

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 ) A. Subcase No. 29-02338  
Case No. 39576 )  
STANDARD FORM 2  
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: A & B Irrigation District  
Address: P. O. Box 675  
Rupert, Idaho 83350-0675  
(208) 436-3152

Burley Irrigation District  
246 East 100 South  
Burley, Idaho 83318  
(208) 678-2511

Name & Address of Attorney, if any:

Attorney Name: Roger D. Ling  
Ling, Robinson & Walker  
Address: P. O. Box 396  
Rupert, Idaho 83350-0396  
Phone Number: (208) 436-4717

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO  
WHICH YOU ARE RESPONDING

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

D. I am responding to the objections to the following elements. (Please check the appropriate box(es).)

1. ☐ Name and Address
2. ☒ Source
3. ☒ Quantity
4. ☒ Priority Date
5. ☒ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☒ Purpose(s) of Use
8. ☐ Period of Year
9. ☒ Place of Use

11. **Recommendation:**

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

## REASONS SUPPORTING RESPONSES

### D. 2, 3, 4 and 7 - Source, Quantity, Priority Date and Purpose of Use:

In its Amended Objection, the City of Pocatello objects to the recommendation in regard to these elements on the basis that it did not include a remark that the water under this right can be stored in various reservoir and tank storage facilities, including water from all other sources available to the City of Pocatello. Respondents are unaware of any basis for the inclusion of such a remark and therefore opposes it as unnecessary to define or administer the water right.

Objector further states that this water right should have been recommended with a general provision that this water right should not be considered junior to water rights from the Portneuf River and should be administered separately from all other water rights in Basin 29, and that said water right should be decreed with the general provision that all of the City's sources of water in Basin 29 should be administered separately from all other water rights in Basin 29. Objector further objects that the recommendation of this right did not include a general provision addressing the Swan Falls rights of Idaho Power Company as set forth in Consolidated Subcase No. 37-02499. Respondents oppose objector's definition of the source of the point of diversion under this right, including the allegation that the right is legally and physically available from ground water sources in Basin 29, and that Swan Falls issues should be addressed in a general provision for the reason that this issue will be addressed in Consolidate Subcase No. 92-37 in the SRBA.

**D.5. – Point(s) of Diversion:**

Objector, City of Pocatello, alleges that the recommendation for this right should have included 23 points of diversion based upon an "accomplished change in point of diversion." Respondents are unaware of any basis, factual or legal, by which other points of diversion under this right can be included in any decree. Objector further asserts that the points of diversion are interconnected with the points of diversion under other water rights, and that these points of diversion should be interconnected. Respondents object to the addition of points of diversion without a remark or condition recognizing that no well may be used to divert more than the original amount of water authorized to be diverted under an existing right from that well.

**D. 9 – Place of Use:**

The Objection of the City of Pocatello objects to the recommendation of this right for the reason that it does not include a description of the place of use that includes: "including all lands necessary to complete the beneficial use of this municipal water right." Respondent is unaware of any basis for changing the place of use under this surface water right to the vague and undescribed place of use or for including such a remark, and objects to such change.

**E.**

**VERIFICATION (Must be Completed)**

State of Idaho )

) ss.

County of Minidoka )

Roger D. Ling, duly sworn, upon oath, deposes and says:

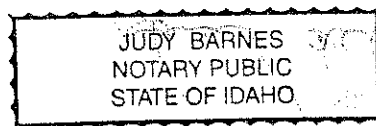
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. §42-1401A(1) and (6), or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and that the statements are true to the best of my knowledge and belief.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: May 4, 2006



Judy Barnes  
Notary Public for the State of Idaho  
Residing at: Rupert, Idaho  
My Commission expires: 02/12/2011

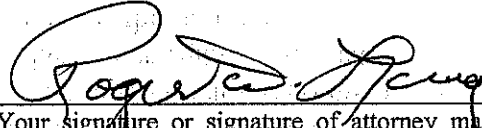
F.

**CERTIFICATE OF MAILING**

I hereby certify that on May 4, 2006, I mailed the original and copies of this response, including all attachments, to the following parties:

1. Original to: David Delevand  
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P. O. Box 2707  
Twin Falls, Idaho 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, Idaho 83205
3. One copy to the party who filed the objection at the following address:  
Name: Josephine P. Beeman  
Address: 409 W. Jefferson Street  
Boise, Idaho 83702
4. Copies to:  

|                                         |                                   |
|-----------------------------------------|-----------------------------------|
| IDWR Document Depository                | Chief, Natural Resources Division |
| P. O. Box 83720                         | Office of the Attorney General    |
| Boise, Idaho 83720-0098                 | State of Idaho                    |
|                                         | P. O. Box 44449                   |
|                                         | Boise, Idaho 83711-4449           |
| United States Department of Justice     | C. Tom Arkoosh                    |
| Environment & Natural Resource Division | Arkoosh & James, LLP              |
| 550 West Fort Street, Box 033           | P. O. Box 32                      |
| Boise, Idaho 83724                      | Gooding, Idaho 83330              |
| Travis L. Thompson                      | W. Kent Fletcher                  |
| Barker, Rosholt & Simpson, PLLC         | P. O. Box 248                     |
| P. O. Box 485                           | Burley, Idaho 83318               |
| Twin Falls, Idaho 83303-0485            |                                   |

  
Your signature or signature of attorney mailing on  
your behalf