

COPY

C. Tom Arkoosh, ISB #2253
Jay J. Kijha, ISB # 6763
ARKOOSH LAW OFFICES, CHFD.
P.O. Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872
Facsimile: (208) 934-8873

*Attorneys for American Falls Reservoir
District #2*

John A. Rosholt, ISB #1037
John K. Simpson, ISB #4242
Travis L. Thompson, ISB #6168
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
P.O. Box 485
Twin Falls, Idaho 83303-485
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

*Attorneys for Milner Irrigation District, North
Side Canal Company & Twin Falls
Canal Company*

Roger D. Ling, ISB #1018
LING ROBINSON & WALKER
P.O. Box 396
Rupert, Idaho 83350
Telephone: (208) 436-4717
Facsimile: (208) 436-6804

*Attorneys for A & B Irrigation District and
Burley Irrigation District*

W. Kent Fletcher, ISB #2248
FLETCHER LAW OFFICE
P.O. Box 248
Burley, Idaho 83318
Telephone: (208) 678-3250
Facsimile: (208) 878-2548

Attorneys for Minidoka Irrigation District

RECEIVED
JUL 11 2006
DEPARTMENT OF
WATER RESOURCES

**IN THE 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.: EXHIBIT A
) (City of Pocatello)
)
) **MEMORANDUM IN SUPPORT OF**
) **SWC MOTION FOR SUMMARY**
) **JUDGMENT**
)

COMES NOW, American Falls Reservoir District #2, A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company and Twin Falls Canal Company (collectively "Surface Water Coalition" or "Coalition"), by and through their undersigned attorneys of record, and submits this

MEMORANDUM IN SUPPORT OF SWC MOTION FOR SUMMARY JUDGMENT pursuant to AO1(6)(f) and I.R.C.P. 56(c). For the reasons set forth below, this Court should grant the Coalition's motion and dismiss the identified objections filed by Pocatello with prejudice.

INTRODUCTION

The Coalition moves for summary judgment on one narrow issue related to various objections filed by Pocatello: "Can Pocatello use the SRBA as a means to collaterally attack its prior decreed and licensed water rights?" The answer is no. Pursuant to Idaho law as well as this Court's precedent, it is well-established that the SRBA is not a proper forum to collaterally attack prior water right decrees and licenses. In addition, the SRBA's Rules of Procedure prohibit Pocatello from attempting to change an element of its water right claims by way of an objection.

Accordingly, Pocatello's objections as to the point of diversion for water rights 29-271, 29-272, and 29-273 must be dismissed since these previously decreed irrigation surface water rights do not include Pocatello's municipal wells as an "alternate" point of diversion. In addition, Pocatello's objections as to the purpose and place of use for water rights 29-7118, 29-7119, 29-7431, and 29-7770 must also be dismissed since these previously licensed water rights identify a specific purpose of use (irrigation) along with a specific place of use (appurtenant acres). Pocatello cannot change its licensed irrigation groundwater and wastewater rights into "municipal" water rights to be used anywhere in Pocatello's service area. In sum, Pocatello cannot use the SRBA as an alternative to filing an application for transfer with the Idaho Department of Water Resources ("Department"). Therefore, the Court should grant the Coalition's motion and dismiss Pocatello's objections.

STATEMENT OF FACTS

29-271, 29-272, 29-273

Pocatello's Mink Creek water rights (#29-271, #29-272, and #29-273) were originally decreed by the Bannock County District Court on June 5, 1926 in the *Sam B. Smith, Administrator, et. al. v. City of Pocatello, et al.* ("Smith Decree") proceedings. See Ex. A to *Thompson Aff.* These decreed surface water rights specified a point of diversion in the NE1/4 of the SE1/4 of Section 13, Township 8 South, Range 34 East, located as the confluence of the West and South Forks of Mink Creek. See *id.* Pocatello filed a *Notice of Claim* for each right on April 19, 1990. See Exs. B.1, B.2, and B.3 to *Thompson Aff.* On all three claims, Pocatello's mayor claimed, under oath, that the "diverting works" consisted of a "diversion dam, headgate and pipeline to system."¹ Nowhere in any of the claims did Pocatello aver that its groundwater wells were "alternate" points of diversion for these surface water rights. Moreover, nowhere in any of these claims did Pocatello claim that the source was anything other than Mink Creek.

The Director recommended Pocatello's Mink Creek water rights on July 10, 2003. See Exs. C.1, C.2, and C.3 to *Thompson Aff.* The Director's Report listed the point of diversion as claimed by Pocatello. On November 14, 2003, Pocatello filed objections to its Mink Creek water rights. See Exs. D.1, D.2, and D.3 to *Thompson Aff.* Only Pocatello's objection to water right #29-272 disagreed with the Director's recommended points of diversion. See *id.* Accordingly, Pocatello apparently **agreed** with the Director's recommended points of diversion for water rights #29-271 and #29-273 as of November 14, 2003. Four days later, Pocatello filed *Amended Objections* to all of its Mink Creek water rights. See Exs. E.1, E.2, and E.3 to *Thompson Aff.* Contrary to the initial objections, this time Pocatello objected to the points of diversion for all claims and alleged that they should "include all ground water points of diversion for the City of

¹ The Notice of Claim for water right 42-272 also included "storage tanks" in the diverting works section.

Pocatello's municipal water rights." *See id.* Pocatello further stated it would seek leave "from the court to amend the notice of claim . . . to properly reflect the elements as set forth above." *See id.* Pocatello has yet to file any amended claims for its Mink Creek water rights.

As to the Mink Creek water rights Pocatello offered the following reason for its *Amended Objection* to the points of diversion element:

3. Point of diversion: The City of Pocatello's municipal wells derive their supply from the Lower Portneuf River Valley Aquifer that underlies the Portneuf River as it flows through the City of Pocatello. ***Mink Creek and Gibson Jack Creek are connected to the Lower Portneuf River Valley Aquifer upstream of the City of Pocatello's municipal wells. Due to this interconnection, these municipal wells divert these surface water priorities as they are legally and physically available.*** Leave will be sought from the court to amend the notice of claim for this water right to properly reflect the elements as set forth above.

See Exs. E.1, E.2, and E.3 to *Thompson Aff.* (emphasis added).

29-7118, 29-7119

Pocatello's irrigation groundwater rights #29-7118 and #29-7119 were licensed by the Department on January 9, 1975. *See* Exs. F.1 and F.2 to *Thompson Aff.* Both licenses contained a specified number of acres in particular quarter quarter sections. *See id.* Pocatello did not appeal or seek judicial review of the licenses that were issued by the Department.

On April 19, 1990, Pocatello filed *Notices of Claim* for these water rights with the SRBA Court. *See* Exs. G.1 and G.2 to *Thompson Aff.* Pocatello claimed the water rights as they were licensed by the Department, for irrigation purposes for the acres identified in the licenses. *See id.* On April 25, 2003, Pocatello filed a single *Amended Notice of Claim* for the two irrigation groundwater rights, claiming a "municipal" purposes of use, "32 WELLS" for the points of diversion, and a place of use as the "service area" of the city. *See* Ex. H to *Thompson Aff.* Pocatello filed an amended claim for the previously licensed water rights even though the water

system is not connected to the rest of Pocatello's municipal water system. *See Supplemental Director's Report Regarding City of Pocatello's Basin 29 State-Based Water Rights* at 7 ("The City also has three wells used for the irrigation of land used for growing crops. Wells 41 and 42 are used to irrigate 578.5 acres of crops near the western edge of the airport. *See* Map 4. . . . These wells were recommended as irrigation wells and not as part of the City's interconnected wells system for municipal use.") The Director recommended the water rights as licensed (and originally claimed by Pocatello) on July 10, 2003. *See* Exs. I.1 and I.2 to *Thompson Aff.* Pocatello filed an *Objection* on November 14, 2003, only disagreeing with the place of use element. *See* Exs. J.1 and J.2 to *Thompson Aff.* However, four days later, Pocatello filed an *Amended Objection*, objecting to the purpose of use and the place of use (with different language than the first objection). *See* Exs. K.1 and K.2 to *Thompson Aff.*

29-7431

Pocatello's water right #29-7431 ("Wastewater Right") was originally licensed by the Department on June 11, 1987. *See* Ex. L to *Thompson Aff.* The "waste water" right was licensed for "irrigation" purposes on 777 acres. *See id.* Pocatello filed a *Notice of Claim* with the SRBA Court for its Wastewater Right on April 19, 1990. *See* Ex. M to *Thompson Aff.* The right was claimed as it was licensed in 1987. *See id.* Pocatello then filed an *Amended Notice of Claim* on April 25, 2003. *See* Ex. N to *Thompson Aff.* This time, Pocatello claimed "REUSE of municipal diversions" as an additional source, "32 WELLS" as the points of diversion, "municipal" as the purpose of use, and the city's "service are" as the place of use. *See id.* Again, Pocatello made such a claim despite the fact the well is not connected to the rest of Pocatello's municipal water system. *See Supplemental Director's Report Regarding City of Pocatello's Basin 29 State-Based Water Rights* at 7 (The WPC Well is used to irrigate 280 acres of crops on the land where

the city applies the solid waste (sludge) from its wastewater treatment facility. *See* Map 4. These wells were recommended as irrigation wells and not as part of the City's interconnected wells system or for municipal use."'). The Director recommended Pocatello's Wastewater Right as licensed (and originally claimed by Pocatello) on July 10, 2003. *See* Ex. O to *Thompson Aff.*

29-7770

Pocatello's water right #29-7770 was permitted by the Department on December 9, 1989. *See* Ex. P to *Thompson Aff.* Pocatello submitted proof of beneficial use for this irrigation water right on April 5, 1990. *See* Ex. Q to *Thompson Aff.* Pocatello's sworn statement explains that the water right was used for "286 acres" for irrigation purposes. *See id.* Pocatello then filed a *Notice of Claim* in the SRBA on April 19, 1990. *See* Ex. R to *Thompson Aff.* A license for water right #29-7770 was issued on January 2, 2003.² *See* Ex. S to *Thompson Aff.* Thirteen years later Pocatello filed an *Amended Notice of Claim* on April 25, 2003, this time alleging "32 WELLS" for the points of diversion, "municipal" purpose of use, and the city's "service area" for the place of use. *See* Ex. T to *Thompson Aff.* The Director recommended the water right as licensed on July 10, 2003. *See* Ex. U to *Thompson Aff.* Pocatello filed its first *Objection* on November 14, 2003, but it did not object to the "irrigation" purpose of use or specific 286 acres as the place of use. *See* Ex. V to *Thompson Aff.* Four days later, Pocatello filed an *Amended Objection* which took issue with the purpose and place of use as recommended by the Director. *See* Ex. W to *Thompson Aff.*

² Counsel for the Coalition has been unable to locate an actual copy of the license for water right #29-7770 from IDWR's website. Exhibit S to the *Thompson Aff.* is a water right report downloaded from IDWR's website which indicates the date the water right was licensed and the elements as presumably defined by the license. The exhibit also contains correspondence from IDWR regarding the license (October 28, 2005 Tuthill Letter to Beeman; June 23, 2005 Peppersack Memorandum to Tuthill). A review of Ex. M to the *Supplemental Director's Report* reveals that the license and documents are related to water right #29-0770, not #29-7770. IDWR should correct this mistake and submit additional information to the Court to ensure the proper documents are in the record which are referenced in the supplemental report. *See Supplemental Director's Report* at 20, 21, Ex. M.

