

**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	)	Subcase No. <u>29-7431</u>
	)	
	)	
Case No. 39576	)	<u>AMENDED</u>
	)	STANDARD FORM 1
	)	OBJECTION
_____	)	

NAME AND ADDRESS OF PERSON OBJECTING:

Name: City of Pocatello, a municipal corporation
Address: P. O. Box 4169
Pocatello, ID 83205

Daytime Phone: 208-232-4311

Name & Address of Attorney, if any:
Josephine P. Beeman, ISB # 1806
409 W. Jefferson St.
Boise, Idaho 83702
(208) 331-0950

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT:

Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83205

I object to the following elements as recommended in the Director's Report:

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: See "Reasons supporting objections" below.
3. ☒ **Quantity**
Should be: 9.28 cfs; 0 AFY; see also "Reasons supporting objections" below.
4. ☒ **Priority Date**
Should be: See "Reasons supporting objections" below.
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: municipal; see also "Reasons supporting objections" below.
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: "Place of use is within the service area of the City of Pocatello municipal water supply system as provided for under Idaho law, including all lands necessary to complete the beneficial use of the municipal water right. This right is used for the irrigation of specified lands within T05S R34E S25 NENE (24.0), T05S R34E S25 NWNE (19.0), T05S R34E S25 SWNE (39.0), T05S R34E S25 SENE (38.0), T05S R34E S25 NENW (12.0), T05S R34E S25 NWNW (14.0), T05S R34E S25 SWNW (35.0), T05S R34E S25 SENW (25.0), T05S R34E S25 SESW (11.0), T05S R34E S25 NESE (33.0), T05S R34E S25 NWSE (30.0), T05S R34E S25 SWSE (39.0), T05S R34E S25 SESE (35.0), T05S R34E S26 NENE (8.0), T05S R34E S26 SENE (40.0), 05S R34E 26 NESE (37.0), T05S R34E S26 SESE (4.0), T05S R34E S36 NENE (32.0), T05S R34E S36 NWNE (37.0), T05S R34E S36 SWNE (40.0), T05S R34E S36 SENE (40.0), T05S R34E S36 NENW (17.0), T05S R34E S36 NESE (3.0), T05S R34E S36 NWSE (3.0), T05S R35E S30 NWNE (5.0), T05S R35E S30 SWNE (7.0), T05S R35E S30 NENW (40.0), T05S R35E S30 NWNW (33.0), T05S R35E S30 SWNW (38.0), T05S R35E S30 SENW (39.0)."

11. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

REASONS SUPPORTING OBJECTION(S):

1. Source, quantity, priority date and purpose of use (remark, general provision): All 38 of the City of Pocatello's basin 29 state-law water rights should include the following remark regarding the City of Pocatello's water distribution facilities:

The City of Pocatello's water supply system for distribution of all of its ground water and surface water supplies includes various reservoir and tank storage facilities, which are capable of being fully recharged by the quantity of water available in a 24-hour period from all of the city's sources of water. The right to use such storage facilities is therefore a part of each of the city's water rights.

This City of Pocatello right should include the following remark as well: "To the extent that this point of diversion is a redirection of municipal water rights for the City of Pocatello, it does not affect the elements of those municipal water rights."

All 38 of the City of Pocatello's basin 29 state-law water rights should be decreed with the following general provisions:

Separate Streams:

For purposes of water distribution in the Portneuf River drainage basin, water rights from the following sources to the extent recommended herein, are not considered junior to water rights from the Portneuf River, and will be administered separately from all other water rights in Basin 29:

Mink Creek

Gibson Jack Creek

Ground water rights tributary to the Portneuf drainage

Separate Administration: All 38 of the City of Pocatello's basin 29 state-law water rights, including water right no. and source, should be decreed with the following general provisions:

The following water rights from the following sources of water in Basin 29 shall be administered separately from all other water rights in Basin 29 in accordance with the prior appropriation doctrine as established by Idaho law:

The following water rights from the following sources of water in Basin 29 shall be administered separately from all other water rights in Snake River Basin in accordance with the prior appropriation doctrine as established by Idaho law:

Swan Falls: This objection is parallel to the Swan Falls objections in Basin 37 (Consolidated Subcase No. 37-02499). Because the Swan Falls objections in Basin 37 have not been designated a basin-wide issue, this objection addresses the Swan Fall protections for water rights in Basin 29.

No decree entered in the SRBA will supercede, preempt, modify, terminate, extend or otherwise affect the legal force and effect of the October 25, 1984 Swan Falls Agreement, the October 25, 1984 Swan Falls Contract (so long as the Agreement and Contract remain in effect), Consent Judgments in *Idaho Power Co. v. State of Idaho*, Case No. 81375 (Fourth Judicial Dist. Feb. 16, 1990) and *Idaho Power Co. v. State of Idaho*, Case No. 62237 (Fourth Judicial Dist. Mar. 9, 1990), and the 1982 State Water Plan (as amended in 1985).

