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Josephine P. Beeman #1806
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950
(208) 331-0954 (Facsimile)
jo.beeman@beemanlaw.com

Sarah A. Klahn
Eliza F. Hillhouse
William A. Hillhouse II
White & Jankowski, LLP
511 16th St., Suite 500
Denver, CO 80202
303-595-9441
303-825-5632 (Facsimile)
sarahk@white-jankowski.com

Attorneys for City of Pocatello

THOMAS L. SANSONETTI
Assistant Attorney General
Environment & Natural Resources Division

DEPARTMENT OF
WATER RESOURCES

PETER C. MONSON
Assistant Chief, Indian Resources Section
Environment & Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202
(303) 312-7350

Attorneys for the United States

**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 Exhibit A)
	)	
Case No. 39576	)	JOINT MOTION TO ACCEPT STIPULATION
	)	AND AGREEMENT BETWEEN THE CITY OF
_____	)	POCATELLO AND THE UNITED STATES

The City of Pocatello and the United States seek an order of this court accepting the attached *Stipulation and Agreement with the United States of America in Pocatello's SRBA Subcases 29-271 et seq.* (Stipulation). Pursuant to this Stipulation, the partial decrees in these sub-cases shall be entered in this matter consistent with the terms of the Stipulation. Until entry of partial decrees, the Court's order entering this Stipulation will confirm the dismissal of

Pocatello's separate streams and separate administration objections in these 38 subcases and the dismissal of all of the United States' responses previously filed on January 16, 2004 in these 38 subcases.

Respectfully submitted this 31st day of May, 2006.

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

By Josephine P. Beeman
Josephine P. Beeman

White & Jankowski, LLP
Attorneys for the City of Pocatello

By Josephine P. Beeman
(for) Sarah A. Klahn

UNITED STATES OF AMERICA

By Peter C. Monson
PETER C. MONSON
Assistant Chief, Indian Resources Section
Environmental and Natural Resources Div.
U.S. Department of Justice

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June ^{JTB} ~~May~~ 2006, I caused a true copy of the foregoing **JOINT MOTION TO ACCEPT STIPULATION AND AGREEMENT BETWEEN THE CITY OF POCA TELLO AND THE UNITED STATES** to be served on the following by U.S. First Class Mail:

UNITED STATES OF AMERICA REPRESENTED BY: US DEPARTMENT OF JUSTICE ENVIRONMENT & NAT'L RESOURCES 550 WEST FORT STREET, MSC O33 BOISE, ID 83724	C. TOM ARKOOSH ARKOOSH LAW OFFICES, CHTD. PO BOX 32 GOODING, IDAHO 83330
STATE OF IDAHO REPRESENTED BY: NATURAL RESOURCES DIV CHIEF STATE OF IDAHO ATTORNEY GENERAL'S OFFICE PO BOX 44449 BOISE, ID 83711-4449	W. KENT FLETCHER FLETCHER LAW OFFICE PO BOX 248 BURLEY, IDAHO 83318
DIRECTOR OF IDWR PO BOX 83720 BOISE, ID 83720-0098	ROGER D. LING LING ROBINSON & WALKER PO BOX 396 RUPERT, IDAHO 83350
	JOHN A. ROSHOLT TRAVIS L. THOMPSON BARKER ROSHOLT & SIMPSON 113 MAIN AVE. WEST, SUITE 303 TWIN FALLS, IDAHO 83301-6167

Josephine P. Beeman

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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
29-04223
29-04224
29-04225
29-04226
29-07106
29-07118
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29-07222
29-07322
29-07375
29-07431
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29-13639

**STIPULATION AND AGREEMENT WITH THE UNITED STATES
OF AMERICA IN POCATELLO'S SRBA SUBCASES 29-271 *et seq.***

WHEREAS, on November 19, 2003, the City of Pocatello filed Amended Objections to the IDWR recommendations for all of the City's 38 state-law based SRBA claims;

WHEREAS, on January 16, 2004, the United States of America filed Responses to each of Pocatello's Amended Objections; and

WHEREAS, the United States and the City of Pocatello desire to resolve their differences with regard to these 38 subcases by stipulation and agreement rather than litigation;

THE PARTIES DO HEREBY STIPULATE AND AGREE AS FOLLOWS:

1. Pocatello will file a Motion to Amend its Amended Objections. Said amendment will include a withdrawal of the City's claim for 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:

2. The United States originally had concerns about the Swan Falls general provision raised by Pocatello's Amended Objections. However, based on the SRBA court's August 23, 2004 order designating Basin Wide Issue # 91-13, the United States' concerns are expected to be addressed in proceedings related to that Basin-Wide Issue and not in these individual subcases.
3. In return for the City's withdrawal of these claims for separate streams and separate administration general provisions, the United States of America agrees to file a Motion to Withdraw its Responses and will withdraw from these subcases entirely and cease to participate.¹ However, the United States may participate in any issues that arise out of these subcases that are designated as basin-wide issues.
4. Each party will bear its own attorney fees and costs.

¹ For clarification purposes, the United States of America, on behalf of BLM, was at one time also an objector in 30 of these 38 subcases, but those objections were dismissed with prejudice in November 2004. (On November 13, 2003, the United States of America acting through the Department of Interior, Bureau of Land Management, Idaho State Office, filed objections to certain elements in the Director's Report for 31 of the City of Pocatello's 38 state-law based SRBA claims (BLM Objections). The City of Pocatello and the United States of America filed on November 18, 2004 a Joint Motion to Dismiss Objections, seeking to dismiss with prejudice the BLM Objections. On November 22, 2004, Special Master Bilyeu issued an order granting the Joint Motion to Dismiss Objections. The 30 subcases were: 29-00271, 29-00272, 29-00273, 29-02274, 29-02338, 29-02382, 29-02401, 29-02499, 29-04221, 29-04222, 29-04223, 29-04224, 29-04225, 29-04226, 29-07106, 29-07322, 29-07375, 29-07450, 29-07782, 29-11339, 29-11344, 29-11348, 29-13558, 29-13559, 29-13560, 29-13561, 29-13562, 29-13637, 29-13638 and 29-13639.

CITY OF POCATELLO

Dated: April 21, 2006

By Josephine P. Beeman
Josephine P. Beeman
Beeman & Associates, P.C.
Attorneys for City of Pocatello
409 West Jefferson Street
Boise, ID 83702
(208) 331-0950

CITY OF POCATELLO

Dated: April 21, 2006

By Josephine P. Beeman
for Sarah A. Klahn
White & Jankowski, LLP
Attorneys for City of Pocatello
511 16th St., Suite 500
Denver, CO 80202
(303) 595-9441

UNITED STATES OF AMERICA

Dated: April 24, 2006

By Peter C. Monson
PETER C. MONSON
Assistant Chief, Indian Resources Section
Environmental and Natural Resources Div.
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202
(303) 312-7350