STANDARD OF REVIEW

Summary judgment is appropriate when “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” I.R.C.P. 56(c); *Brown v. Miller*, 140 Idaho 439, 442 (2004). When a case is tried before the court without a jury, such as a subcase in the SRBA, the trial court as the trier of fact is entitled to arrive at the most probable inferences based upon the undisputed evidence properly before it and grant summary judgment despite the possibility of conflicting inferences. *Stafford v. Klosterman*, 134 Idaho 205, 207 (2000).

ARGUMENT

Idaho law prohibits Pocatello from collaterally attacking and seeking to change the elements of its previously decreed and licensed water rights through the SRBA. In turn, Pocatello cannot use the SRBA as a way to evade the requirement to file an application for transfer with IDWR under Idaho Code § 42-222. Finally, Pocatello cannot transform decreed surface water rights into groundwater rights (by way of an alternate point of diversion theory) and licensed irrigation groundwater and wastewater rights with specific places of use into municipal water rights to be used anywhere in Pocatello’s service area. The Court should grant the Coalition’s motion as a matter of law.

I. Pocatello Cannot Use the SRBA as a Forum to Collaterally Attack its Prior Water Right Decrees and Licenses.

The facts relating to Pocatello’s previously decreed surface water rights and previously licensed irrigation ground water rights are undisputed. Pocatello’s Mink Creek surface water rights were decreed for irrigation purposes by the *Smith Decree* in 1926. No wells were decreed as points of diversion for these water rights. In other words, the source for these water rights is a

surface stream, not groundwater, as Pocatello's point of diversion objection implies. Pocatello's irrigation groundwater rights were licensed by IDWR in 1975 and 2003. Pocatello's Wastewater irrigation right was licensed by IDWR in 1987. These irrigation groundwater and wastewater rights are not connected to Pocatello's interconnected municipal well system, they are discrete and separate systems that are used for irrigation purposes on specific acres as permitted by the prior water right licenses. Pocatello did not judicially challenge any of its licenses that were issued by IDWR.

Pocatello, through objections to the Director's recommendations, now seeks to change the elements of its previously decreed and licensed water rights in the SRBA. Contrary to the "binding effect" of its prior decrees and licenses, Pocatello seeks to change its Mink Creek water rights by adding points of diversion (which in essence changes the source), and its groundwater and wastewater irrigation rights by changing the place of use and purpose of use. Pocatello cannot escape the binding effect of its prior decrees and licenses and change its water rights unless it files a transfer with IDWR. See I.C. § 42-220; *State v. Hagerman Water Right Owners*, 130 Idaho 736 (1997).

As recently reaffirmed by the SRBA Court's Presiding Judge, Idaho law prohibits Pocatello's "collateral attack" on its own water rights:

In this case, of the five surface water claims filed by the City of Pocatello, water right claims 29-00271, 29-00272, and 29-00273 have already been adjudicated with a state-law basis. . . . Although decrees issued in a prior adjudication are not conclusive as to the proof of existence of a water right, ***prior decrees are binding on the parties to the decree and their privies.*** *State v. Hagerman Water Right Owners*, 130 Idaho 736, 741-42, 947 P.2d 409, 414-15 (1997). . . . Accordingly, the City is bound by those prior decrees.

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 administration 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. Allred*. 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, judicial review of the license.

* * *

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 29-0431*.

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, subcase no. 29-11609 (October 6, 2006) (emphasis added).

Just as Pocatello cannot use the SRBA to transform its state decreed and licensed water rights into "federal reserved" water rights, the same goes for Pocatello's efforts to: 1) try and convert its Mink Creek surface water rights into groundwater rights (through an alternate point of diversion theory); and 2) try and convert its irrigation groundwater and wastewater rights into "municipal" water rights than could be used anywhere in its service area.³ If Pocatello seeks to

³ Pocatello did not challenge the point of diversion elements for water right claims #29-7118, #29-7119, and #29-07770. However, by challenging the licensed and recommended places of use for these water rights, Pocatello alleges that the "Place of use is within the service area of the City of Pocatello municipal water supply system as provided for under Idaho law . . ." *See* Exs. K.1, K.2, and W. This language is inconsistent with the place of use identified in the water right licenses and could be interpreted to allow Pocatello to use water under those rights

change the elements of its water rights the proper forum is IDWR and the proper method is an application for transfer pursuant to Idaho Code § 42-222. Idaho code section 42-222 states that “[a]ny person ... who shall desire to change the point of diversion ... or nature of use of all or part of the water, under the right *shall first make application to the department of water resources* for approval of such change.” (Emphasis added). Pocatello has refused to file proper transfer applications with IDWR, for reasons unknown to the Coalition, and instead insists on using the SRBA as a substitute. As described above, the law prohibits such tactics advanced by Pocatello.

Accordingly, the following objections to Pocatello’s prior decreed and licensed water rights should be dismissed as a matter of law:

#29-271, #29-272, #29-273

5. Point(s) of Diversion

Should be: Include all ground water points of diversion for the City of Pocatello’s municipal water rights.

#29-7118, #29-7119, #29-7431, #29-7770

7. Purpose(s) of Use

Should be: municipal, see also “Reasons supporting objections” below.

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, . . .”

Pocatello is bound by its prior representations to the Bannock County District Court in the *Smith Decree* proceedings and to IDWR in the licensing proceedings. Pocatello sought and received decreed and licensed irrigation rights with specific points of diversion and places of use.

anywhere in the service area. Since Pocatello did not object to the points of diversions for its irrigation groundwater rights, Pocatello would apparently have to pipe that water from the licensed points of diversion to other areas if it wanted to use the water on a place of use within its service area but which differed from the acres identified in the licenses.

Idaho law prohibits Pocatello from expanding the scope of those water rights by collaterally attacking its prior decrees and licenses in the SRBA. Moreover, it would be unprecedented for this Court to allow a claimant to change its previously decreed surface water source (i.e. Mink Creek) to groundwater (through an alternate point of diversion objection) and previously licensed “irrigation” water rights to municipal uses (through a purpose and place of use objection). The Court should grant the Coalition’s motion for summary judgment and dismiss the above-referenced objections filed by Pocatello.

II. Pocatello Cannot Change its Prior Decreed Mink Creek Water Rights Through Objections in the SRBA.

In addition to the binding effect of prior decrees and licenses, Pocatello is similarly bound by its claims to the SRBA Court. Pocatello’s claims for water rights #29-271, #29-272, and #29-273 were all filed on April 19, 1990. *See* Exs. B.1, B.2, and B.3 to *Thompson Aff.* On all three claims, Pocatello’s mayor claimed, under oath, that the “diverting works” consisted of a “diversion dam, headgate and pipeline to system.”⁴ Nowhere in any of the claims did Pocatello aver that its groundwater wells were “alternate” points of diversion for these surface water rights. Pocatello filed amended objections to all three claims in November 2003, alleging that the point of diversion included “all ground water points of diversion for the City of Pocatello’s municipal water rights.”

The SRBA Rules of Procedure (AO1) prohibit Pocatello’s efforts to amend its claims by way of an objection. *See* Rule 4(d)(1)(b) (“A claimant **may not** amend a claim by filing an objection or a response”) (emphasis in original). Since Pocatello did not claim the wells as a point of diversion when it filed claims for #29-271, #29-272, and #29-273 in 1990, and since Pocatello has failed to file any amended claims alleging a different point of diversion than what

⁴ The Notice of Claim for water right 42-272 also included “storage tanks” in the diverting works section.

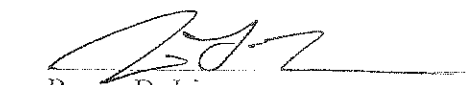
was originally claimed (i.e. "diversion dam, headgate, and pipeline to system"), the point of diversion objections should be dismissed as a matter of law.

CONCLUSION

Pocatello's efforts to change its water rights through the SRBA are prohibited by Idaho law. For the foregoing reasons, this Court should dismiss Pocatello's point of diversion objections to its prior decreed water rights, claims #29-271, #29-272, and #29-273, and the purpose of use and place of use objections to its prior licensed water rights, claims #29-7118, #29-7119, #29-7431, and #29-7770.

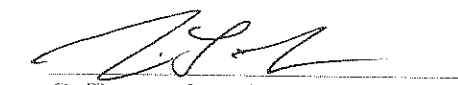
Dated this 30th day of November, 2006.

LING ROBINSON & WALKER


Roger D. Ling

*Attorneys for A & B Irrigation District and
Burley Irrigation District*

ARKOOSH LAW OFFICES CHTD.


C. Tom Arkoosh
Jay J. Kiiha

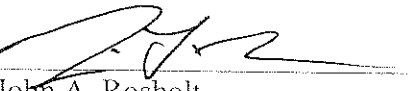
*Attorneys for American Falls Reservoir
District #2*

FLETCHER LAW OFFICES


W. Kent Fletcher

Attorneys for Minidoka Irrigation District

BARKER ROSHOLT & SIMPSON LLP


John A. Rosholt
John K. Simpson
Travis L. Thompson
Paul L. Arrington

*Attorneys for Twin Falls Canal Company &
Clear Springs Foods, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November, 2006, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF SWC MOTION FOR SUMMARY JUDGMENT on the person(s) listed below, in the manner indicated:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Josephine P. Beeman
Beeman & Associates, P.C.
409 W. Jefferson Street
Boise, ID 83702

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☒ Email

Attorneys for City of Pocatello

Sarah A. Klahn
WHITE & JANKOWSKI, LLP
511 16th Street, Suite 500
Denver, CO 80202

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☒ Email

Attorneys for City of Pocatello

Natural Resources Division Chief
IDAHO ATTORNEY GENERAL'S OFFICE
P.O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Attorneys for State of Idaho

Environment & Natural Resources Division
U.S. DEPARTMENT OF JUSTICE
550 W. Fort Street, MSC 033
Boise, ID 83724

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Attorneys for United States of America

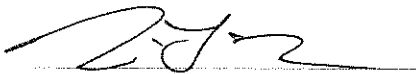

Travis L. Thompson

EXHIBIT A

Subcase Nos.:

- 29-00271
- 29-00272
- 29-00273
- 29-07118
- 29-07119
- 29-07431
- 29-07770

Exhibit A

Costs \$10.00

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IOWA, IN AND
FOR THE COUNTY OF HAWKES.

Wm. B. Smith, administrator of the
Estate of T. B. Smith, deceased,
Hickory Livestock and Feed Company,
a corporation, JAMES B. SMITH and WILLIAM
H. EDWARDS,

Plaintiffs,

-vs-

ALLEGED

CITY OF PEOSTELLO, a municipal
corporation, EDWIN W. JONES,
McKINNON, H. L. GARDNER, JAMES A.
TAMMILL, JOHN L. SMITH and JOHN
COVILIS,

Defendants.

6669
June 5, 1926.

This cause came on regularly for trial on the third day
of June, 1926, before the court sitting without a jury, a jury having
expressly waived by the respective parties; James McLaughlin,
McLaughlin & McLaughlin appeared for the plaintiffs, James A. B.
Standron and James Bacon appeared for the defendants and cross-com-
plainants, J. C. Campbell and J. A. McKinnon, Messrs. Peterson and
Giffin appeared for Arthur Day and H. F. Galloway and no one appeared
for John Pettis and John Covilis, and their default was duly entered
and Jones, Porceny & Jones appeared for the defendant and cross-com-
plainant, the City of Peostello.

Thereupon witnesses were sworn and testified on behalf
of the plaintiff and the several defendants and cross-complainants
herein, and documentary evidence was offered and received by and on
behalf of the respective parties and the testimony closed. Argument
was submitted by the respective counsel on behalf of said parties and
the cause was finally submitted to the Court for decision and the Court
having duly considered the testimony, the argument of the counsel, and
being fully advised in the premises, he made his finding of fact and
conclusions of law and ordered judgment to be entered in accordance there-
with.