2. Quantity: Diversion volume limits do not apply to use of surface water, in this case, wastewater.
3. Purpose of use: This water right has always been used by the City of Pocatello in its capacity and function as a municipality. Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards.
4. Place of use: The municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

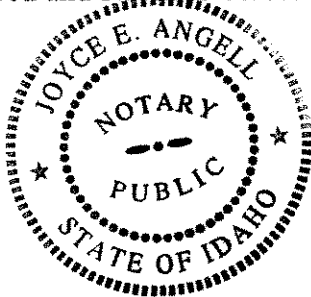
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



Josephine P. Beeman
Beeman & Associates, P.C.
Attorneys for the City of Pocatello

Subscribed and sworn to before me on: November 18, 2003





Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: July 29, 2008

CERTIFICATE OF MAILING

I certify that on November 18, 2003, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

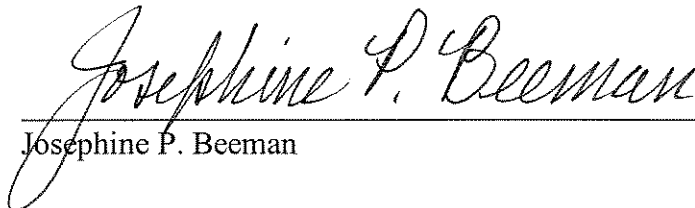
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Josephine P. Beeman

BEEMAN & ASSOCIATES, P.C.

Counselors and Attorneys at Law
409 West Jefferson Street
Boise, Idaho 83702-6049

Josephine P. Beeman
jo.beeman@beemanlaw.com
Dana H. Rose
dana.rose@beemanlaw.com

Phone (208) 331-0950
Fax (208) 331-0954
office@beemanlaw.com

November 18, 2003

Diana Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
253 Third Avenue, North
Twin Falls, ID 83301

Re: City of Pocatello's Amended Objections to
Director's Report for Irrigation and Other Water Rights in Basin 29

Dear Ms. Delaney:

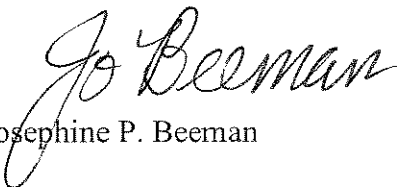
On Friday, November 14, 2003, the City of Pocatello filed objections to 40 water rights listed in the Director's Report for Irrigation and Other Water Rights in Basin 29. This was accomplished with 22 Standard Form 1 documents, of which 16 were addressed to separately numbered water rights, and six were addressed to group objections affecting multiple water rights. As a result, 38 of the 40 water rights were listed in more than one objection.

In accordance with your phone call to us on November 17, we are submitting 38 separately numbered Amended Standard Form 1: Objections, so that each of the 38 water rights which were listed in more than one objection will now have a separately numbered Standard Form 1 which includes all general and specific objections affecting that water right. (The objections to 29-11609 and 29-12877 were not amended.) Each of the 40 water rights is listed on the enclosed chart which also accompanied the filing on Friday. Then, as now, the chart shows both the general and individual objections for each of the 40 water rights.

We appreciate your notice to our office. We are reserving all of the affected parties. Please let us know if we can be of further assistance.

Sincerely,

BEEMAN & ASSOCIATES, P.C.


Josephine P. Beeman

JPB:ja
Enclosures
cc: City of Pocatello
IDWR Document Depository
US Department of Justice
Office of Attorney General
ZN 177AObj399SB

CITY OF POCATELLO OBJECTIONS FILED NOVEMBER 14, 2003

	General Provisions	Municipal POU	Provisions Necessary	Correct Inter-connection	Accomplished Transfer	Point of Diversion (Surface)	Name and address	Source	Quantity	Priority Date	Points of Diversion	Instream Flow	Purpose of Use	Period of Year	Place of Use
29 271	X	X				X									
29 272	X	X				X									
29 273	X	X				X									
29 274	X	X		X	X										
29 2338	X	X		X	X										
29 2354	X	X													
29 2382	X	X													
29 2401	X	X	X	X											
29 2499	X	X	X	X											
29 4221	X	X	X	X						X					
29 4222	X	X				X			X						
29 4223	X	X	X	X					X						
29 4224	X	X	X	X											
29 4225	X	X	X	X											
29 4226	X	X	X	X					X						
29 7106	X	X	X	X											
29 7118	X	X											X		X
29 7119	X	X											X		X
29 7222	X	X													
29 7322	X	X	X	X											
29 7375	X	X		X	X										
29 7431	X				X				X				X		X
29 7450	X	X	X								X				
29 7502	X	X													
29 7770	X	X													
29 7782	X	X		X									X		X
29 11339	X	X	X	X											
29 11344	X	X	X								X				
29 11348	X	X	X	X											
29 11609									X		X		X		X
29 12877							X	X	X	X	X	X	X	X	X
29 13558	X	X	X	X											
29 13559	X	X	X	X											
29 13560	X	X	X	X											
29 13561	X	X	X	X											
29 13562	X	X	X	X											
29 13636	X	X													
29 13637	X	X	X	X											X
29 13638	X	X	X								X				
29 13639	X	X	X	X						X					

Note 1: Six group objections affect multiple water rights (objections in bold).

Note 2: Sixteen objections are to individual water rights (water right numbers in bold).