 186 § 7, p. 584.]

The statute was amended in 2006 to address the northern Idaho adjudications but remains the same in substance.

given priority over an existing right on the same source without mitigation, the injury to the existing water right is *per se* even though at the time the enlargement was established there was sufficient water to satisfy both the enlargement claim as well as the rights of existing water right holders. The SRBA Court's analysis focused on the injury to the priority dates of existing rights on the same source in times of shortage. The SRBA Court relied on the Idaho Supreme Court's analysis of injury in *Fremont-Madison Irr. Dist v. Idaho Ground Water Appropriators, Inc.*, 129 Idaho 454, 926 P.2d 1301 (1996):

In *Fremont-Madison*, the Idaho Supreme Court held that the enlargement provision of I.C. § 42-1426 (2) was constitutional only because of the mitigation provision, the Court held:

[S]ome injury from an enlargement can be identified if the enlargement takes priority over a validly established water right held by a so-called junior appropriator. The junior appropriator will not receive the water that he/she would have received but for the enlargement **if there is not enough water to serve all water users. It is difficult, if not impossible, to perceive of a situation in which an enlargement would not injure an appropriator who had an established right if the enlargement receives priority.** However, there is at least the possibility that an appropriator seeking an enlargement of one water right may accept a diminution of another water right held by the same appropriator to assure that the enlargement of the one water right will not reduce the total volume available to the junior appropriator.

Fremont-Madison at 461. Implicit in the [Idaho Supreme] Court's reasoning is that to the extent a previously unauthorized enlargement claim is retroactively given senior priority over an existing right on the same source, without mitigation (i.e. a substitute source of water), **the injury is essentially *per se* because the priority of the affected right on the system has been diminished. At the time an enlargement occurs the affect on other appropriators may not be physically apparent or apparent because there may be sufficient enough water supply at the time to satisfy all rights on the system as well as the enlargement. However, the relative priority dates on a system only become significant when there is not enough water to supply all of the rights on the system. Hence, the essence and value of a water right in a prior appropriation system is the priority date. To the extent a claimant is entitled to retroactively receive a valid water right with a priority date**

senior to other appropriators on the same source the juniors are *per se* injured irrespective of the extent of the water supply. The mitigation provision preserves the order of priorities on a system by preventing the available water supply to juniors from being diminished as a result of the new or enlarged right.

...

The inclusion of the subordination remark satisfies the constitutional concerns raised in *Fremont-Madison* by protecting the order of priorities of existing rights while at the same time permitting previously unauthorized enlargements to be decreed with the priority date as of the date of the enlargement subject to being subordinated to any junior rights existing as of the date of the enactment of I.C. § 42-1426(2), if any. The standardized remark allows the provisions of I.C. § 42-1426(2) to be applied and implemented without identifying each and every affected water right.

Order on Challenge (A & B Irrigation District) at 25-26 (emphasis added). On appeal, the reasoning and decision of the SRBA Court was affirmed by the Idaho Supreme Court. *A & B Irr. Dist. v. Aberdeen-American Falls Ground Water Dist.*, 141 Idaho 746, 118 P.3d 78 (2005).

Although the issues in the instant case do not involve enlargement claims or the application of Idaho Code § 42-1426, the reasoning regarding injury to existing water rights is equally applicable. Specifically, injury to an existing water right is not limited to the circumstance where immediate physical interference occurs between water rights as of the date of the change. Injury also includes the diminished effect on the priority dates of existing water rights in anticipation of there being insufficient water to satisfy all rights on a source (or in this case a discrete region of the aquifer) and priority administration is sought. Even though the priority administration may occur at some point in the future, injury to the priority date occurs at the time the accomplished transfer is approved. The Special Master correctly acknowledged this principle: "Where a change or transfer would undermine a priority date, the injury is real and material even if the damage is not immediately manifest. In a prior appropriation system, undermining a priority date is a seminal injury. Thus, the condition appears to correctly protect juniors from injury to their priorities." *Amended Master's Report and Recommendation and Order on Motion to Reconsider* at 19.