That in the year 1887 or 1888, the cross-complainant,
the City of Peostello, purchased the land of land from certain named
Indians who were occupying, improving and cultivating their said land

to the extent of 161.1 acres at the time of the sale; and that on October 1st, 1901, the predecessors of the City of Pocatello constructed a pipe line which diverted water from Mink Creek to the City of Pocatello for municipal purposes to the extent of 26 inches (.58 Co. feet);

That on September 1st, 1917, the City of Pocatello increased the size of the pipe line to a carrying capacity of 5 cubic feet per second of time and since said time has diverted said amount from the waters of Mink Creek for municipal purposes.

That on June 17th, 1902, the cross-complainant, James S. Campbell, appropriated and diverted 70 inches of the waters of Mink Creek and Campbell Creek and has used the same since said date.

That on September 7th, 1904, Arthur Say appropriated and diverted 75 inches of the waters of Mink Creek and used the same for irrigation purposes since said date.

That on August 20th, 1907, the predecessors of H. F. Galloway appropriated and diverted 20 inches of the waters of Mink Creek and has since used the same for irrigation purposes.

That on July 5th, 1910, J. A. McKinnon appropriated and diverted 10 inches of the waters of Mink Creek and has since used the same for irrigation purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED; that the following named persons and corporation, defendants and cross-complainants in this action have the right to the use of said Mink Creek and the tributaries thereof, and springs, the sources of said tributaries, such amount and amounts of water, of the date of appropriation and priority, and for the uses and purposes and the point of diversion and means of diversion as set forth in the following schedule:

MINK CREEK

<u>Name of Claimant and</u> <u>Date of Priority</u>	<u>Amount in</u> <u>Second Feet</u>	<u>Point of Diversion</u> <u>And Place of Use</u>
1. Estate of T. D. Smith deceased; 1869- -February 26,	10 inches	Said water to be diverted from the said creek by means of a dam in said creek at or near the center of section 30, Twp. 7, South Range 35, R.2.E. Said water to be used on the following described land: Northwest Quarter of Section seventeen and Northeast Quarter of Southwest Quarter of Section 17, and Southwest Quarter of Northwest Quarter of Section 8, Twp. 7, South Range 35, R.2.E.
1902- -July 21	44.05 inches	

WINK CREEK

Name of Claimant and Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
2. Elkhorn Livestock and Dairy Company, a corp- oration. 1888- -February 16	16 inches	Said water to be diverted by means of a dam across said Wink Creek at or near the center of Section 20, Twp. 7, South Range 35, E.B.M. Said water to be used upon the following described land: Southeast quar- ter of the Northeast quarter, and the East one-half of the Southwest quarter of Sec- tion 17, Twp. 7, South Range 35, E.B.M. <i>City of Pocatello v. Elkhorn Livestock Company - Section 17, Twp. 7, S. R. 35</i>
1902- -July 21	17.25 inches	
3. Joseph Jones 1889- -February 16	8 inches	Said water to be diverted by means of a dam across said Wink Creek at or near the center of Section 20, Twp. 7, South Range 35, E.B.M. Said water to be used up- on the following described land: Southeast quarter of the Northeast quarter of Section 18, and the west eighteen acres of the Southwest quarter of the Northeast quarter of Section 17, Twp. 7, South Range 35, E.B. M.
1902- -July 21	16.35 inches	
4. William H. Edwards 1889- -February 16	13 inches	Said water to be diverted by means of a dam across Wink Creek at or near the center of section 20, Twp., 7, South Range 35, E.B.M. Said water to be used upon the following described land: Nor- half of the Northeast quarter of section 18, Twp. 7, South Range 35, E.B.M.
1901- -July 21	21.55 inches	
5. City of Pocatello 1889- -February 16	161.1 inches	Said water to be diverted by means of a dam and head gate into a pipe line at a point 30 58' East 728.5 feet from the West quarter corner of section 17, Twp. 8, South Range 34, E.B.M. To be used for municipal purposes within the City of Pocatello, Blaine County, State of Idaho.
1901- -October 1	28 inches	
1917- -October 1	63.8 inches	
6. James F. Campbell 1890- -June 17	70 inches (from Wink Creek and Cam- pbell Creek, the amount which he shall receive from Campbell Creek to be deducted from the 70 in. and the balance from Wink)	Said water to be diverted near the Southeast corner of the Northeast quarter of the Northeast quarter of section 21, Twp. 7, South Range 35, E.B.M. Said water to be used upon the lands described as follows: Southeast quarter of the Northeast quarter, East half of the South- west quarter of section 20, Northeast quarter of section 21, all in Twp. 7, South Range 35, E.B.M.
7. Arthur Fay 1904- -September 7	73 inches	Said water to be diverted by means of a dam and head gate in the Southeast quarter of the Southeast quarter of Sec- tion 12, Twp. 7 South Range 34 E.B.M. Said water to be used upon the lands described as follows: The Southeast quarter of the Southeast quarter of Section 13, the Northeast quarter of the Northeast quarter of section 20, the Northeast quarter of the Northeast quar- ter of section 22, the Southeast quarter of the Southwest quarter of section 20, Twp. 7, South Range 34, E.B.M.

S. A. F. Galloway

1907- August 7

20 inches

Said water to be diverted from the said creek in the Southwest quarter of section 30, Twp. 7, South Range 35, L.B.M. Said water to be used upon the lands described as follows: Northeast quarter of the Southwest quarter, the Northeast quarter of the Southeast quarter of Section 30, Twp. 7, South Range 35, L.B.M.

O. J. R. McIlmion

1910- July 10

12 inches

Said water to be diverted from the said creek through the ditch of James S. Campbell at a point near the Southeast corner of the Northwest quarter of the Northeast quarter of section 31, Twp. 7, South Range 35, L.B.M. Said water to be used upon the lands described as follows: South half of the Northeast quarter, the southeast quarter of the Northwest quarter and the Northeast quarter of the Southeast quarter of Section 31, Twp. 7, South Range 35, L.B.M.

IT IS FURTHER DECREED that the parties hereto shall permit sufficient water to flow through their respective headgates during the irrigation season to furnish 58.71 inches to Big Elk Allotment, and 37.46 to the Toane Allotment, with a priority of February 28, 1889, and an additional inch of water for each additional acre added to the present irrigated area while the same is in Indian ownership, which area at the date hereof is 97.17 acres.

The above provision regarding said Indian lands is made to avoid litigation with said Indians and to enjoin each of the parties hereto from preventing the said amount of water from flowing to said allotments while the same are in Indian ownership. Provided, however, in the event litigation shall be instituted to decree said Indian rights the provision herein regarding the same shall not be constructed as any waiver of the right of the parties hereto to question the amount, extent, or priority of the use of the waters to which said Indian allotments are entitled, and shall not bar or ectop or limit the parties hereto from urging any matter that could have been raised had said provision not been included in this decree.

No costs or disbursements are allowed to any of the parties to this action, but each shall pay his, her or its own costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: that when the natural flow of the streams, the water of which is awarded by this decree, is not sufficient to furnish all parties claiming water therefrom with the full amount of water awarded to them, then such water shall be distributed in accordance with the priorities as hereinbefore decreed, and if the water is insufficient to furnish all rights which are of equal dignity, then the available supply of water shall be distributed pro rata among such rights.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: that the Irrigation Season mentioned in this judgment shall be that portion of the calendar year beginning on the 15th day of April and closing on the 15th day of Sept-

ember, being a total of five months, or 152 days; that the term acre Feet, as used in this judgment, means and shall mean, 43,560 cubic feet of water, or the amount necessary to cover an acre of land one foot in depth;

That the inches referred to in this judgment is such an amount of water which will pass through an orifice one inch square under a four-inch pressure, each second of time, being 1.577 part of a cubic foot per second;

That the term cubic foot per second of time as used in this judgment, is and shall be one cubic foot of water passing a vertical plane cross-section per second of time.

That all water carried by this judgment shall be measured at the point of diversion, except where conditions make it impossible so to do. Where it is so impossible, measuring devices or measuring stations shall be located at the nearest feasible point below said point of diversion;

That all canals or pipelines diverting in excess of 10 cubic feet of water per second, must install a device or type of water-measuring register to be passed upon by the Commissioner of Agriculture and subject to review by this court;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That the water so appropriated shall be entitled to the benefit of the return flow into the river and its tributaries, as against, prior, lower, or prior and lower appropriators, in computing the amount of water herein awarded to said prior, lower or said prior and lower appropriators.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That the water hereby awarded has been applied to beneficial use and that the parties to said action are the owners of the lands, reservoirs, canals and ditches, and ditches, which by the terms of this judgment are referred to respectively as the lands upon which the water awarded to them has been used by means of said canals, ditches, reservoirs and other works.

That all rights herein awarded to the plaintiff and several defendants and cross-complainants, are for the beneficial uses specified, and none of the parties hereto, or their successors in interest, whether heirs, executors, administrators, successors or assigns shall have the right to divert any of the waters of the said Sink Creek, its tributaries and sources, except for beneficial use, and whenever such use has ceased, such party or parties shall cease to divert, and shall have no right to divert, the said waters, or any part thereof, and each and every of the parties hereto, their servants, attorneys, employees and successors in interest as aforesaid, are hereby enjoined and re-

trained from any and all interference with or diversion or use of the said waters, except in the manner, and to the extent, and for the purposes provided in this judgment, whenever such interference, diversion or use would in any manner interfere with the diversion or use of the water decreed by this judgment to any of the other parties to this action;

That the parties hereto and their successors in interest shall install and maintain suitable and efficient weirs, controlling works and measuring devices at their respective points of diversion, and all water herein allotted and decreed shall be measured at said points of diversion. Said weirs and devices shall be built and first laid by the owner with plans and specifications to be approved by the state official charged with the duty of supervising the distribution of water, (subject to review by this Court). All such devices shall be of such design as to accurately register the amount of water so diverted, and in case of weirs diverting more than 10 cubic feet per second, automatic measuring and registering devices shall be installed and shall at all times be subject to the inspection of any party to this action, or to any public officials or water masters having jurisdiction over the distribution and diversion of water, and no dam or other obstruction to the natural flow of the stream shall be maintained so as to divert water from the channel of the stream, except through catches, canals or other works, provided with such weirs, control works and measuring devices, except as in this judgment provided; and each of the parties hereto shall be perpetually enjoined from diverting from the channel of the said Mink Creek, or its tributaries or sources, any water through any ditch, conduit, or other devices not provided with such weirs, control works and measuring devices; provided, that in case of diversions through pipes for power purposes or otherwise, measuring devices may be dispensed with where the quantity of water diverted may be otherwise ascertained by other means of calculation.

That the City of Pocatello must install a Standard Weir and Stevens recording gage or other similar standard device or devices that they may be readily read and may be located so that they are at all times subject to the inspection of the water users of Mink Creek and so located that ingress and egress is permitted thereto and therefrom. And the said City of Pocatello is required to submit to the Court plans for such devices for the approval of the Court.

The rights herein decreed and required are designated and classified as (municipal purposes and irrigation rights). Irrigation rights are defined as the right to divert from Mink Creek waters for the irrigation of the lands described in the decree belonging to the parties to this action. Domestic rights for municipal purposes are defined to be the right to divert from the waters of Mink Creek water through a pipe line to the City of Pocatello to be used by

be distributed to the inhabitants of the said City of Pocatello for domestic purposes, irrigation of lawns, sprinkling of streets, fire and the purposes to which water is usually required by its inhabitants.

That no party to this decree shall divert more water than can be beneficially used, and that the waste of water is prohibited and enjoined.

