

COPY

DEPARTMENT OF  
WRITING, LSB #10

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Telephone: (208) 436-4717  
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*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 Milner Irrigation District, North  
Side Canal Company & Twin Falls  
Canal Company*

In Re SRBA )  
Subcase Nos.: (see attached Exhibit A)  
Case No. 39567 )  
**AFFIDAVIT OF PAUL L. ARRINGTON**  
\_\_\_\_\_  
STATE OF IDAHO )  
County of Twin Falls ) ss.

AFFIDAVIT OF PAUL L. ARRINGTON

1. I am an attorney representing Milner Irrigation District, North Side Canal Company and Twin Falls Canal Company in the above-captioned matter. I am over the age of 18 and state the following based upon my own personal knowledge. All documents referenced below were retrieved from the Idaho Department of Water Resources and the SRBA Court.

2. Attached hereto as Exhibit A is a true and correct copy of Pocatello's *Notice of Claim* for water right #29-4222.

3. Attached hereto as Exhibit B is a true and correct copy of an objection filed by Pocatello in subcase #29-07770 on November 14, 2003.

4. Attached hereto as Exhibit C is a true and correct copy of another objection filed by Pocatello in subcase #29-07770 on November 14, 2003.

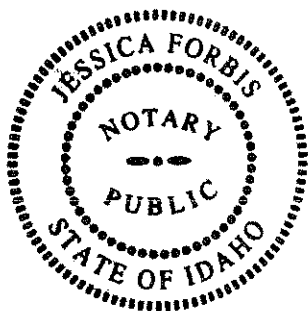
5. Attached hereto as Exhibit D is a true and correct copy of the first page of the *SRBA Subcase Summary Report 29-07770* in subcase #29-07770.

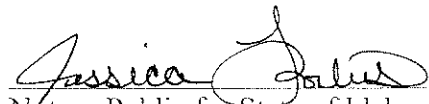
Further you affiant sayeth nought.

DATED this 21<sup>st</sup> day of December, 2006.

  
Paul L. Arrington

SUBSCRIBED AND SWORN to before me this 21 day of December, 2006.



  
Notary Public for State of Idaho  
Residing at Twin Falls, Idaho.  
Commission Expires: 4/3/12

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21<sup>st</sup> day of December, 2006, I served the foregoing S  
AFFIDAVIT OF PAUL L. ARRINGTON upon the following:

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 16<sup>th</sup> Street, Suite 500  
Denver, CO 80202

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

*Attorneys for City of Pocatello*

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

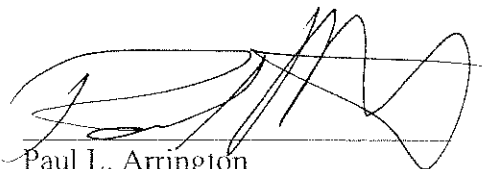
☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivery  
☐ Overnight Mail  
☐ Facsimile  
☐ Email

*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*

  
Paul L. Arrington

## EXHIBIT A

### Subcase Numbers

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

# Exhibit A

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: A29-04222  
Date Received: 3/28/1990 4/19/90  
Receipt No: C016458  
Received By: REV

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

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

83205

2. Date of Priority: JUN 16, 1898

3. Source: GIBSON JACK CREEK, SOUTH FO Trib. to: GIBSON JACK CREEK  
GIBSON JACK CREEK PORTNEUF RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 | Lot | County  |
|----------|-------|---------|-------------------|-----|---------|
| 07S      | 34E   | 24      | SE SW             |     | BANNOCK |

5. Description of diverting works:  
DIVERSION DAM & PIPELINE TO RESERVOIR

6. Water is used for the following purposes:

| Purpose   | From  | To    | C.F.S. | (or) | A.F.A. |
|-----------|-------|-------|--------|------|--------|
| MUNICIPAL | 01/01 | 12/31 | 7.000  |      |        |

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
M/CITY OF POCATELLO

10. Place of Use:

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

11. Place of use in counties:

A29-04222

Page

1

Date: 04/16/90

MICROFILMED  
NOV 13 1992

A2904222

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

13. Other Water Rights Used:  
SEE ATTACHMENT

14. Remarks:  
SEE ATTACHMENT FOR REMARKS.

15. Basis of Claim: STATUTORY CLAIM

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 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

Konnie 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

REMARKS

The Claimant'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. Right to use such storage facilities is therefore claimed as a part of the surface or ground water claim asserted herein.