Contrary to Pocatello's assertion this is neither future injury nor is the injury speculative. To the extent Pocatello is authorized to transfer a point of diversion for a water right from a well or wells located in vicinity where there is no significant hydraulic connection with wells of existing water users, to a different well developed subsequent to existing rights where there is a significant connection and the right being transferred is senior to existing rights, the injury to the schedule of priority dates of existing users is *per se*. But for the transfer of the alternate point of diversion existing users would have the more senior priorities in the vicinity. Pocatello's argument ignores the very purpose and significance of the priority dates of existing users. The purpose of a priority date is to provide for administration in time of scarcity. At the time the alternative point of diversion was established there may well have been sufficient water to satisfy all rights. Hence, it would not be necessary to regulate according to a priority schedule.

Even though the "source" of all water rights involved is "ground water" and all rights are supplied from the same aquifer, the aquifer may not be homogenous as between the discrete regions where the wells are located. The closer wells are in proximity to one another the greater the potential for well interference over time or in times of shortage. It is erroneous to assume that the relative affects from ground water pumping between wells is uniform throughout the aquifer just because the "source" of all of the rights is labeled "ground water." The condition eliminates the need to establish the highly complex facts that relate to the specific interrelationships or degree of connectivity between specific rights until such time as priority administration becomes necessary. Pocatello correctly points out that such a determination is typically beyond the scope of the SRBA proceedings and is a determination more appropriately associated with delivery calls. *See American Reservoir Dist. No. 2 v. IDWR*, 143 Idaho 862, 877, 154 P.3d 433, 448 (2006) (partial decree need not contain information on how each water right on a source physically interacts or affects other rights on the same source.) However, if and when that determination is necessary the condition eliminates any injury to the priorities of existing rights.

The condition in no way prevents Pocatello from using its wells as alternative points of diversion for each other. The condition only has significance in the event of priority administration at which time the senior priorities of existing users are protected.

The very fact that Pocatello contests the condition is an acknowledgment that without the condition the priorities of existing water rights will be diminished in favor of the alternative point of diversion for one of Pocatello's more senior rights. i.e injury. If however, the wells from which the alternative points of diversion never result in interference with the wells of existing users then priority administration between wells will not be triggered and the condition will not pose any limitation on Pocatello's rights. The Special Master also acknowledged this point - "[i]f, as Pocatello argues, the alternative points of diversion cause no injury to juniors, then the condition should not affect Pocatello's rights." *Amended Master's Report and Recommendation and Order on Motion to Reconsider* at 19. Therefore, the Court concludes that the inclusion of the condition is necessary to define Pocatello's rights. The recommendation of the Special Master is affirmed on this issue.

1. The Scenarios provided by the Municipal Providers illustrate why the condition is necessary to protect existing rights. The Court concurs with the Provider's assessment of the application of the condition.

The Municipal Providers briefed three different scenarios illustrating the circumstances under which the recommended condition would apply. The Providers seek clarification of the application of the provision over concern that the Special Master's recommendation could be interpreted too broadly. The Court has included the scenarios in the footnote because they aptly illustrate the adverse affect to the priorities of existing water users absent a condition.¹⁰ The Providers assert that the Special Master's

¹⁰The Provider's presented three different scenarios to illustrate under what circumstances the condition would come into play.

A. First scenario: local well interference.

Suppose a city owns four wells, each with a water right for 1,000 gpm; and suppose the priority dates are 1920, 1945, 1970 and 1985, respectively. Assume that the wells are part of an integrated diversion and delivery system. Assume that, based on accomplished transfer, the city obtained partial decrees for each water right identifying all four wells as alternative points of diversion for each other, subject to the condition quoted above in Part I. The alternative points of diversion provision would allow the city to pump any water right, or any combination of water rights, from any well. For example, if the 1920 well caved in and the city were able to improve production from the

1985 well, it could pump both the 1920 water right and the 1985 water right from the newer well – without seeking a transfer.

Suppose, however, that doubling the production out of the 1985 well interfered with a nearby 1950-priority well owned by a person we will call Mrs. Smith. In other words, going from 1,000 to 2,000 gpm expanded the cone of depression around the city's 1985 well, which, in turn, impaired production at Mrs. Smith's well. If the city's water had alternative points of diversion subject to no conditions, the city would be within its rights and Mrs. Smith could not complain about additional water, under a 1920 water right, now being diverted out of the city's 1985 well. The effect of the condition, however, is to retain a record of the original well and priority date for each water right in order to preserve Mrs. Smith's right to complain of injury from this change in how the 1920 water is pumped. In short, without the condition, Mrs. Smith loses. With the condition, Mrs. Smith wins.