That the retention of jurisdiction by the Court shall be for the following purposes and the following purposes only:

(a) To make corrections for clerical errors, inadvertences and omissions in the rights decreed.

(b) To review and amend the provisions of the decree fixing, if necessary, different limits upon the irrigating season as above described, and for reducing the amount of water which may be taken during actual operation of the creek and its tributaries, to be in accord with the amount actually necessary for the successful raising of crops.

(c) To adjust more accurately, if necessary, the diversions of the water to the several users mentioned within the decree, with special reference to stipulated rights when one user secures the total amount, through several ditches enumerated opposite his name with no data submitted or available with reference to the capacity of the ditches supplying said lands of the user.

(d) To observe for a season or longer if necessary the operation of the creek in order that such additional provisions may be added to this decree to facilitate such operation in the field, but jurisdiction is not retained to operate the creek, under order of Court.

(e) Until the measuring devices and all diversions are installed and operating to the satisfaction of the Court, and the parties hereto are given sixty (60) days in which to install the same,

Done in open Court this the 5th day of June, A. D. 1916.

C. R. BATH
DISTRICT JUDGE

Exhibit B - 1

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-00271

Date Received: 3/28/1990 4/19/90

Receipt No: C01104 58

Received By: RA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCA TELLO
Address: P.O. BOX 4169
POCA TELLO, ID

83205

2. Date of Priority: FEB 26, 1869

3. Source: MINK CREEK

Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08S	34E	13		NE	SE		BANNOCK

5. Description of diverting works:
DIVERSION DAM, HEADGATE, PIPELINE TO SYSTEM.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
MUNICIPAL	01/01	12/31	3.220		

7. Total Quantity Appropriated is:
3.220 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
M/CITY OF POCA TELLO

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
----------	-------	---------	--------	-----	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? NO

A29-00271

Page 1

Date: 04/16/90

RECORDED

NOV 13 1992

13. Other Water Rights Used:
SEE ATTACHMENT

14. Remarks:
P/U IS CITY OF POCA TELLO AND VICINITY, LOCATED IN BANNOCK AND
POWER COUNTIES.
SEE ATTACHMENT FOR ADDITIONAL REMARKS.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

SMITH ADMIN., ET. AL.
Decree Plaintiff

vs CITY OF POCA TELLO, ET. AL.
Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and
understand the form entitled "How you will receive notice in the Snake River
Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay
a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am MAYOR of
_____ Title
CITY OF POCA TELLO, that I have signed the foregoing
Organization
document in the space below as MAYOR of
_____ Title
CITY OF POCA TELLO and that the statements contained in the
Organization
foregoing document are true and correct.

Peter Engstedt
Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO
Title and Organization

4-17-90
Date

State of Idaho)

County of Bannock)

SS.

Subscribed and sworn (or affirmed) before me this 18th day

of April 19 90

Connie Lee Blackburn
Notary Public

Seal

Residing at Pocatello

My Commission Expires 8-18-91

17. Notice of Appearance:

Notice is hereby given that I, Patrick D. Castello will be
Print Name

acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Patrick D. Castello

Address 775 N. 8th Boise, ID 83702

Date 4/16/90

Exhibit B - 2

106

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-00272
Date Received: 3/28/1990 4/19/90
Receipt No: C016458
Received By: Rat

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCA TELLO
Address: P.O. BOX 4169
POCA TELLO, ID

83205

2. Date of Priority: OCT 01, 1901

3. Source: MINK CREEK

Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08S	34E	13		NE	SE		BANNOCK

5. Description of diverting works:

DIVERSION DAM, HEADGATE, PIPELINE TO RESERVOIR, STORAGE TANKS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
MUNICIPAL	01/01	12/31	0.560		

7. Total Quantity Appropriated is:
0.560 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

M/CITY OF POCA TELLO

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
----------	-------	---------	--------	-----	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? NO

A29-00272

Page 1

Date: 04/16/90

MICROFILMED

NOV 13 1992

14. Remarks:

SEE ATTACHMENT FOR ADDITIONAL REMARKS.

Case Number :

Court :

Decree date:

SMITH ADMIN., ET. AL.

Decree Plaintiff

VS

CITY OF POCA TELLO, ET. AL.

Decree Defendant

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

For Organizations:

I do solemnly swear or affirm that I am MAYOR of

Title

CITY OF POCA TELLO

Organization

document in the space below as MAYOR of

MAYOR

of

Title

CITY OF POCA TELLO

Organization

CITY OF POCA TELLO and that the statements contained in the
Organization
foregoing document are true and correct.

Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO

Title and Organization	Address	City and State	Date

4-17-80

Date _____

State of Idaho)

County of Bannock)

SS.

Subscribed and sworn (or affirmed) before me this 18th day

of April 19 90

Connie Lee Blackburn
Notary Public

Seal

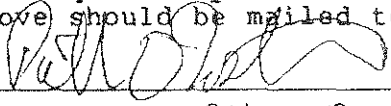
Residing at Locatello

My Commission Expires 8-18-91

17. Notice of Appearance:

Notice is hereby given that I, Patrick D. Costello will be
Print Name

acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature 

Address 775 N. 8th Boise, ID 83702

Date 4/16/90

Exhibit B - 3

177 82

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-00273
Date Received: 3/28/1990 4/19/90
Receipt No: C016458
Received By: RAV

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCA TELLO
Address: P.O. BOX 4169
POCA TELLO, ID

83205

2. Date of Priority: OCT 01, 1917

3. Source: MINK CREEK

Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
08S	34E	13	NE SE		BANNOCK

5. Description of diverting works:
DIVERSION DAM, HEADGATE, PIPELINE TO SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
MUNICIPAL	01/01	12/31	1.218		

7. Total Quantity Appropriated is:
1.218 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:
M/CITY OF POCA TELLO

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? NO

A29-00273

Page 1

Date: 04/16/90

ENCLOSURE

NOV 13 1992

13. Other Water Rights Used:
SEE ATTACHMENT

14. Remarks:
P/U CITY OF POCA TELLO AND VICINITY, LOCATED IN BANNOCK AND POWER
COUNTIES.
FOR ADDITIONAL REMARKS, SEE ATTACHMENT.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

SMITH ADMIN., ET. AL.
Decree Plaintiff

vs

CITY OF POCA TELLO, ET. AL.
Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and
understand the form entitled "How you will receive notice in the Snake River
Basin Adjudication." (b.) I/We do do not wish to receive and pay
a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Organizations:

I do solemnly swear or affirm that I am MAYOR of
CITY OF POCA TELLO, that I have signed the foregoing
Organization
document in the space below as MAYOR of
Title
CITY OF POCA TELLO and that the statements contained in the
Organization
foregoing document are true and correct.

Peter Christoff
Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO
Title and Organization

4-17-90
Date

State of Idaho)

County of Bannock)

SS.

Subscribed and sworn (or affirmed) before me this 18th day

of April 19 90

Donnie Lee Blackburn
Notary Public

Seal

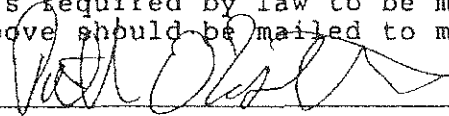
Residing at Pocatello

My Commission Expires 8-18-91

17. Notice of Appearance:

Notice is hereby given that I, Patrick D. Costello will be
Print Name

acting as attorney at law on behalf of the claimant signing above, and that
all notices required by law to be mailed by the director to the claimant
signing above should be mailed to me at the address listed below.

Signature 

Address 775 N. 8th Boise, ID 83702

Date 4/16/90

ENCLOSURE
NOV 13 1992

Exhibit C - 1

07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-271

NAME AND ADDRESS: CITY OF POCATELLO
PO BOX 4169
POCATELLO ID 83205

SOURCE: MINK CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 3.220 CFS

PRIORITY DATE: 02/26/1869

POINT OF
DIVERSION: T08S R34E S13 NESE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MUNICIPAL

1/01 12/31

3.220 CFS

PLACE OF USE:

Place of use is within the service area of the City of Pocatello municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Exhibit C - 2

07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-272

NAME AND ADDRESS: CITY OF POCATELLO
PO BOX 4169
POCATELLO ID 83205

SOURCE: MINK CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.560 CFS

PRIORITY DATE: 10/01/1901

POINT OF
DIVERSION: T08S R34E S13 NESE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	1/01 12/31	0.560 CFS

PLACE OF USE:

Place of use is within the service area of the City of Pocatello municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Exhibit C - 3

07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-273

NAME AND ADDRESS: CITY OF POCATELLO
PO BOX 4169
POCATELLO ID 83205

SOURCE: MINK CREEK

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 1.218 CFS

PRIORITY DATE: 10/01/1917

POINT OF
DIVERSION: T08S R34E S13 NESE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MUNICIPAL

1/01 12/31

1.218 CFS

PLACE OF USE:

Place of use is within the service area of the City of Pocatello municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Exhibit D - 1

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>See Attachment A</u>
	)	(All 38 of City of Pocatello's
	)	basin 29 water rights)
Case No. 39576	)	
	)	
	)	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: See "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: See "Reasons supporting objections" below.
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
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):

All 38 of the City of Pocatello's basin 29 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.

All 38 of the City of Pocatello's basin 29 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: The City's 38 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.

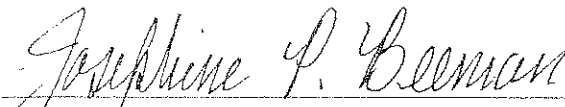
No decree entered in the SRBA will supercede, preempt, modify, terminate, extend or otherwise affect the legal force and effect of the October 25, 1984 Swan Falls Agreement, the October 25, 1984 Swan Falls Contract (so long as the Agreement and Contract remain in effect), Consent Judgments in *Idaho 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).

VERIFICATION

State of Idaho)
)ss.
County of Ada)

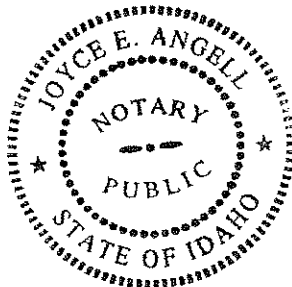
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

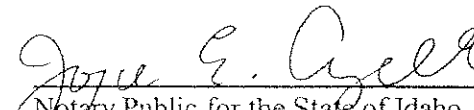
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me on: November 14, 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 14, 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:

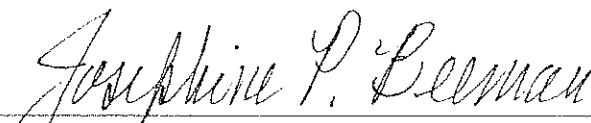
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit D - 2

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. Attachment A
(surface water rights)

Case No. 39576

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: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point(s) of Diversion**
Should be: Include all ground water points of diversion for the City of Pocatello's municipal water rights
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____

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):

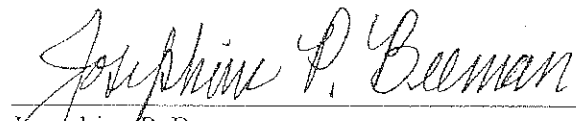
The City of Pocatello's municipal wells derive their supply from the Lower Portneuf River Valley Aquifer that underlies the Portneuf River as it flows through the City of Pocatello. Mink Creek and Gibson Jack Creek are connected to the Lower Portneuf River Valley Aquifer upstream of the City of Pocatello's municipal wells. Due to this interconnection, these municipal wells divert these surface water priorities as they are legally and physically available. Leave will be sought from the court to amend the notice of claim for this water right to properly reflect the elements as set forth above.