**MICROFILMED**

**NOV 13 1992**

81-04000

**BEEMAN & HOFSTETTER, P.C.**

Counselors and Attorneys at Law

608 West Franklin Street

P. O. Box 1427

Boise, Idaho 83701-1427

Josephine P. Beeman

Dana L. Hofstetter

Telephone: (208) 388-8900

Facsimile: (208) 388-8400

E-mail: beehof@micron.net

May 11, 1998

**RECEIVED**

**MAY 15 1998**

Department of Water Resources  
Eastern Region

Idaho Department of Water Resources  
Eastern Regional Office  
Attn: Adjudication Bureau  
900 North Skyline Drive, Suite A  
Idaho Falls, Idaho 83402-1718

Re: Designation of "service area" as place of use  
All SRBA Claims for the City of Pocatello (see attached)

Dear Adjudication Agent:

We request that this letter be included in the adjudication files for the City of Pocatello regarding the designation of place of use for the City's municipal water rights. Specifically, due to statutory amendments in 1996 addressing municipal water rights, the City of Pocatello believes it would be more accurate to describe the place of use of its municipal water rights as "within the service area for the City of Pocatello." This is based upon our review of *Idaho Code* § 42-202B, which provides that the service area can be designated as a place of use for a municipal water right when the service area, although in part outside the corporate limits for the city, is within the city's established planning area and shares a common water distribution system with lands located within the corporate limits. This is true for the City of Pocatello because the areas served outside the corporate limits are within the impact area recognized in the City's comprehensive plan, the State Local Planning Act, and share a common distribution system with lands located within the corporate limits. Although the 1996 statutory change occurred after the filing of the City's municipal water rights in the Snake River Basin Adjudication, the City believes the term "service area" would more accurately define the place of use when these rights are recommended in a Director's Report to the SRBA Court.

# Exhibit B

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 | ) |                                          |
|                | ) | <b>STANDARD FORM 1</b>                   |
|                | ) | <b>OBJECTION</b>                         |
| _____          | ) |                                          |

**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):**

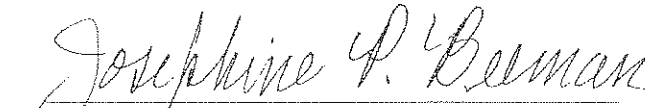
Place of use: Beneficial use of a municipal water right includes all actions necessary to comply with public health and safety standards. The City of Pocatello's municipal service area includes all lands necessary to complete the beneficial use of the municipal water right.

VERIFICATION

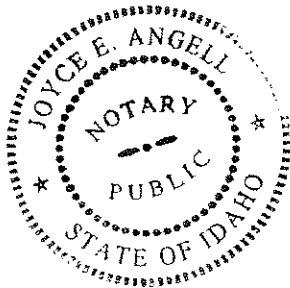
State of Idaho                    )  
                                          ) ss.  
County of Ada                    )

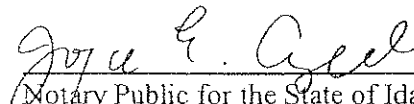
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

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:

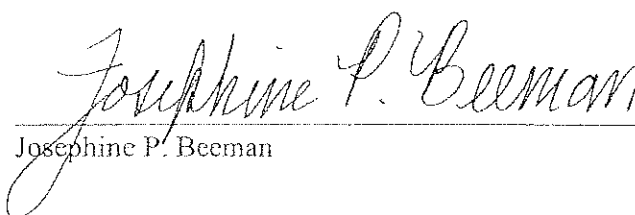
Name: City of Pocatello  
Address: P. O. Box 4169  
Pocatello, ID 83201