B. Second scenario: broad, regional administration

The "regional administration" scenario lies at the other end of the spectrum. Suppose now that there is no Mrs. Smith and no local well interference problem, but that the city has the same four wells as described above. Suppose further that IDWR imposes region-wide administration covering the entire valley, including all of the city's service area. This might be due to a conjunctive administration delivery call. It might be due to declining aquifer levels throughout the region (as opposed to interference from a discrete neighboring well through an expanded cone of depression, like the first scenario). For whatever the reason, IDWR orders the curtailment of all water rights in the valley junior to 1980. At this point, the city can no longer pump its 1985 water right, but it can still pump 3,000 gpm from its three more senior water rights. Due to the alternative points of diversion provision in its partial decrees, the city has the ability to select from which well or wells to pump that 3,000 gpm. It might pump 750 gpm out of each of the four wells. It might shut down the 1920 well, while pumping the full 1,000 gpm out its three more recently installed wells. Or it might select any other combination that added up to 3,000 gpm. The point is that the condition does not come into play and does not restrict the city's choices in any way (so long as the change does not create some new injury), despite the fact that there is aquifer-wide administration of the city's water rights.

The reason is simple: In this situation, the water shortage is regional (encompassing the municipal provider's entire water system). The administration is not limited to specific well locations. Accordingly, it does not matter from which well the city pumps its 3,000 gpm. Pumping from each of the wells has the same effect on the regional water supply.

Likewise, if the city provided mitigation for the curtailed 1985 water right, it would be allowed to pump any of its four water rights from any of its wells – just as if there were no administration.

C. Third scenario: small, geographically-limited administration

The third example is in between the first two. Suppose IDWR imposed administration within a small area, such as within a ground water management area that covers only half the city's water system. Suppose that within the curtailment zone, all wells junior to 1980 were curtailed. Suppose further that the 1920 and 1985 wells were located within the curtailment zone, and the 1945 and 1970 wells were located outside it. The city, again, loses 1,000 gpm under its 1985 right.

Under this situation, the condition would come into play. It would prevent the city from pumping the 1945 or 1970 water (associated with wells outside the curtailment area) from the 1985 well. That would be improper, because the effect would be to bring

determination could be read too broadly to preclude under any circumstances the use of alternative points of diversion any time priority administration is implicated. The Court concurs that in a circumstance involving regional priority administration a municipal provider may still be able to exercise alternative points of diversion within the region undergoing administration so long as the well under which the original right was established is also located within the region subject to the administration. However, a water right originating from a well located outside the region of administration with a priority date senior the priorities being regulated could not be diverted from wells within the area of administration in an effort to avoid regulation within the region of administration.

2. The three scenarios apply to Pocatello's rights despite the volume limitations place on Pocatello's wells.

Pocatello argues that the situations presented in the three scenarios are distinguishable and do not apply to its circumstances because Pocatello has already stipulated with the Surface Water Coalition to not increase the volumes beyond historical amounts in use at the time the accomplished transfers were established in 1987. *See Stipulation and Agreement Between Pocatello and Surface water Coalition in Pocatello's SRBA Subcases 29-271 et. seq.* (filed Feb 26, 2007). Pocatello argues that there is no injury to other water rights because the volume of water pumped from each well would

water rights from outside the curtailment area into the curtailment area, thereby undermining the purpose of the curtailment.

However, even here the city would have some flexibility under its alternative points of diversion. The city could decide from which of the wells within the curtailment area it wants to pump 1,000 gpm under the 1920 right. It might pump 500 gpm from each, or it might prefer to take the entire 1,000 gpm out of its newest well. Likewise, if it chose, the city could be free to take the 1920 water right (associated with a well within the curtailment area) and pump it from a well outside the curtailment area. And, of course, the city would be free to pump its water rights associated with wells outside the curtailment area from any of its wells outside the curtailment area (again, assuming no local well interference or other injury resulted).