VERIFICATION

State of Idaho)
)ss.
County of Ada)

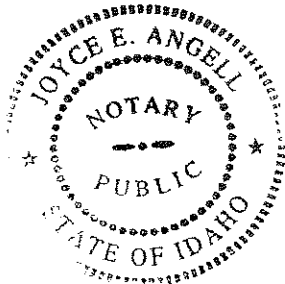
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

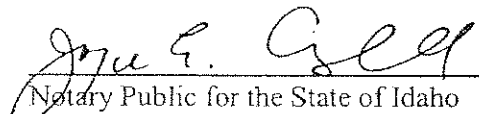
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me on: November 14, 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 14, 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:

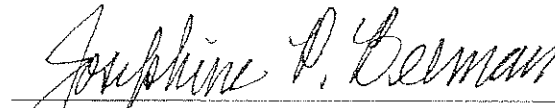
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit D - 3

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>Attachment A</u>
	)	(37 of City of Pocatello's water rights,
	)	excluding the wastewater right)
Case No. 39576	)	
	)	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: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
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."
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):

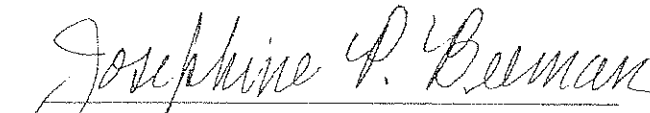
Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

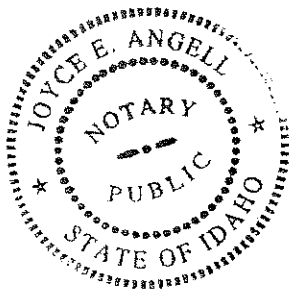
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

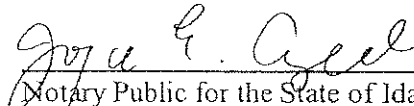
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me on: November 14, 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 14, 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

Exhibit

E - 1

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. 29-271
	)	
	)	
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: See "Reasons supporting objections" below.
4. ☒ **Priority Date**
Should be: See "Reasons supporting objections" below.
5. ☒ **Point(s) of Diversion**
Should be: Include all ground water points of diversion for the City of Pocatello's municipal water rights.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: See "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."

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.

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. Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

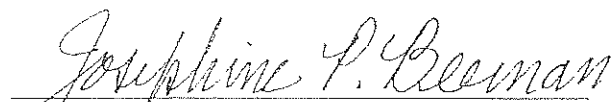
3. Point of diversion: The City of Pocatello's municipal wells derive their supply from the Lower Portneuf River Valley Aquifer that underlies the Portneuf River as it flows through the City of Pocatello. Mink Creek and Gibson Jack Creek are connected to the Lower Portneuf River Valley Aquifer upstream of the City of Pocatello's municipal wells. Due to this interconnection, these municipal wells divert these surface water priorities as they are legally and physically available. Leave will be sought from the court to amend the notice of claim for this water right to properly reflect the elements as set forth above.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

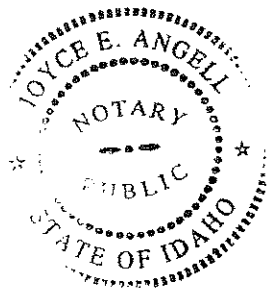
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

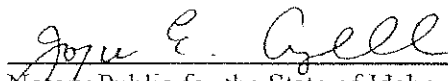
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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:

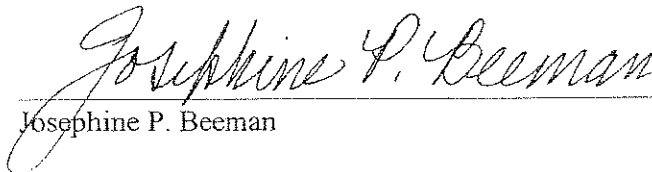
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit E - 2

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>29-272</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: See "Reasons supporting objections" below.
4. ☒ **Priority Date**
Should be: See "Reasons supporting objections" below.
5. ☒ **Point(s) of Diversion**
Should be: Include all ground water points of diversion for the City of Pocatello's municipal water rights.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: See "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."
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.

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. Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

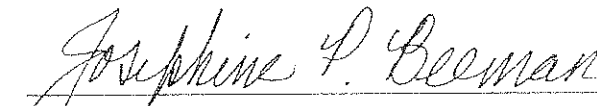
3. Point of diversion: The City of Pocatello's municipal wells derive their supply from the Lower Portneuf River Valley Aquifer that underlies the Portneuf River as it flows through the City of Pocatello. Mink Creek and Gibson Jack Creek are connected to the Lower Portneuf River Valley Aquifer upstream of the City of Pocatello's municipal wells. Due to this interconnection, these municipal wells divert these surface water priorities as they are legally and physically available. Leave will be sought from the court to amend the notice of claim for this water right to properly reflect the elements as set forth above.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

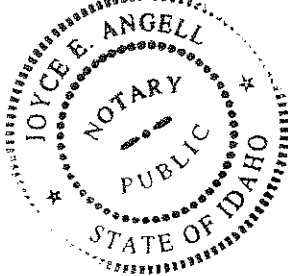
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

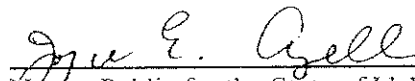
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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:

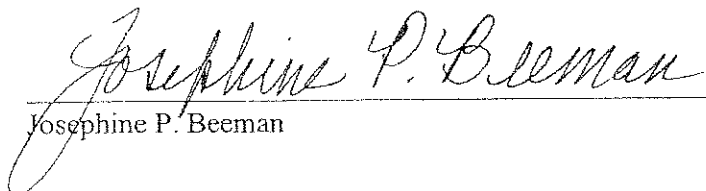
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit E - 3

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. 29-273

Case No. 39576

AMENDED
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: See "Reasons supporting objections" below.
4. ☒ **Priority Date**
Should be: See "Reasons supporting objections" below.
5. ☒ **Point(s) of Diversion**
Should be: Include all ground water points of diversion for the City of Pocatello's municipal water rights.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: See "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."

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.

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. Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

3. Point of diversion: The City of Pocatello's municipal wells derive their supply from the Lower Portneuf River Valley Aquifer that underlies the Portneuf River as it flows through the City of Pocatello. Mink Creek and Gibson Jack Creek are connected to the Lower Portneuf River Valley Aquifer upstream of the City of Pocatello's municipal wells. Due to this interconnection, these municipal wells divert these surface water priorities as they are legally and physically available. Leave will be sought from the court to amend the notice of claim for this water right to properly reflect the elements as set forth above.

VERIFICATION

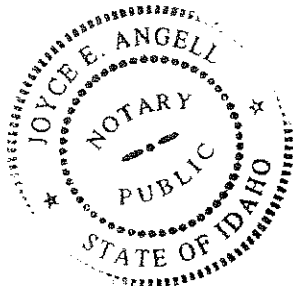
State of Idaho)
) ss.
County of Ada)

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

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



Joyce E. Angell
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:

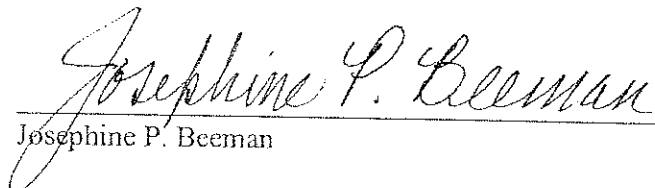
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit F - 1

WATER RIGHT LICENSE

THIS IS TO CERTIFY, that _____ CITY OF POCA TELLO

Beneficial Use	Period of Use		Rate of Diversion	Annual Volume
<u>Irrigation</u>	from April 1	to Nov. 1	at 4.01 cfs and	975 acre feet or
	from	to	cfs and	3.5 af per acre
	from	to	cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 4.01 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 975 acre feet per year, said waters to be diverted within the NW 1/4 SW 1/4 of Sec. 16,
Twp. 6 S, Rge. 83 E, B. M. in the County of Power

Description and location of place of use:

[illegible]

Total number of acres irrigated 278.5

A measuring device of a type approved by the Department shall be permanently maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 9 day of January, 19 75.

Director

MICROFILMED

Exhibit F - 2

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 29-7119 Priority April 11, 1973 Amount 6.0 cfs

THIS IS TO CERTIFY, that CITY OF POCATELLO
of Pocatello, Idaho, has complied with the terms and conditions of Permit
No. 29-7119 issued pursuant to Application for Permit dated April 11, 1973
and has submitted proof to the Department of Water Resources on May 29, 1974
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 6.0 cfs of water from a ground water source
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Nov. 1</u>	at <u>6.0</u> cfs and	<u>1,050 acre feet or</u>
	from _____ to _____	at _____ cfs and	<u>3.5 af per acre</u>
	from _____ to _____	at _____ cfs and	
	(both dates inclusive)		

Subject, however, to the condition that no more than 6.0 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
1,050 acre feet per year, said waters to be diverted within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 9,
Twp. 6 S, Rge. 33 E, B. M. in the County of Power

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6 S	33 E	9					2	2	40	34	34	40	34		226
		16					34	40							74

Total number of acres irrigated 300

A measuring device of a type approved by the Department shall be permanently
maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 9 day of
January, 19 75.

MICROFILMED

Director

Exhibit G - 1

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-07118
Date Received: 3/28/1990 4/14/90
Receipt No: C0116458
Received By: RAJ

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCA TELLO
Address: P.O. BOX 4169
POCA TELLO, ID

83205

2. Date of Priority: APR 11, 1973

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	33E	16		NW	SW		POWER

5. Description of diverting works:
WELL (AIRPORT), PUMP & PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	4.010		975.00

7. Total Quantity Appropriated is:
4.010 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 697.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	33E	16	SW	NW		IRR	40.0
			SE	NW		IRR	32.0
			NE	SW		IRR	32.0
			NW	SW		IRR	40.0

A29-07118

Page 1

Date: 04/16/90

MICROFILMED

NOV 13 1992



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	33E	16	SW	SW		IRR	28.0
			SE	SW		IRR	12.0
						Section Acres	184.0
		17	SE	NE		IRR	32.0
			NE	SE		IRR	32.0
			SE	SE		IRR	30.0
						Section Acres	94.0
		20	NE	NE		IRR	1.0
						Section Acres	1.0
						Total Acres	279.0

11. Place of use in counties: POWER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
AC. IRR.=278.5.
P/U WITHIN CITY LIMITS OF POCA TELLO.

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am MAYOR of
Title
CITY OF POCA TELLO, that I have signed the foregoing
Organization
document in the space below as MAYOR of
Title
CITY OF POCA TELLO and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO
Title and Organization

4-17-90
Date

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 18th day
of April 19 90

[Signature]
Notary Public

Seal

Residing at Pocatello
My Commission Expires 8-18-91

17. Notice of Appearance

Notice is hereby given that I, _____ will be
_____ Print Name
acting as attorney at law on behalf of the claimant signing above, and that
all notices required by law to be mailed by the director to the claimant
signing above should be mailed to me at the address listed below.