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

Attachment A

29-271  
29-272  
29-273  
29-2274  
29-2338  
29-2354  
29-2382  
29-2401  
29-2499  
29-4221  
29-4222  
29-4223  
29-4224  
29-4225  
29-4226  
29-7106  
29-7118  
29-7119  
29-7222  
29-7322  
29-7375  
29-7450  
29-7502  
29-7770  
29-7782  
29-11339  
29-11344  
29-11348  
29-13558  
29-13559  
29-13560  
29-13561  
29-13562  
29-13636  
29-13637  
29-13638  
29-13639

# BEEMAN & ASSOCIATES, P.C.

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

Josephine P. Beeman  
[jp.beeman@beemanlaw.com](mailto:jp.beeman@beemanlaw.com)  
Dana H. Rose  
[dana.rose@beemanlaw.com](mailto:dana.rose@beemanlaw.com)

Phone (208) 331-0950  
Fax (208) 331-0954  
[office@beemanlaw.com](mailto:office@beemanlaw.com)

November 14, 2003

*Via Facsimile (208) 736-2121  
and U.S. Mail*

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

RECEIVED

NOV 17 2003

Department of Water Resources

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

Dear Ms. Delaney:

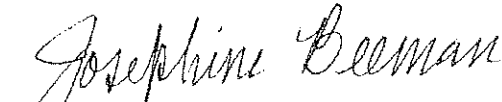
The City of Pocatello is filing objections to 40 water rights listed in the Director's Report for Irrigation and Other Water Rights in Basin 29.

We enclose a chart listing these 40 water rights and the grounds for objections to each. The bolding and notes on the chart explain which water rights are affected by the six group objections and which are affected by the 16 individual water right objections. We hope that this chart facilitates the court's handling of these objections.

The originals and copies for the court to conform have been sent by courier. Please call if we can be of additional help or answer questions. Thank you for your assistance in these matters.

Sincerely,

BEEMAN & ASSOCIATES, P.C.

  
Josephine P. Beeman

JPB:ja  
cc: City of Pocatello  
IDWR Document Depository  
US Department of Justice  
Office of Attorney General  
Enclosure  
Z:\1776\Obj\5998

CITY OF POCATELLO OBJECTIONS FILED NOVEMBER 13, 2003

|          | General Provisions | Municipal POT | Provision Necessary | Corrected Inter-connection | Transfer | Point of Diversion (Surface) | Name and address | Source | Quantity | Priority Date | Points of Diversion/Flow | Purpose of Use | Period of Year | Place of Use |
|----------|--------------------|---------------|---------------------|----------------------------|----------|------------------------------|------------------|--------|----------|---------------|--------------------------|----------------|----------------|--------------|
| 29 271   | X                  | X             |                     |                            |          | X                            |                  |        |          |               |                          |                |                |              |
| 29 272   | X                  | X             |                     |                            |          | X                            |                  |        |          |               |                          |                |                |              |
| 29 273   | X                  | X             |                     |                            |          | X                            |                  |        |          |               |                          |                |                |              |
| 29 2274  | X                  | X             |                     |                            | X        |                              |                  |        |          |               |                          |                |                |              |
| 29 2338  | X                  | X             |                     |                            | X        |                              |                  |        |          |               |                          |                |                |              |
| 29 2354  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 2382  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 2401  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 2499  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 4221  | X                  | X             |                     |                            |          |                              |                  |        |          | X             |                          |                |                |              |
| 29 4222  | X                  | X             |                     |                            |          | X                            |                  |        | X        |               |                          |                |                |              |
| 29 4223  | X                  | X             |                     |                            |          |                              |                  |        | X        |               |                          |                |                |              |
| 29 4224  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 4225  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 4226  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 7106  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 7118  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          | X              |                | X            |
| 29 7119  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          | X              |                | X            |
| 29 7222  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 7322  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 7375  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 7431  | X                  | X             |                     |                            | X        |                              |                  |        | X        |               |                          | X              |                | X            |
| 29 7450  | X                  | X             |                     |                            |          |                              |                  |        |          |               | X                        |                |                |              |
| 29 7502  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 7770  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          | X              |                | X            |
| 29 7782  | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 11339 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 11344 | X                  | X             |                     |                            |          |                              |                  |        |          |               | X                        |                |                |              |
| 29 11348 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 11608 | X                  | X             |                     |                            |          |                              |                  |        |          |               | X                        |                |                | X            |
| 29 12877 | X                  | X             |                     |                            |          |                              |                  |        | X        |               | X                        | X              | X              | X            |
| 29 13558 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 13559 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 13560 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 13561 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 13582 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 13636 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                |              |
| 29 13637 | X                  | X             |                     |                            |          |                              |                  |        |          |               |                          |                |                | X            |
| 29 13638 | X                  | X             |                     |                            |          |                              |                  |        |          |               | X                        |                |                |              |
| 29 13639 | X                  | X             |                     |                            |          |                              |                  |        |          | X             |                          |                |                |              |