The reason is the same as in the second scenario. It makes no difference whether the 1920 water is pumped from the 1920 well or the 1985 well. Both have the same effect on the ground water management area. But moving senior rights in from outside an administration zone will not be allowed under the condition, because that would defeat the purpose of administration, thus requiring IDWR to further constrain pumping, and thus injuring other water right holders.

not exceed beyond what was established on the date of commencement. Pocatello's argument misses the point. To the extent the use of the alternative point of diversion interferes with the well of a pre-existing senior water right the priority of senior right is injured — irrespective of the reason for the interference. Further, the fact that the volume pumped may not increase does not address the issue of avoiding a regional administration by pumping a senior right originally located outside of the area of administration from an alternative point of diversion inside the area of administration in order to avoid being regulated.

3. The fact that some of the original wells referenced in the condition are no longer in operation does not constrain Pocatello's use of the water right.

Pocatello argues the condition for some of its rights lists wells no longer in operation preventing effective operation of its interconnected system of wells. Pocatello argues because in times of priority administration when it is most dependent on its senior rights the portion of the rights associated with such wells would not be able to be diverted because the wells no longer exist.

Pocatello's argument does not provide a legal defense. However, the condition only comes into play in times of priority administration. To the extent Pocatello's use of the right through an alternative point of diversion interferes with the well of an existing right then Pocatello has still has the option of diverting from other wells not causing interference. This is no different than with Pocatello's other rights. In the event of regional administration, Pocatello could still divert from alternative points of diversion within the region subject to administration, provided the original well no longer in operation is also located within that same region and is senior to the priority being regulated. This is also no different than with any of Pocatello's other rights. Pocatello is correct that to the extent the well no longer in operation is located outside of the area of regulation, Pocatello would not be able to revert back to the original well to avoid regulation as the well is no longer in operation. Pocatello would still be able to divert the right from alternative wells, if any, located outside of the area of regulation.

4. The recommendation that the condition apply to alternative points of diversion, where the condition was not previously imposed on water rights diverting from the same wells, does not constitute a collateral attack on the transfer proceedings.

Three of Pocatello's rights on its system underwent a formal transfer in 1999 approving alternative points of diversion. The alternative points of diversion for these rights share the same wells claimed as alternative points of diversion for the rights at issue. The alternative points of diversion for the three rights were not conditioned. Pocatello argues diverting both conditioned and unconditioned rights from the same wells causes confusion and complicates administration of the water rights. Pocatello also argues that by adding the condition "to wells" that were previously unconditioned constitutes an impermissible collateral attack on the formal transfer.

This Court disagrees. First, it is routine in the SRBA for multiple rights to be decreed from a single well with different restrictions, limitations and priority dates. The situation in this case is no different. Next, the condition applies to the water right not the well.

5. The Special Master did not err in striking the *Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief*.

The parties filed post-trial briefs. Pocatello also filed the *Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief* which includes 11 exhibits. This Court has reviewed the *Affidavit*. The various exhibits include briefing filed in other cases (*Freemont-Madison v. IGWA* and *American Falls Reservoir Dist. #2 et.al.*); a letter dated July 11, 2001 from IDWR regarding "*Continued Negotiations of General Water Management Rules, IDAPA Docket No. 37-0313-9701*"; "*Draft Statewide Water Management Rules*" to name a few. The State moved to strike the *Affidavit* on the basis that the presentation of evidence had closed. The Special Master granted the State's motion but held that she would consider it legal argument. In the past IDWR recommended municipal rights as alternative points of diversion as claimed without imposing any limiting condition.

Pocatello argues that the *Affidavit* was submitted as legal argument to demonstrate that IDWR has changed its position with respect to conditioning municipal water rights. Pocatello states in its post-trial brief:

This brief addresses all of the issues presented in the Court's six-day trial of Pocatello's 38 state-law SRBA claims. Perhaps the most consistently reoccurring theme is that the Idaho Department of water resources (IDWR) has changed its position with respect to Pocatello's municipal water rights from IDWR's prior investigation and recommendation of similar municipal rights in the SRBA.

Pocatello's Post-Trial Brief at 1. Idaho Rule of Evidence 401 defines "relevant evidence" as evidence having the tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable without the evidence." I.R.E. 401. Clearly the *Affidavit* was submitted as evidence in support of the factual allegation that IDWR has changed its position with respect to recommending municipal right. To the extent the contents of the *Affidavit* were previously admitted into evidence Pocatello could appropriately refer to the contents in the brief. To the extent the contents were not previously admitted into evidence then the Special Master appropriately found the *Affidavit* to be "additional evidence." Pocatello's labeling of the *Affidavit* as legal argument is not binding on the Court. Accordingly, the Special Master did not err in considering the *Affidavit* a legal argument only.