Signature _____

Address _____

775 N. 8th Boise, ID 83702

Date _____

4/16/90

Exhibit G - 2

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-07119
Date Received: 3/28/1990 4/1/90
Receipt No: C016458
Received By: JAC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCA TELLO
Address: P.O. BOX 4169
POCA TELLO, ID

83205

2. Date of Priority: APR 11, 1973

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	33E	9	SW	SW			POWER

5. Description of diverting works:
WELL (AIRPORT), PUMP AND PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	6.000		1050.00

7. Total Quantity Appropriated is:
6.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 750.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	33E	9	NE	NW		IRR	2.0
			NW	NW		IRR	2.0
			SW	NW		IRR	40.0
			SE	NW		IRR	34.0

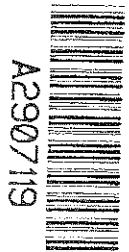
A29-07119

Page 1

Date: 04/16/90

MICROFILMED

NOV 13 1992



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	33E	9	NE	SW		IRR	34.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	34.0
						Section Acres	226.0
		16	NE	NW		IRR	34.0
			NW	NW		IRR	40.0
						Section Acres	74.0
						Total Acres	300.0

11. Place of use in counties: POWER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am MAYOR of
_____ Title
CITY OF POCA TELLO, that I have signed the foregoing
Organization
document in the space below as MAYOR of
_____ Title
CITY OF POCA TELLO and that the statements contained in the
Organization
foregoing document are true and correct.

Peter Angstadt
Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO
Title and Organization

4-17-90
Date

State of Idaho)
County of Lannock) SS.

Subscribed and sworn (or affirmed) before me this 18th day

of April 19 90

Connie Lee Blackburn
Notary Public

Seal

Residing at Pocatello

My Commission Expires 8-18-91

17. Notice of Appearance

Notice is hereby given that I, Patrick D. Costello will be
Print Name

acting as attorney at law on behalf of the claimant signing above, and that
all notices required by law to be mailed by the director to the claimant
signing above should be mailed to me at the address listed below.

Signature Patrick D. Costello

Address

775 N. 8th Boise, ID 83702

Date

4/16/90

Exhibit H

RECEIVED

APR 25 2003

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, Department of Water Resources
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-7118 + 29-7119
Date Received:
Receipt No:
Received By:

AMENDED NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CITY OF POCA TELLO Phone: (208)232-4311

PO BOX 4169
POCA TELLO ID USA 83201

2. Date of Priority: April 11, 1973

3. Source: GROUND WATER

4. Point of Diversion:

Township Range Section 1/4 of 1/4 of 1/4 Lot County Type

SEE ATTACHMENT A

5. Description of diverting works:

32 WELLS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MUNICIPAL	1/01	12/31	10.01	

7. Total Quantity Appropriated is:
10.01 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses: MUNICIPAL, CITY OF POCA TELLO

10. Place of use: WITHIN THE SERVICE AREA OF THE CITY OF POCA TELLO'S MUNICIPAL WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used: [LIST/ATTACH CITY'S MUNICIPAL WATER RIGHTS]

14. Remarks:

P/U WITHIN CITY OF POCA TELLO & VICINITY.

29-7118 (well #Airport 1 or well #42), 29-7119 (well #Airport 2 or well #41)

15. Basis of Claim:

LICENSES

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am the City Attorney of the City of Pocatello, a Municipal Corporation, that I have signed the foregoing document in the space below as the City Attorney of the City of Pocatello and that the statements contained in the foregoing document are true and correct.

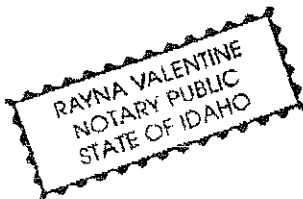
Signature of Authorized Agent: _____
Title and Organization: _____

A. Dean Tramm
City Attorney, City of Pocatello

4-21-03
Date

STATE OF IDAHO)
) ss.
County of Bannock)

Subscribed and sworn to before me this 21st day of April, 2003.



Rayna Valentine
NOTARY PUBLIC
Residing at Pocatello
My commission Expires 4/28/09

Exhibit

I - 1

07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-7118
NAME AND ADDRESS: CITY OF POCATELLO
PO BOX 4169
POCATELLO ID 83205

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 4.010 CFS
1,114.00 AFY

PRIORITY DATE: 04/11/1973

POINT OF
DIVERSION: T06S R33E S16 NWNWSW Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 11/01	4.010 CFS 1,114.00 AFY

PLACE OF USE: IRRIGATION Within POWER County

T06S R33E S16	SWNW	40.0	T06S R33E S16	SENW	32.0
T06S R33E S16	NESW	32.0	T06S R33E S16	NWSW	40.0
T06S R33E S16	SWSW	28.0	T06S R33E S16	SESW	12.0
T06S R33E S17	SENE	32.0	T06S R33E S17	NESE	32.0
T06S R33E S17	SESE	30.0	T06S R33E S20	NENE	0.5

278.5 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Exhibit I - 2

07/10/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-7119

NAME AND ADDRESS: CITY OF POCATELLO
PO BOX 4169
POCATELLO ID 83205

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 6.000 CFS
1,200.00 AFY

PRIORITY DATE: 04/11/1973

POINT OF
DIVERSION: T06S R33E S9 SENWSW Within POWER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 11/01

QUANTITY
6.000 CFS
1,200.00 AFY

PLACE OF USE: IRRIGATION Within POWER County

T06S R33E S09	NENW	2.0	T06S R33E S09	NWNW	2.0
T06S R33E S09	SWNW	40.0	T06S R33E S09	SENW	34.0
T06S R33E S09	NESW	34.0	T06S R33E S09	NWSW	40.0
T06S R33E S09	SWSW	40.0	T06S R33E S09	SESW	34.0
T06S R33E S16	NENW	34.0	T06S R33E S16	NWNW	40.0

300 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

Exhibit

J - 1

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>29-7118</u>
	)	
	)	
Case No. 39576	)	
	)	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: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: municipal
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. This right is used for the irrigation of specified lands within T06S R33E S16 SWNW (40.0), T06S R33E S16 SENW (32.0), T06S R33E S16 NESW (32.0), T06S R33E S16 NWSW (40.0), T06S R33E S16 SWSW (28.0), T06S R33E S16 SESW (12.0), T06S R33E S17 SENE (32.0), T06S R33E S17 NESE (32.0), T06S R33E S17 SESE (30.0), T06S R33E S20 NENE (0.5)."

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):

Purpose of use: This water right is used by the City of Pocatello in its capacity and function as a municipality.

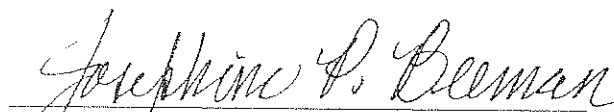
Place of use: This municipal right is used within the municipal service area of the City of Pocatello.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

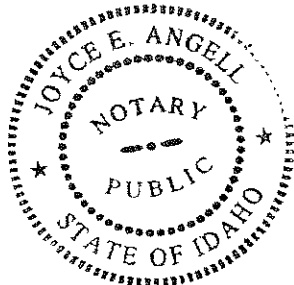
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

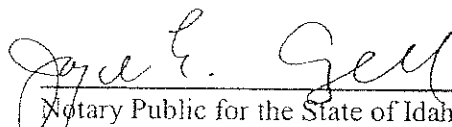
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me on: November 14, 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 14, 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:

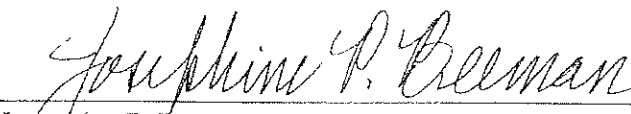
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit J - 2

In Re SRBA) Subcase No. 29-7119
)
)
)
Case No. 39576)
)
) **STANDARD FORM 1**
) **OBJECTION**
)

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

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: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: municipal
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. This right is used for the irrigation of specified lands within T06S R33E S09 NENW (2.0), T06S R33E S09 NWNW (2.0), T06S R33E S09 SWNW (40.0), T06S R33E S09 SENW (34.0), T06S R33E S09 NESW (34.0), T06S R33E S09 NWSW (40.0), T06S R33E S09 SWSW (40.0), T06S R33E S09 SESW (34.0), T06S R33E S16 NENW (34.0), T06S R33E S16 NWNW (40.0)."

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):

Purpose of use: This water right is used by the City of Pocatello in its capacity and function as a municipality.

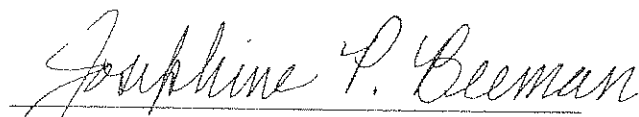
Place of use: This municipal right is used within the municipal service area of the City of Pocatello.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

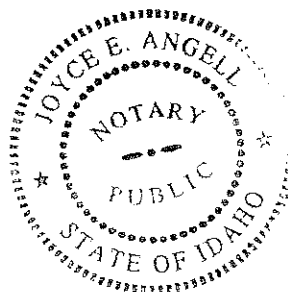
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

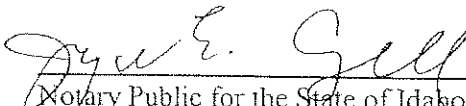
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me on: November 14, 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 14, 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:

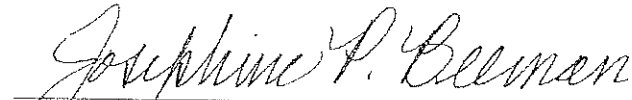
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit K - 1

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. 29-7118

Case No. 39576

AMENDED
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: See "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 T06S R33E S16 SWNW (40.0), T06S R33E S16 SENW (32.0), T06S R33E S16 NESW (32.0), T06S R33E S16 NWSW (40.0), T06S R33E S16 SWSW (28.0), T06S R33E S16 SESW (12.0), T06S R33E S17 SENE (32.0), T06S R33E S17 NESE (32.0), T06S R33E S17 SESE (30.0), T06S R33E S20 NENE (0.5)."
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.

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),

Exhibit K - 2

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. 29-7119

Case No. 39576

AMENDED
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: See "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 T06S R33E S09 NENW (2.0), T06S R33E S09 NWNW (2.0), T06S R33E S09 SWNW (40.0), T06S R33E S09 SENW (34.0), T06S R33E S09 NESW (34.0), T06S R33E S09 NWSW (40.0), T06S R33E S09 SWSW (40.0), T06S R33E S09 SESW (34.0), T06S R33E S16 NENW (34.0), T06S R33E S16 NWNW (40.0)."
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.

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. Purpose of use, correction: This water right is used by the City of Pocatello in its capacity and function as a municipality.

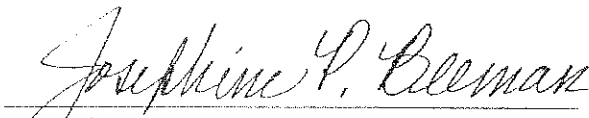
3. Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

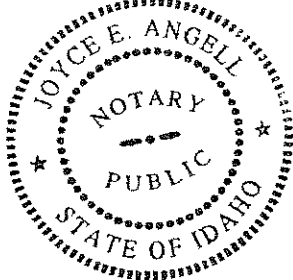
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

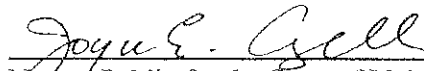
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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:

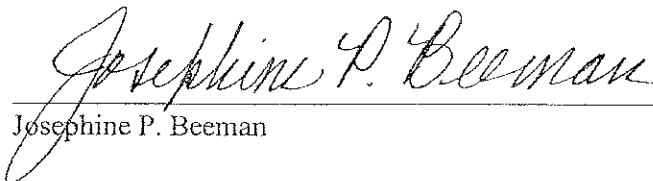
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit L

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 29-7431

Priority: December 29, 1977 Amount: 9.28 CFS 2723.0 AFA

This is to certify, that CITY OF POCATELLO
P.O. BOX 4169

POCATELLO, ID 83205-4169 has complied with the terms and conditions of the permit issued pursuant to Application for Permit dated December 29, 1977, and has submitted proof to the Department of Water Resources on July 11, 1983, that water has been applied to a beneficial use; an examination by the Department indicates that the works have a diversion capacity of 9.28 cfs of water from;

WASTE WATER tributary to PORTEUSE RIVER

and that a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>VOLUME</u>
Irrigation	04/01 to 11/01	9.28 cfs	2723.0 afa

LOCATION OF POINT OF DIVERSION(S): SWNE , Sec. 7, Township 6S, Range 34E
Bannock County

PLACE OF USE: Irrigation

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
5S	34E	25	NENE 24	NWNE 19	SWNE 39	SENE 38		
			NENW 12	NWNW 14	SWNW 35	SENW 25		
			SESW 11	NESE 33	NWSE 30	SWSE 39		
			SESE 35					354
	26		NENE 8	SENE 40	NESE 37	SESE 4		89
	36		NENE 32	NWNE 37	SWNE 40	SENE 40		
			NENW 17	NESE 3	NWSE 3			172
5S	35E	30	NWNE 5	SWNE 7	NENW 40	NWNW 33		
			SWNW 38	SENE 39				162

Total number of acres irrigated: 777

CONDITIONS/REMARKS:

1. The right to the use of the water hereby confirmed is limited to the amount which can actually be beneficially used and is restricted and appurtenant to the lands or place of use and to the purpose herein described, as provided by the laws of Idaho.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. This right when combined with all other rights shall provide no more than .02 cfs per acre or more than 3.5 afa per acre for the lands above.

