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DEC 28 2004
DEPARTMENT OF
WATER RESOURCES

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 Nos. 29-00271, et al. (see attached)
	)	
	)	
Case No. 39576	)	POCATELLO'S MOTION TO STAY ITS
_____	)	STATE LAW-BASED CLAIMS

Pocatello moves to stay its claims in the 38 subcases listed herein. These 38 state law-based claims are "dual-based" claims because the state law-based claims are for water¹ also claimed by Pocatello under federal law in subcase 29-11609. The state law-based claims should be stayed for at least two reasons:

1. The SRBA court in Basin-Wide Issue No. 12 (Subcase No. 91-00012) determined that the claims with the earlier priority date in a dual-claim should proceed first. Pocatello claims a June 14, 1867 priority date for its federal law-based claim, which is earlier than the priority dates named in its state law-based claims.

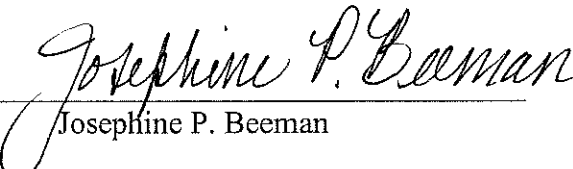
¹ Note that the federal claim (29-11609) is broader than the state-based claims, because Pocatello has claimed its federal water right consistent with the Act of September 1, 1888, *e.g.*, from "the waters of any river, creek, stream, or spring flowing through the Fort Hall Reservation in the vicinity of said town [of Pocatello]...as may be necessary to provide said town with proper water and sewerage facilities." See ¶4 and Remark #15 of Pocatello's federal claim 29-11609. These sources include, without limitation, the Blackfoot River, Portneuf River, Snake River, Bannock Creek, Jeff Cabin Creek, Mink Creek, Lincoln Creek, Rattlesnake Creek, Ross Fork Creek, Sand Creek, and Toponce Creek.

2. Prosecuting both the state law-based claims and the federal law-based claim at the same time frustrates judicial economy and is unnecessarily costly to the litigants in both cases. Pocatello would prefer to rely on its federally claimed right. Once the federal right decree enters, Pocatello will move to dismiss whatever part of its state-based claims is duplicative of its federal law-based claim.

Pocatello respectfully requests that its motion be granted.

DATED this 23rd day of December 2004.

BEEMAN & ASSOCIATES, P.C.
Attorneys for the City of Pocatello

By 
Josephine P. Beeman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of December 2004, I caused a true copy of the foregoing **POCATELLO'S MOTION TO STAY ITS STATE LAW-BASED CLAIMS** to be served on the following by U.S. First Class Mail unless indicated as faxed or hand delivered:

SHOSHONE-BANNOCK TRIBES

Represented by:
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SHOSHONE-BANNOCK TRIBE
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STATE OF IDAHO

Represented by:
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STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

CITIZENS OF THE POCATELLO TOWNSITE

C/O JAY VALCARCE
441 S. 11TH AVENUE
POCATELLO, ID 83201

UNITED STATES OF AMERICA

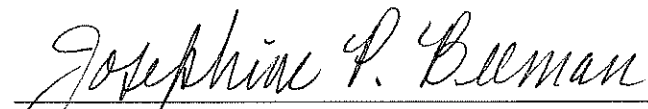
Represented by:
US DEPARTMENT OF JUSTICE
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STATE OF IDAHO

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EXHIBIT A

Subcase Numbers

29-00271
29-00272
29-00273
29-02274
29-02338
29-02354
29-02382
29-02401
29-02499
29-04221
29-04222
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29-13639

**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	)	Subcases Nos. 29-00271, et al. (see attached)
	)	
	)	
Case No. 39576	)	ORDER GRANTING POCATELLO'S MOTION TO
_____	)	STAY ITS STATE LAW-BASED CLAIMS

The court, being fully apprised on the premises, hereby ENTERS A STAY in these subcases until 60 days following final determination of Pocatello's federal law-based claim, including the expiration of the parties' rights to appeal. At that time, Pocatello must either file a motion to dismiss its state-based claims or set a status conference for the state law-based claims.

Entered this _____ day of _____, 200__.

SPECIAL MASTER BRIGETTE BILYEU