



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

February 8, 2007

Special Master Brigitte Bilyeu
Snake River Basin Adjudication
253 3rd Ave. North
P.O. Box 2707
Twin Falls, ID 83303-2707

Via Facsimile to 736-3078

Re: City of Pocatello Subcases (See "Attachment A")

Dear Special Master Bilyeu:

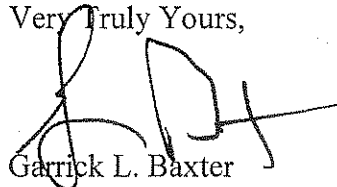
In your *Order on Summary Judgment* issued on August 18, 2006, the above subcases were remanded to the Idaho Department of Water Resources (IDWR). The subcases were remanded for the purpose of allowing the City of Pocatello to present additional evidence and information to IDWR regarding conditions recommended by IDWR on the City's water rights. On September 1, 2006, an *Order Granting Pocatello's Motion to Stay Deadlines* was entered to allow settlement negotiations to continue between IDWR and the City of Pocatello. Settlement discussions were unsuccessful and an *Order Setting Deadlines Relating to Remand*, issued on January 22, 2007, imposed new deadlines. The deadlines included a January 31, 2007 deadline for the hearing on remand to occur, or in the alternative, for a written stipulation that the hearing requirements of remand on I.C. § 42-1425 have been met. A deadline of February 9, 2007 was also given for IDWR to file a *Supplemental Director's Report*.

Pursuant to the *Order Setting Deadlines Relating to Remand*, IDWR set, and provided notice for, the remand hearing. Subsequently, the *Parties' Stipulation Regarding Idaho Code § 42-1425 Remand* was filed with IDWR and the Court on January 26, 2007. In this Stipulation, the parties waived any and all objections to the hearing, or lack thereof, required by I.C. § 42-1425, with the determination of these issues proceeding in accordance with the existing trial schedule and the record before the Court.

IDWR has not received any substantial evidence or information from the City of Pocatello with regard to injury or the conditions at issue. The *Supplemental Director's Report* filed on March 17, 2006 accurately describes IDWR's basis for recommending

this condition. Accordingly, IDWR does not intend to submit the additional *Supplemental Director's Report*, as no new evidence has been provided to change its previous determination and the basis of these recommendations have already been submitted.

Very Truly Yours,

A handwritten signature in black ink, appearing to be "G. Baxter", written over the typed name.

Garrick L. Baxter
Deputy Attorney General, IDWR

cc: Service List
Carter Fritschle

Attachment A

29-00271
29-00272
29-0027
29-02274
29-02338
29-02354
29-02382
29-02401
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29-04221
29-04222
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29- 04225
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of February, 2007, the above and foregoing, was served by the method indicated below, and addressed to the following:

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UNITED STATES OF AMERICA

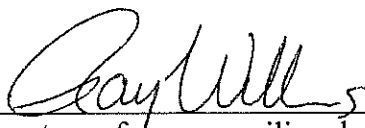
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signature of person mailing document