JUL 01 1987

State of Idaho
Department of Water Resources

PAGE 2

WATER RIGHT LICENSE

WATER RIGHT NO. 29-7431

CONDITIONS/REMARKS:

5. Use of water under this license is subject to control by the watermaster of State Water District No. 29 .

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 11th day of JUNE, 1987.

Acting for the

Director

Norman C. Young

RECEIVED

JUL 01 1987

Exhibit M

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-07431

Date Received: 3/23/1990 4/19/90

Receipt No: C016458

Received By: RWT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCATELLO
Address: P.O. BOX 4169
POCATELLO, ID

83205-4169

2. Date of Priority: DEC 29, 1977

3. Source: WASTE WATER

Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	34E	7	SW		NE		BANNOCK

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	9.280		2723.00

7. Total Quantity Appropriated is:
9.280 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 1942.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	34E	25	NE	NE		IRR	24.0
			NW	NE		IRR	19.0
			SW	NE		IRR	39.0
			SE	NE		IRR	38.0

A29-07431

Page 1

Date: 04/16/90

MAILED NOV 18 1982

APR 22 1991



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres	
05S	34E	25	NE	NW		IRR	12.0	
			NW	NW		IRR	14.0	
			SW	NW		IRR	35.0	
			SE	NW		IRR	25.0	
			SE	SW		IRR	11.0	
			NE	SE		IRR	33.0	
			NW	SE		IRR	30.0	
			SW	SE		IRR	39.0	
			SE	SE		IRR	35.0	
			Section Acres					354.0
		26	NE	NE		IRR	8.0	
			SE	NE		IRR	40.0	
			NE	SE		IRR	37.0	
			SE	SE		IRR	4.0	
			Section Acres					89.0
		36	NE	NE		IRR	32.0	
			NW	NE		IRR	37.0	
			SW	NE		IRR	40.0	
			SE	NE		IRR	40.0	
			NE	NW		IRR	17.0	
			NE	SE		IRR	3.0	
			NW	SE		IRR	3.0	
			Section Acres					172.0
	35E	30	NW	NE		IRR	5.0	
			SW	NE		IRR	7.0	
			NE	NW		IRR	40.0	
			NW	NW		IRR	33.0	
			SW	NW		IRR	38.0	
			SE	NW		IRR	39.0	
			Section Acres					162.0
			Total Acres					777.0

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
FORT HALL IRRIGATION DISTRICT

14. Remarks:

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am MAYOR _____ of
_____ Title
CITY OF POCA TELLO _____, that I have signed the foregoing
Organization
document in the space below as MAYOR _____ of
_____ Title
CITY OF POCA TELLO _____ and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO
Title and Organization

4-17-90
Date

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 18th day
of April 19 90

[Signature]
Notary Public

Seal

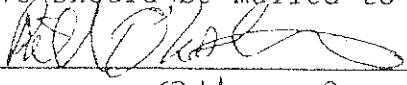
Residing at Pocatello

My Commission Expires 8-18-91

17. Notice of Appearance:

Notice is hereby given that I, Patrick D. Costello will be
Print Name

acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature 

Address 775 n. 8th Boise, ID 83702

Date 4/16/90

Exhibit N

RECEIVED

APR 25 2003

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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-7431

Date Received:

Receipt No:

Received By:

AMENDED NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CITY OF POCA TELLO Phone: (208)232-4311

PO BOX 4169

POCA TELLO ID USA 83201

2. Date of Priority: December 29 1977

3. Source: WASTE WATER to the extent it is not generated from non-municipal
diversions; REUSE of municipal diversions

4. Point of Diversion:

Township Range Section 1/4 of 1/4 of 1/4 Lot County Type

SEE ATTACHMENT A

5. Description of diverting works:

32 WELLS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MUNICIPAL	1/01	12/31	9.28	

7. Total Quantity Appropriated is:
9.28 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses: MUNICIPAL, CITY OF POCA TELLO

10. Place of use: WITHIN THE SERVICE AREA OF THE CITY OF POCA TELLO'S MUNICIPAL WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used: [LIST/ATTACH CITY'S MUNICIPAL WATER RIGHTS]

14. Remarks:

P/U WITHIN CITY OF POCA TELLO & VICINITY.

29-7431: based on license, except that explanatory statement should be changed as follows: THE SOURCE IS THE CITY OF POCA TELLO'S DIVERSIONS FOR MUNICIPAL USE. THIS IS A REUSE OF THAT MUNICIPAL WATER.

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am the City Attorney of the City of Pocatello, a Municipal Corporation, that I have signed the foregoing document in the space below as the City Attorney of the City of Pocatello and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent: A. Dean Tranter

Title and Organization: _____

City Attorney, City of Pocatello

4-21-03
Date

STATE OF IDAHO)
) ss.
County of Bannock)

Subscribed and sworn to before me this 21st day of April, 2003.



Rayna Valentine
NOTARY PUBLIC
Residing at Pocatello
My commission Expires 4/28/09

Exhibit O

SRBA DIRECTORS REPORT 29-07431

Return to SRBA Home Page

29-07431 IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

Right Number: 29-07431

Name and Address: CITY OF POCATELLO
PO BOX 4169
POCATELLO, ID 83205

Source: WASTE WATER Tributary: PORTNEUF RIVER

Quantity: 9.28 CFS
3108.00 AFY

Priority Date: 12-29-1977

Diversion Point: T06S R34E S07 SWNE Within Bannock County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
Irrigation	Irrigation	04-01 TO 11-01	9.28 CFS
			3108.00 AFY

Place of Use: Irrigation
T05S R34E S25

	Within Bannock County
NENE 24	NWNE 19
SWNE 39	SENE 38
NENW 12	NWNW 14
SWNW 35	SENW 25
SESW 11	NESE 33
NWSE 30	SWSE 39
SESE 35	
NENE 8	SENE 40
NESE 37	SESE 4

	S36	NENE 32	NWNE 37
		SWNE 40	SENE 40
		NENW 17	NESE 3
		NWSE 3	
	R35E S30	NWNE 5	SWNE 7
		NENW 40	NWNE 33
		SWNW 38	SENW 39
777	Acres Total		

Other Provisions Necessary for Definition / Administration of this Water Right:
 Explanatory Material: Basis of Claim - License

THE SOURCE OF THIS RIGHT IS WASTE WATER ORIGINALLY DIVERTED BY
 THE CITY OF POCAHELLO.

[Return to SRBA Home Page](#)

Exhibit P

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 29-07770

Proposed Priority: May 21, 1984

Maximum Diversion Rate:

5.72 CFS

This is to certify, that CITY OF POCATELLO
P.O. BOX 4169
POCATELLO, ID 83205

has applied for a permit to appropriate water from: GROUNDWATER
and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION

04/01 to 10/15

5.72 CFS

LOCATION OF POINT(S) OF DIVERSION:

SENE Sec. 12, Township 06S, Range 33E
POWER County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
06S	33E	1	SWSE 9	SESE 9		18
		12	NENE 40	NWNE 40	SWNE 40	
			SENE 25	NENW 40	SENE 40	
			NESW 25	NESE 3	NWSE 15	268

Total number of acres irrigated: 286

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 1991.
2. Subject to all prior water rights.
3. Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
4. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
6. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
7. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 10.02 cubic feet per second for each acre of land.

RECEIVED

Permit To Appropriate Water

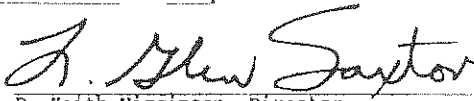
NO. 29-07770

CONDITIONS/REMARKS:

8. The maximum rate of diversion for irrigation purposes under this permit shall not exceed 5.72 cfs.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this

7th day of December, 1989.

for 
R. Keith Higginson, Director

RECEIVED
DEC 11 1989

DEC 11 1989

Exhibit Q

06-89

RECEIVED

DEC 15 1989

Department of Water Resources

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES APR 5 1990

PROOF OF BENEFICIAL USE

Department of Water Resources

For Office Use Only

Amt. of Fee \$ 225.00

Date 11/15/90

Received by 15659

RECEIVED

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 29-07770Telephone No. (208) 234-6254Name(s) of Permit Holder(s): City of PocatelloPost Office Address: P.O. Box 4169Source of Water: GroundwaterIf ground water, well driller's name: Jack CushmanDate drilled: 12/30/85 to 3/3/86

Extent of Use:

Domestic _____ (No. of households)

Irrigation 286 (No. of acres)

Stockwater _____ (No. and type of stock)

Other _____

Total rate and/or volume for which proof is submitted 5.72 cfs 600 acre/feetShow date water was first diverted and beneficially used under this permit: May 01, 1989 ✓

One of the following may be a condition of approval of your permit:

Measuring device: Required? Yes XNo Installed? XYes No (Propeller Meter)

OR

Flow Measurement Port: Required? Yes No Installed? Yes No

Fee Enclosed: \$ Paid (See License Examination Fee Schedule) (See IDWR Recpt. #33550 and City of Pocatello Check #2055, 5/10/84)

Person to contact to accompany the Department representative during the field examination:

Jay B. Ulrich

Name

(208) 234-6254

Telephone No.

Box 4169PocatelloID83201-4169

Address

MICROFILMED

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

MAY 18 1990

12/12/89

Date

Signature (and title if on behalf of a company or organization)

Jay B. Ulrich / DEQ Superintendent

Exhibit R

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A29-07770
Date Received: 3/28/1990 4/1/90
Receipt No: 0011498
Received By: RCO

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF POCA TELLO
Address: P.O. BOX 4169
POCA TELLO, ID 83205

2. Date of Priority: MAY 21, 1984

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	33E	12		SE	NE		POWER

5. Description of diverting works:
WELL (WPC PLANT), PUMP, PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/15	5.720		

7. Total Quantity Appropriated is:
5.720 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 715.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	33E	1	SW	SE		IRR	9.0
			SE	SE		IRR	9.0
						Section Acres	18.0

A29-07770

Page 1

Date: 04/16/90

MICROFILMED

NOV 13 1992



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	33E	12	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	25.0
			NE	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	25.0
			NE	SE		IRR	3.0
			NW	SE		IRR	15.0

Section Acres 268.0

Total Acres 286.0

11. Place of use in counties: POWER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

The maximum rate of diversion for irrigation purposes under this permit shall not exceed 5.72 cfs.