Finally, the Special Master's ruling did not result in prejudice to Pocatello. Apparently, IDWR admitted at trial changing its position after gaining a better understanding how conjunctive management is to be implemented and the relative affects conjunctive management has on existing rights. Pocatello states: "At trial, IDWR explained that it purposely changed its position in 2003 because the Department had evolved in its understanding of conjunctive administration since the mid-1990's." *Pocatello's Opening Brief* at 11. IDWR's change is position would be expected. The ruling of the Special Master is affirmed.

C. The Special Master did not err in recommending that Pocatello's ground water wells not be decreed as alternative points of diversion for its senior surface rights.

Pocatello claimed its ground water wells as alternative points of diversion for its senior surface rights diverting from Gibson Jack and Mink Creek. The Special Master recommended that the accomplished transfer claim be disallowed. The Special Master concluded that the provisions of I.C. § 42-1425 do not authorize a change in the source element of a water right. The Special Master also found that although Gibson Jack and Mink Creeks contribute to the Lower Portneuf River Valley Aquifer (LPRVA) from which the ground water rights are pumped the two are not the same source. The Special Master found that although the two creeks contribute to the LPRVA, the LPRVA derives a significant supply of its water from other sources. This Court affirms.

1. Idaho Code § 42-1425 does not expressly authorize an accomplished transfer to the change in source element.

Idaho Code § 42-1411 sets forth the elements required for defining a water right. The “source” of the right is one of the enumerated elements. I.C. § 42-1411 (2)(b). The accomplished transfer provisions of Idaho Code § 42-1425 authorize changes to the “place of use, point of diversion, nature or purpose of use or period of use” but does not expressly authorize a change to the source element. Presumably for the very reason that the injury to the water rights of existing water users on the “new” source is *per se*. A change in source is essentially the appropriation of a new water right. However, in the case of a new appropriation the priority date is junior to those of existing users on the new source while a transferred right retains its original priority thereby shifting the schedule of existing priorities on the new source resulting in injury to existing priorities.

This Court acknowledges and Pocatello has argued that *Partial Decrees* have been issued which refer to accomplished transfer to source. The Court responds as follows. First, the source element listed in a license or prior decree is not dispositive of the issue as a source can be described generally or in more specific terms. Two sources can share such a significant connection that the affect of a transfer from one source to another would have no affect on the priorities of existing users; i.e. diverting from either “source” has exactly the same affect on the rights of existing users. Second, the rights described by Pocatello were investigated by IDWR insuring that no injury resulted to

existing rights. For example if a right is transferred to a different source and there are either no rights diverting from the new source or the right being transferred is the most junior then there is no injury to existing rights. Lastly, the accomplished transfer claims were uncontested so any precedential value is limited based on the absence of a meaningful record. In this case, despite ruling that I.C. § 42-1425 did not authorize changes in source, the Special Master nonetheless appropriately allowed Pocatello the opportunity to prove the absence of injury to existing users.

2. The evidence does not support that the surface and ground water rights are diverted from the same source.

The Special Master heard conflicting testimony on the degree of interconnectedness between the surface and ground water sources and determined the two to be connected but separate. The Court has reviewed the testimony of Pocatello's expert Greg Sullivan and concludes that the evidence overwhelming supports the Special Master's finding. Mr. Sullivan testified that "roughly at least half the supply, if not more is coming from these tributaries. So that would be half the supply of the Lower Portneuf River Valley Aquifer comes from Mink Creek -- or primarily comes from Mink Creek and Gibson Jack Creek with some other coming from other tributaries." TR. Vol. IV pp. 801-02. Mr. Sullivan then concludes that because of the existence of this hydraulic connection, Mink Creek, Gibson Jack Creek and the LPRVA are essentially the same source. TR. Vol. IV pp. 802-03. The testimony does not support the conclusion. The Court will not disturb the Special Master's finding.