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

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

# Exhibit C

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 | ) |                                     |
|                | ) | <b>STANDARD FORM 1</b>              |
|                | ) | <b>OBJECTION</b>                    |
| _____          | ) |                                     |

**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

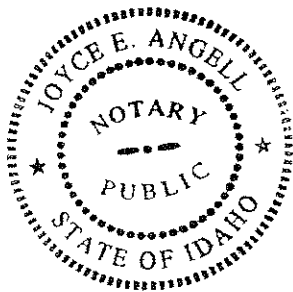
State of Idaho                     )  
                                              )ss.  
County of Ada                    )

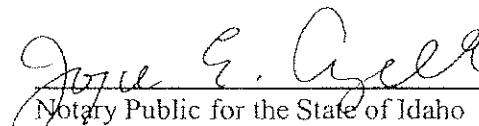
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

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:

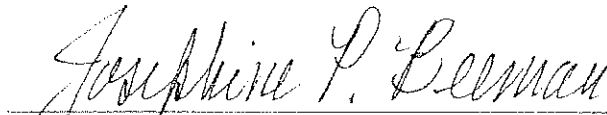
Name: City of Pocatello  
Address: P. O. Box 4169  
Pocatello, ID 83201

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

Attachment A

[List of each water right]

29-271  
29-272  
29-273  
29-2274  
29-2338  
29-2354  
29-2382  
29-2401  
29-2499  
29-4221  
29-4222  
29-4223  
29-4224  
29-4225  
29-4226  
29-7106  
29-7118  
29-7119  
29-7222  
29-7322  
29-7375  
29-7431  
29-7450  
29-7502  
29-7770  
29-7782  
29-11339  
29-11344  
29-11348  
29-13558  
29-13559  
29-13560  
29-13561  
29-13562  
29-13636  
29-13637  
29-13638  
29-13639

# BEEMAN & ASSOCIATES, P.C.

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

Josephine P. Beeman  
[jo.beeman@beemanlaw.com](mailto:jo.beeman@beemanlaw.com)  
Dana H. Rose  
[dana.rose@beemanlaw.com](mailto:dana.rose@beemanlaw.com)

Phone (208) 331-0950  
Fax (208) 331-0954  
[office@beemanlaw.com](mailto:office@beemanlaw.com)

November 14, 2003

*Via Facsimile (208) 736-2121  
and U.S. Mail*

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

RECEIVED  
NOV 14 2003  
Department of Water Resources

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

Dear Ms. Delaney:

The City of Pocatello is filing objections to 40 water rights listed in the Director's Report for Irrigation and Other Water Rights in Basin 29.

We enclose a chart listing these 40 water rights and the grounds for objections to each. The bolding and notes on the chart explain which water rights are affected by the six group objections and which are affected by the 16 individual water right objections. We hope that this chart facilitates the court's handling of these objections.