15. Basis of Claim: PERMIT

16: Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am MAYOR _____ of
_____ Title
CITY OF POCA TELLO _____, that I have signed the foregoing
Organization
document in the space below as MAYOR _____ of
_____ Title
CITY OF POCA TELLO _____ and that the statements contained in the
Organization
foregoing document are true and correct.

Pete Angstadt
Signature of Authorized Agent

MAYOR / CITY OF POCA TELLO
Title and Organization

4-17-90
Date

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 18th day

of April 19 90

Lonnie Lee Blackburn
Notary Public

Seal

Residing at Pocatello

My Commission Expires 8-18-91

Exhibit S

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

11/29/2006

WATER RIGHT NO. 29-7770

Owner Type	Name and Address
Current Owner	CITY OF POCA TELLO PO BOX 4169 POCA TELLO, ID 83205 (208)234-6254

Priority Date: 05/21/1984
Basis: License
Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	4.46 CFS	1120 AFA
Total Diversion			4.46 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NESENE	Sec. 12	Township 06S	Range 33E	POWER County
--------------	--------	---------	--------------	-----------	--------------

Place(s) of use:

Place of Use Legal Description: IRRIGATION POWER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06S	33E	1		SWSE	5						
		12		NENE	27		NWNE	40		SWNE	40
				NENW	40		SENE	40			
				NESW	26						
				NESE	7		NWSE	15			

Total Acres: 280

Conditions of Approval:

1. R64	This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
2. 048	The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

Dates:

Licensed Date: 01/02/2003

Decreed Date:

Permit Proof Due Date: 1/1/1991

Permit Proof Made Date: 3/16/1990

Permit Approved Date: 12/7/1989

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 05/21/1984

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust: N

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 28, 2005

Josephine Beeman, Esq.
Beeman and Associates PC
409 W Jefferson St.
Boise, ID 83702-6049

Re: Pocatello's Biosolids Well (Water Right 29-7770)

Dear Jo:

I am responding to your letter dated April 28, 2005 relative to the City of Pocatello well described by Water Right No. 29-7770. At a meeting this summer I mentioned the results of our analysis in this matter, but this letter provides a written response. I apologize for the lateness of this reply.

After receiving your letter, I requested from Mr. Jeff Peppersack of this office an analysis of the proposal, posing the question: "Did IDWR err in issuing 29-7770 with an irrigation use?" A copy of his reply, dated June 23, 2005, is enclosed. Jeff's assessment is that IDWR did not err in issuing water right no. 29-7770 with an irrigation use. In our earlier discussions we had indicated a willingness to review this matter with the potential of issuing an amended license if an error had been made. Based on this follow-up analysis, we are not planning to issue an amended license.

During our meeting this summer I indicated that an alternative to the issuance of an amended license for this water right is modification of the nature of use via a water right transfer. Such a transfer would entail continuance of the acre-foot limitation established by the license, but if approved it would broaden the uses to which the water could be applied. From our perspective, to avoid competing processes, it would be preferable to wait until a partial decree is issued to file the application for transfer.

If you have questions relative to this letter, feel free to contact me at 208-287-4800.

Sincerely,

David R. Tuthill, Jr., Ph.D., P.E.
Administrator, Water Management Division

Enclosure: Memo from Jeff Peppersack dated June 23, 2005

MEMORANDUM

Date: June 23, 2005

To: Dave Tuthill

From: Jeff Peppersack

Re: Review of License 29-7770

This memo addresses your question "Did IDWR err in issuing 29-7770 with an irrigation use. I have reviewed the water right file and found the following:

The application for permit was received in May, 1984 from the City of Pocatello with a proposed use of irrigation from a ground water source. The remarks on the application indicated that the permit is necessary to supply irrigation water for a farming operation. The remarks also indicated that treated sludge will be applied to the farmland as fertilizer and soil conditioner and the well is necessary to irrigate crops.

On July 1, 1987, the department received a letter from the city that included the following statements:

"...please be aware that the proposed use for waters described in the permit application is for irrigation of 286 acres of farmland. The farm is owned and will be operated by the City of Pocatello. The purpose of the farming operation is to provide a crop and soil system which will allow for utilization of stabilized domestic sewage sludge to be transported from our municipal wastewater treatment plant and be applied to the land as a crop nutrient source and soil conditioner.

Because of the intended use of the land and water we would request your assignment of our water application as a DCMI as defined in the State Water Plan."

The department responded with a letter dated July 28, 1987 and indicated that the use cannot be considered domestic, commercial, municipal or industrial (DCMI) as requested. The department's letter did not provide reasons for the decision. However, the department's Administrator's Memorandum, dated November 15, 1979 (Application Processing No. 18), defined municipal use to include irrigation and other uses within the corporate limits of a municipality. That policy may have been the basis for the decision to maintain the description as irrigation use.

The permit was issued in December, 1989 for irrigation use. Proof of beneficial use was received in March, 1990 indicating irrigation use.

At the time of licensing, "municipal purposes" was more clearly defined by statute (Section 42-202B, *Idaho Code*) and includes "irrigation of parks and open space." That definition has generally been interpreted by the department to exclude irrigation for agricultural crop production purposes. That interpretation may be debated, but the time for debate would be at the time of permitting or licensing.

Although the primary purpose for the city's farming operation may have been for the disposal of treated solid waste, it is clear that the primary use of water under the water right was for irrigation of agricultural crops. In 1997, the department approved a transfer filed by the City of Boise for a similar solid waste disposal project; the purpose of use was described as irrigation.

License 29-7770 was issued in January, 2003 for irrigation use. The license was issued as a preliminary order of the department; no appeal or petition for reconsideration was submitted and the approval order became a final order of the department.

The department considers requests to amend licenses based on a clear showing of computational or clerical errors that the department was unaware of at the time of licensing. The determination of purpose of use is often a matter of judgment, especially when two or more recognized uses may describe the actual beneficial use of water developed by a permit holder. The purpose of use associated with 29-7770 was raised as an issue prior to permit approval and considered by the department at that time. It would be difficult to characterize that judgment call as a computational or clerical error. In addition, the decision could have been debated at the time of licensing through a petition for reconsideration; it was not.

My conclusion is that IDWR did not err in licensing 29-7770 as irrigation use.

Exhibit T

RECEIVED

APR 25 2003

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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-7770

Date Received:

Receipt No:

Received By:

AMENDED NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CITY OF POCA TELLO Phone: (208)232-4311

PO BOX 4169

POCA TELLO ID USA 83201

2. Date of Priority: MAY 21 1984

3. Source: GROUND WATER

Point of Diversion:

Township Range Section 1/4 of 1/4 of 1/4 Lot County Type

SEE ATTACHMENT A

5. Description of diverting works:

32 WELLS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MUNICIPAL	1/01	12/31	4.46	

7. Total Quantity Appropriated is:

4.46 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses: MUNICIPAL, CITY OF POCA TELLO

10. Place of use: WITHIN THE SERVICE AREA OF THE CITY OF POCA TELLO'S MUNICIPAL WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used: [LIST/ATTACH CITY'S MUNICIPAL WATER RIGHTS]

14. Remarks:

P/U WITHIN CITY OF POCA TELLO & VICINITY.

29-7770 (well # WPC)

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am the City Attorney of the City of Pocatello, a Municipal Corporation, that I have signed the foregoing document in the space below as the City Attorney of the City of Pocatello and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent: A. Dean Tranne

Title and Organization: _____

City Attorney, City of Pocatello

4-21-03
Date

STATE OF IDAHO)
) ss.
County of Bannock)

Subscribed and sworn to before me this 21st day of April, 2003.



Rayna Valentine
NOTARY PUBLIC
Residing at Pocatello
My commission Expires 4/28/09

Exhibit U

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

1754

Exhibit V

In Re SRBA	)	Subcase No. <u>29-7770</u>
	)	
	)	
Case No. 39576	)	
	)	STANDARD FORM 1
	)	OBJECTION
	)	

Josephine P. Beerman, ISB # 1806
409 W. Jefferson St.
Boise, Idaho 83702
(208) 331-0950

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: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: municipal
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. This right is used for the irrigation of specified lands within T06S R33E S01SWSE (5.0), T06S R33E S12 NENE (27.0), T06S R33E S12 NWNE (40.0), T06S R33E S12 SWNE 40.0, T06S R33E S12 SENE (40.0), T06S R33E S12 NENW (40.0), T06S R33E S12 SENW (40.0), T06S R33E S12 NESW (26.0), T06S R33E S12 NESE (7.0), T06S R33E S12 NWSE (15.0)."

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):

Purpose of use: This water right has always been used by the City of Pocatello in its capacity and function as a municipality.

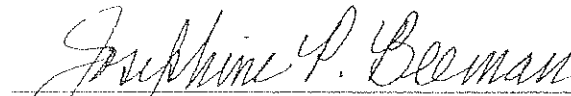
Place of use: This municipal right is used within the municipal service area of the City of Pocatello.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

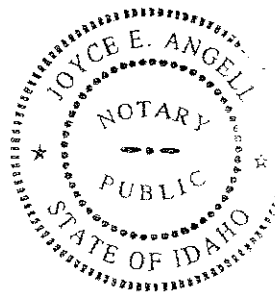
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

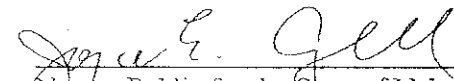
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me on: November 14, 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 14, 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:

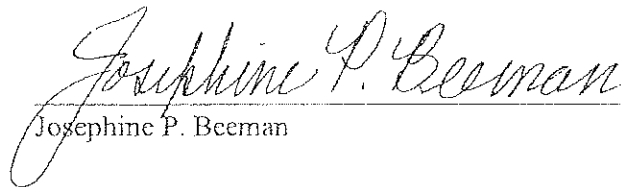
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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

Exhibit W

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. 29-7770

Case No. 39576

AMENDED
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: See "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 T06S R33E S01SWSE (5.0), T06S R33E S12 NENE (27.0), T06S R33E S12 NWNE (40.0), T06S R33E S12 SWNE 40.0, T06S R33E S12 SENE (40.0), T06S R33E S12 NENW (40.0), T06S R33E S12 SENW (40.0), T06S R33E S12 NESW (26.0), T06S R33E S12 NESE (7.0), T06S R33E S12 NWSE (15.0)."
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.

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).

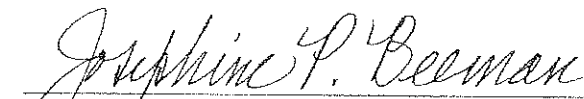
2. Purpose of use: This water right is used by the City of Pocatello in its capacity and function as a municipality.
3. Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

VERIFICATION

State of Idaho)
) ss.
County of Ada)

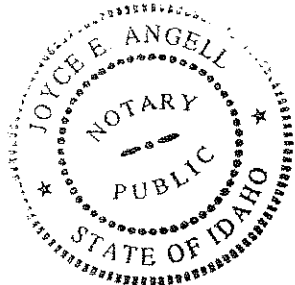
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

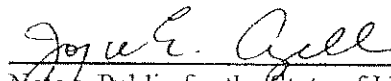
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



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:

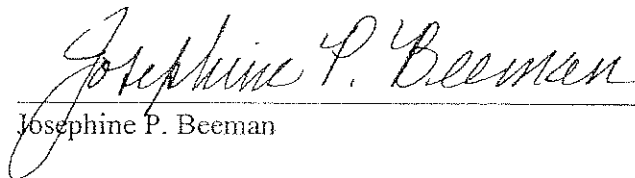
Name: City of Pocatello
Address: P. O. Box 4169
Pocatello, ID 83201

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