By allowing the transfer the injury to the priority dates of existing ground pumpers would be unavoidable. The two sources are sufficiently disconnected such that ground water pumping has no affect on the surface sources. While evidence was presented that the two creeks contribute to the aquifer no evidence was presented supporting that the aquifers contribute to the creeks. As such, Pocatello could not seek regulation of ground water rights to satisfy its surface rights as the rights presently exist. However, by approving an accomplished transfer, Pocatello would be able to divert its surface rights from ground water wells and thereby seek regulation of existing wells

where no such right previously existed. Pocatello fails to address the issue of the water it would receive from sources other than Mink or Gibson Jack Creek which contribute to roughly the other half of the supply of the aquifer. The finding of the Special Master is affirmed.

D. The Special Master did not err in recommending water right 29-7770 with an irrigation purpose of use.

Pocatello claimed a “municipal” purpose of use for water right 29-7770. The *Director’s Report* recommended the purpose of use as “irrigation.” Pocatello holds three water rights (29-7118, 29-7119 and 29-7770) used exclusively for a biosolid waste treatment process. Biosolids generated in conjunction with Pocatello’s sewage treatment process are applied to specific crops which absorb the waste as fertilizer. The three water rights were originally licensed with irrigation purposes of use. Licenses were issued for water rights 29-7118 and 29-7119 in 1975. Pocatello implemented the biosolids treatment program in 1981 and thereafter began using the rights in conjunction with the program ever since. Although the *Director’s Report* recommended the purpose of use for the two rights as originally licensed (i.e. irrigation, the Special Master concluded that Pocatello successfully changed the purpose of use for 29-7118 and 29-7119 from irrigation to municipal based on the application of I.C. § 42-1425).

Water right 29-7770 does not share the same procedural posture. A license was issued for 29-7770 in 2003 with an irrigation purpose of use. The Special Master concluded that the provisions of the accomplished transfer statute were inapplicable because the license was issued after the commencement date of the SRBA and recommended the right with an irrigation purpose of use. This Court affirms.

In this case the license is controlling. This Court has long held that the SRBA cannot be used as a mechanism for reconditioning or collaterally attacking a license. The Court also addressed this issue as applied to these same claims in the context of Pocatello’s alternative legal theory based on federal law. In *Memorandum Decision and Order on Challenge and Order Disallowing Water Right Based on Federal Law*, Subcase No. 29-11609 (City of Pocatello—Federal Law Claims) (Oct. 6, 2006), *affm’d*

on other grounds, *Pocatello v. State*, 145 Idaho 497, 180 P. 3d 1048 (2008), this Court held:

Licenses are and have been consistently treated in the SRBA the same as prior decrees for purposes of binding the parties and their privies. In *Order on Challenge (Consolidated Issues) of "Facility Volume" Issue and "Additional Evidence" Issue*, subcases 36-02708 *et al.* (Dec. 29, 1999), the SRBA Court affirmed a special master's ruling that the SRBA was not the appropriate forum for collaterally attacking licenses previously issued through administrative proceedings.

The SRBA cannot serve as a second opportunity for IDWR to recondition a license which it had a full opportunity to condition when the license was originally issued. *See e.g., Matter of Hidden Springs Trout Ranch, Inc., v. Alred*. Having determined that I.C. § 42-220 binds the state to licensed rights, those same licenses are also binding on the license holder. If a party is aggrieved by any aspect of a license, that party's remedy is to seek an administrative review and then, if necessary, a judicial review of the license. I.C. §§ 42-1701(A) and 67-5270; *Hardy v. Higgenson*, 123 Idaho 485, 849 P.2d 946 (1997). If the license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, like the SRBA, would constitute a collateral attack on the license. [footnote 5 cited]. *See e.g., Mosman v. Mathison*, 90 Idaho 76, 408 P.2d 450 (1965); *Bone v. City of Lewiston*, 107 Idaho 844 693 P.2d 1046 (1984).

Id. (quoting *Supplemental Findings of Fact and Conclusions of Law* (Facility Volume) (July 31, 1998); *see also Memorandum Decision and Order on Challenge; Order on State of Idaho's Motion to Dismiss Claimant's Notice of Challenge*, subcase 36-08099 (Jan 11, 2000) upholding subordination remark contained in a license for hydropower water right claim).

Like a prior decree, a licensed right is not conclusive as to the extent of the water right, since a license does not insulate a claimant from practices occurring after the license was issued such as abandonment or forfeiture. However, unlike a prior decree, the binding effect of a license extends beyond the parties to the administrative proceeding and their privies. The Idaho legislature also acknowledged the binding effect of prior licenses and decrees in enacting Idaho Code § 42-1427 which provides a mechanism for defining elements of water rights not described

in prior decrees or licenses. Accordingly, the City is also bound by its prior license for water right claim 29-07431.