The originals and copies for the court to conform have been sent by courier. Please call if we can be of additional help or answer questions. Thank you for your assistance in these matters.

Sincerely,

BEEMAN & ASSOCIATES, P.C.

  
Josephine P. Beeman

JPB:ja  
cc: City of Pocatello  
IDWR Document Depository  
US Department of Justice  
Office of Attorney General  
Enclosure  
Z:\1776\Obj\5998

CITY OF POCA TELLO OBJECTIONS FILED NOVEMBER 13, 2003

| General<br>Provision | Municipal<br>Provision<br>(PO) | Provisions<br>Necessity | Correct Inter-<br>connection | Accomplished<br>Transfer | Point of<br>Diversion<br>(Surface) | Name<br>and<br>address | Source | Quantity | Priority<br>Date | Points of<br>Diversion<br>Flow | Purpose<br>of Use | Period of<br>Year | Place of<br>Use |
|----------------------|--------------------------------|-------------------------|------------------------------|--------------------------|------------------------------------|------------------------|--------|----------|------------------|--------------------------------|-------------------|-------------------|-----------------|
| 29 271               | X                              |                         |                              |                          | X                                  |                        |        |          |                  |                                |                   |                   |                 |
| 29 272               | X                              |                         |                              |                          | X                                  |                        |        |          |                  |                                |                   |                   |                 |
| 29 273               | X                              |                         |                              |                          | X                                  |                        |        |          |                  |                                |                   |                   |                 |
| 29 274               | X                              |                         |                              |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 2338              | X                              |                         | X                            | X                        |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 2354              | X                              |                         | X                            | X                        |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 2382              | X                              |                         |                              |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 2401              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 2499              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 3223              | X                              |                         | X                            |                          |                                    |                        |        |          | X                |                                |                   |                   |                 |
| 29 4232              | X                              |                         |                              |                          | X                                  |                        |        | X        |                  |                                |                   |                   |                 |
| 29 4233              | X                              |                         | X                            |                          |                                    |                        |        | X        |                  |                                |                   |                   |                 |
| 29 4274              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 4225              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 4226              | X                              |                         | X                            |                          |                                    |                        |        | X        |                  |                                |                   |                   |                 |
| 29 7106              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 7118              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   | X               |
| 29 7139              | X                              |                         |                              |                          |                                    |                        |        |          |                  |                                |                   |                   | X               |
| 29 7222              | X                              |                         |                              |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 7322              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 7375              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 7434              | X                              |                         |                              | X                        |                                    |                        |        | X        |                  |                                |                   |                   |                 |
| 29 7450              | X                              |                         | X                            |                          |                                    |                        |        |          |                  | X                              |                   |                   | X               |
| 29 7502              | X                              |                         |                              |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 7770              | X                              |                         |                              |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 7782              | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   | X               |
| 29 11339             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 11344             | X                              |                         | X                            |                          |                                    |                        |        |          |                  | X                              |                   |                   |                 |
| 29 11348             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 11009             |                                |                         |                              |                          |                                    |                        |        | X        |                  |                                |                   |                   |                 |
| 29 12877             |                                |                         |                              |                          |                                    |                        |        | X        |                  |                                |                   |                   |                 |
| 29 13558             | X                              |                         | X                            |                          |                                    | X                      |        | X        |                  |                                |                   |                   | X               |
| 29 13559             | X                              |                         | X                            |                          |                                    |                        |        |          | X                |                                |                   |                   | X               |
| 29 13560             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 13561             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 13562             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 13566             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 13637             | X                              |                         | X                            |                          |                                    |                        |        |          |                  |                                |                   |                   |                 |
| 29 13638             | X                              |                         | X                            |                          |                                    |                        |        |          |                  | X                              |                   |                   |                 |
| 29 13639             | X                              |                         | X                            |                          |                                    |                        |        |          | X                |                                |                   |                   |                 |