The bottom-line is that a party cannot have its water use adjudicated or administratively determined in one proceeding and then re-adjudicate the right under a more favorable legal theory in a subsequent proceeding.

Memorandum Decision and Order on Challenge and Order Disallowing Water right Based on Federal Law at 12-13. (footnotes omitted). The significance of the permit and licensing method of appropriating a water right was not intended as a procedure for “registering” a pre-existing water use appropriated under the constitutional method. Rather it is a separate means of acquiring a water right. *Crane Falls Power & Irr. Co. v. Snake River Irr. Co.*, 24 Idaho 63, 82, 133 P.655, 674 (1913) (citing *Neilson v. Parker*, 19 Idaho 727, 115 Pac. 488 (1911)). Accordingly, Pocatello’s redress should have been through the administrative licensing process. Ironically, Pocatello states in its opening brief that it “requested the irrigation designation in order to expedite the long overdue licensing of 29-7770.” *Pocatello’s Opening Brief on Challenge* at 15. Apparently Pocatello received the exact purpose of use for which it applied.

Pocatello argues that IDWR erred as a matter of law in designating the purpose of use as irrigation instead of municipal because the water has always been used in conjunction with the biosolids program and in exactly the same manner as 29-7118 and 29-7119. This Court does not find the irrigation purpose of use designation inconsistent with the manner in which the water right is beneficially used. The designation of municipal is a more general purpose of use encompassing various purposes of use required of a municipal provider. Idaho Code § 42-202B (6) defines municipal purposes as “residential, commercial, industrial, irrigation of parks and open space, and related purposes.” While the irrigation of crops in conjunction with waste treatment could fall under the broader definition of municipal it could also fall under the more specific designation of irrigation. The water right is used to “irrigate” crops, which is entirely consistent with an irrigation purpose of use, albeit the designation does not have the same broad scope and flexibility as a municipal designation. In the event Pocatello wishes to use the water right for a different specific purpose that would otherwise also fall under

the broader definition of municipal, it will have to proceed with a formal transfer proceeding. The ruling of the Special Master is affirmed

E. The Priority Dates for 29-13558 and 29-13639.

1. The Special Master did not err in recommending a July 17, 1924, priority date for water right 29-13558.

Water right claim 29-13558 is based on beneficial use. Pocatello claimed a priority date of June 30, 1905. The *Director's Report* recommended a priority date of July 16, 1924. Following a trial on the merits, the Special Master held that the evidence presented by Pocatello in support of the claimed priority date was insufficient to rebut presumptive weight of the *Director's Report*. The water right was associated with the first well used by the City of Alameda. The *Director's Report* recommended a priority date of one day prior to the founding of Alameda on July 17, 1924. The recommendation relied on a historic newspaper article submitted by Pocatello in support of its claim. The article states that the City of Alameda was founded July 17, 1924, and that the depth of the well was increased during the term of Alameda's first mayor. The logical inference being that the well was in existence prior to the establishment of Alameda, however, the article does not state when the well was drilled. The Special Master found that the only evidence connecting the well to Pocatello's claimed priority of 1905 was a showing that an early resident moved into the area sometime in 1905. The Special Master concluded that Pocatello's showing was insufficient to rebut the presumption created by the *Director's Report*. On *Challenge* Pocatello argues that it offered evidence from multiple sources that the well was in place and diverting water by June 30, 1905. Pocatello does not cite to specific facts in the record supporting that the well was drilled and in use in 1905.

The *Director's Report* is considered to be *prima facie* evidence of the nature and extent of a water right. I.C. § 42-1411; *State v. Hagerman Water Right Owners*, 130 Idaho 736, 745, 947 P.2d 409, 418 (1997). The *prima facie* status constitutes a rebuttable

evidentiary presumption governed by Idaho Rule of Evidence 301. *McKray v. Rosenkrance*, 135 Idaho 509, 514, 20 P.3d 693, 698 (2000) (citing *State v. Hagerman Water Right Owners*). The presumption shifts only the burden of production not the burden of persuasion. *McKray* at 514, 20 P.3d at 698. The claimant of a water right has the ultimate burden of persuasion for each element of a water right. I.C. § 42-1411(5). The presumption is rebutted by the introduction of evidence sufficient to permit reasonable minds to conclude that the presumed fact does not exist. I.R.E. 301; *Bongiovi v. Jamison*, 110 Idaho 734, 718 P.2d 1172 (1986) (fact presumed until opponent introduces “substantial evidence” of nonexistence of fact); *Krebs v. Krebs*, 114 Idaho 571, 759 P.2d 77 (Ct. App. 1988). Substantial evidence is defined “as such relevant evidence as a reasonable mind might accept to support a conclusion; it is more than a scintilla but less than a preponderance.” *Clear Springs Foods, Inc. v. Clear Lakes Trout Co.*, 136 Idaho 761, 764, 40 P.3d 119, 122 (2002). If rebutted, the presumption disappears and the facts on which the presumption is based are weighed together with all other relevant facts. *Id.* The trier of fact has primary responsibility for weighing the evidence and determining whether the required burden of proof on an issue has been met. *Clear Springs Foods, Inc. v. Clear Lakes Trout Co.*, 136 Idaho 761, 765, 40 P.3d 119, 123 (2002). The Court shall adopt the findings of fact of the Special Master unless clearly erroneous.¹¹ I.R.C.P. 53(e)(2).

The Special Master, after weighing the evidence, determined “although the evidence has some probative value, by itself does not rebut the *Director’s Report* conclusion that priority is July 16, 1924.” The Special Master’s findings are not clearly erroneous. The evidence supports a finding that the well was in existence prior to the founding of the City of Alameda. However, this Court concurs that insufficient evidence was presented to establish a more specific priority date. Accordingly, the earliest priority the evidence supports is a priority of one day earlier than the founding of Alameda. The finding of the Special Master is affirmed.

2. The Special Master’s recommendation of a priority date one day earlier than the licensed priority for water right 29-13639 is affirmed.

¹¹ See *supra* standard of review of findings of fact of Special Master.

The Special Master found that water right 29-13639 is based on prior license 29-2324. The prior license covered Alameda wells 1, 2 and 3. Water right 29-13639 relates to well number 3. The licensed priority date for 29-13639 is October 22, 1952. The *Director's Report* recommended a priority of October 22, 1952, based on the prior license. Pocatello claimed a priority of December 31, 1940, based on beneficial use. The Special Master determined that although Pocatello presented evidence regarding Pocatello's population growth, the evidence was insufficient to establish a specific priority date including the claimed priority of December 31, 1940. The Special Master made the finding that the permit and license support that the wells pre-existed October 22, 1952, and therefore concluded that the priority should be advanced one day prior of October 21, 1952. This Court disagrees.

Water right 29-13639 is based on a former license. Pocatello's claim is not to the use of additional water from the well not previously covered under the license. Pocatello's claim is for an earlier priority for a previously licensed water right. For the reasons discussed above, the Court finds this to be a collateral attack on a previously licensed right and concludes that the priority date should be consistent with the license or October 22, 1952. However, the State did not contest the Special Master's recommended priority for this right. The State argued that the priority should not be any earlier than the priority date recommended. Even disregarding the former license, the evidence does not support an earlier priority. The Court thereby affirms the recommendation of the Special Master.

VIII.

CONCLUSION AND ORDER

Pursuant to I.R.C.P. 53(e)(2) and *AOI* section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the *Challenge* is **denied**. *Partial Decrees* for the above-captioned order will be entered pursuant to a separate order consistent with this *Memorandum Decision*.

IX.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated November 19, 2009



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

29-00271
29-00272
29-00273
29-02274
29-02338
29-02401
29-02499
29-04221
29-04222
29-04223
29-04224
29-04225
29-04226
29-07106
29-07118
29-07119
29-07322
29-07375
29-07450
29-07770
29-11339
29-11348
29-13558
29-13559
29-13560
29-13561
29-13562
29-13637
29-13638
29-13639

(Subcase list: BEEMANGP)
11/04/09

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MEMORANDUM DECISION AND ORDER ON CHALLENGE (CITY OF POCATELLO) was mailed on November 09, 2009, with sufficient first-class postage to the following:

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ORDER

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11/04/09

(Certificate of mailing continued)

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Deputy Clerk

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line.