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

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

# Exhibit D

# SRBA

## SUBCASE SUMMARY REPORT 29-07770

[Return to SRBA Home Page](#)

SRBA  
12-21-2006

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 29-07770      FILE#: 00313  
CLAIMANT: CITY OF POCA TELLO  
PO BOX 4169

POCA TELLO      ID      83205  
STATUS: TRIAL SET      SPECIAL MASTER: BILYEU, BRIGETTE  
WATER SOURCE: GROUND WATER  
ISSUES: SOURCE OF WATER  
QUANTITY OF WATER USED  
PRIORITY DATE  
PURPOSE OF USE DESCRIPTION  
PLACE OF USE OR IRRIGATED ACRES IN EACH 40 A.  
0

### \*\*\*\* PARTIES INVOLVED \*\*\*\*

|                            |                                     |
|----------------------------|-------------------------------------|
| CITY OF POCA TELLO         | C ATTY: JOSEPHINE P. BEEMAN         |
| CITY OF POCA TELLO         | O ATTY: JOSEPHINE P. BEEMAN         |
| STATE OF IDAHO             | R ATTY: NATURAL RESOURCES DIV CHIEF |
| UNITED STATES OF AMERICA   | R ATTY: US DEPARTMENT OF JUSTICE    |
| AMERICAN FALLS RESERVOIR   | R ATTY: C. THOMAS ARKOOSH           |
| TWIN FALLS CANAL COMPANY   | R ATTY: TRAVIS L THOMPSON           |
| NORTH SIDE CANAL COMPANY   | R ATTY: TRAVIS L THOMPSON           |
| MILNER IRRIGATION DISTRICT | R ATTY: TRAVIS L THOMPSON           |
| A & B IRRIGATION DISTRICT  | R ATTY: ROGER D LING                |
| BURLEY IRRIGATION DISTRICT | R ATTY: ROGER D LING                |
| MINIDOKA IRRIGATION DISTRI | R ATTY: W. KENT FLETCHER            |
| AMERICAN FALLS RESERVOIR   | I ATTY: C. THOMAS ARKOOSH           |
| MILNER IRRIGATION DISTRICT | I ATTY: TRAVIS L THOMPSON           |
| NORTH SIDE CANAL COMPANY   | I ATTY: TRAVIS L THOMPSON           |
| TWIN FALLS CANAL COMPANY   | I ATTY: TRAVIS L THOMPSON           |
| A & B IRRIGATION DISTRICT  | I ATTY: ROGER D LING                |
| BURLEY IRRIGATION DISTRICT | I ATTY: ROGER D LING                |
| MINIDOKA IRRIGATION DISTRI | I ATTY: W. KENT FLETCHER            |

### \*\*\*\* ROA ENTRIES \*\*\*\*

|            |                                               |    |            |      |
|------------|-----------------------------------------------|----|------------|------|
| 11-14-2003 | OBJ 01 F/B CITY OF POCA TELLO                 | RB | 01-16-2004 | 0001 |
| 11-18-2003 | ORIGINAL OBJ 1 SUBMITTED TO COURT 11/14/03    |    |            |      |
|            | DID NOT CONFORM TO OBJ FORMAT                 |    |            |      |
| 11-19-2003 | AMENDED OBJ 02 F/B CITY OF POCA TELLO         | RB | 01-16-2004 | 0002 |
| 01-15-2004 | RESPONSE TO OBJ 0002 F/B STATE OF IDAHO       |    | 01-15-2004 | 0001 |
| 01-16-2004 | RESPONSE TO OBJ 0002 F/B UNITED STATES OF AME |    |            | 0002 |
| 01-30-2004 | ORIGINAL CLAIM FILED                          |    |            |      |
| 03-24-2004 | NOTICE SETTING INITIAL HEARING                | IS | 04-21-2004 | 0230 |
| 04-21-2004 | HEARING HELD                                  | HH | 04-21-2004 | 0230 |