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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 SRBA

Subcase No. 1-2068

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: 208-234-6149

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: United States of America Acting Through  
Regional Director PN Region  
Bureau of Reclamation PN-3100  
Address: 1150 N. Curtis Road  
Suite 100  
Boise, Idaho 83706-1234

I object to the following elements as recommended in the Director's Report:

1. ☒ **Name and Address**  
Should include acknowledgement of the use of the water under Pocatello's contract that is held by the City of Pocatello as consumer or user of the water
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 include uses from Pocatello's contract:  

|                         | (both dates are inclusive) | (acre feet) |
|-------------------------|----------------------------|-------------|
| Municipal Storage       | 01-01 to 12-31             | 50,000 afa  |
| Municipal from Storage  | 01-01 to 12-31             | 50,000 afa  |
| Irrigation Storage      | 01-01 to 12-31             | 50,000 afa  |
| Irrigation from Storage | 04-01 to 11-01             | 50,000 afa  |
| Power Storage           | 01-01 to 12-31             | 50,000 afa  |
| Power from Storage      | 01-01 to 12-31             | 50,000 afa  |
| Domestic Storage        | 01-01 to 12-31             | 50,000 afa  |
| Domestic from Storage   | 01-01 to 12-31             | 50,000 afa  |
| Industrial Storage      | 01-01 to 12-31             | 50,000 afa  |
| Industrial from Storage | 01-01 to 12-31             | 50,000 afa  |
| Commercial Storage      | 01-01 to 12-31             | 50,000 afa  |
| Commercial from Storage | 01-01 to 12-31             | 50,000 afa  |
| Recharge Storage        | 01-01 to 12-31             | 50,000 afa  |
| Recharge from Storage   | 01-01 to 12-31             | 50,000 afa  |
| Mitigation Storage      | 01-01 to 12-31             | 50,000 afa  |
| Mitigation from Storage | 01-01 to 12-31             | 50,000 afa  |

8. ☒ **Period of Year**  
Should be designated for Pocatello's contract uses:  

|                         | (both dates are inclusive) |
|-------------------------|----------------------------|
| Municipal Storage       | 01-01 to 12-31             |
| Municipal from Storage  | 01-01 to 12-31             |
| Irrigation Storage      | 01-01 to 12-31             |
| Irrigation from Storage | 04-01 to 11-01             |
| Power Storage           | 01-01 to 12-31             |
| Power from Storage      | 01-01 to 12-31             |

|                         |                |
|-------------------------|----------------|
| Domestic Storage        | 01-01 to 12-31 |
| Domestic from Storage   | 01-01 to 12-31 |
| Industrial Storage      | 01-01 to 12-31 |
| Industrial from Storage | 01-01 to 12-31 |
| Commercial Storage      | 01-01 to 12-31 |
| Commercial from Storage | 01-01 to 12-31 |
| Recharge Storage        | 01-01 to 12-31 |
| Recharge from Storage   | 01-01 to 12-31 |
| Mitigation Storage      | 01-01 to 12-31 |
| Mitigation from Storage | 01-01 to 12-31 |

9 ☒ **Place of Use**

For all purposes related to Pocatello's contract place of use should include: The place of use consists of two areas. One area consists of the lands located within the service area for the City of Pocatello. A map of the City's service area is included with the IDWR files for the City of Pocatello's state law SRBA claims (29-00271 et seq.). The other area consists of those lands located within the Snake River drainage below Palisades Reservoir that have or may in the future receive water from the City of Pocatello's Palisades Reservoir storage right through mitigation or through rental or lease from the City of Pocatello.

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. This objection is made pursuant to the contractual rights of the City of Pocatello under the contract it entered into with the U.S. Bureau of Reclamation under Contract No. 14-06-100-1825 dated January 8, 1960 (hereinafter Contract). Under the Contract, the City of Pocatello is entitled to 4.1667% of the reservoir capacity, which is 50,000 acre feet at the estimated active capacity of 1,200,000 acre feet. This water was acquired by the City to mitigate and replace to the Snake River, in accordance with applicable law, out-of-priority depletions attributable to the City's diversion of ground water and surface water for municipal uses within the City's service area. In accordance with applicable law and the terms of the Contract, water withdrawn from the City's wells or diverted at the City's headgates is replaced to the Snake River using the City's Palisades Reservoir water. In addition, the City may rent its Palisades Reservoir water to other users for irrigation, power, domestic, municipal, industrial, commercial, mitigation, and recharge purposes on an annual basis pursuant to the terms of the Contract. The City provides water to numerous landowners through mitigation, lease, and/or rental of its Palisades Reservoir storage right. The City also owns certain property located within its service area.

2 Claim 01-02068 was only claimed and recommended in the SRBA for storage water in Palisades Reservoir for the limited purposes of irrigation and power. Pursuant to Article 24 of the Contract, Pocatello files this objection to ensure that the full nature and extent of the City's Palisades storage right is properly decreed in the SRBA.

3 Number 5 of the Conditions of Approval for recommendation 01-2068 needs to reflect that as a matter of Idaho constitutional and statutory law, title to the use of the water under Pocatello's Contract is held by the City of Pocatello as consumer or user of the water. The Idaho Supreme Court in *United States of America v Pioneer Irrigation District, et al*, Docket No. 31790 (In Re SRBA Case No. 39576 (Subcase 91-63)), March 9, 2007, affirmed the equitable title of those who make beneficial use of storage water in U. S. Bureau of Reclamation facilities.

4 The conditions of approval should confirm the usual and customary historical administration of this water right.

**VERIFICATION**

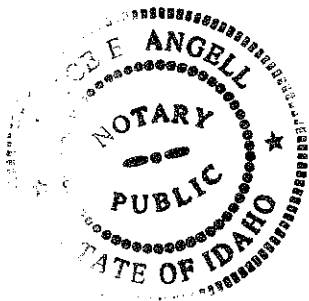
State of Idaho                     )  
                                              ) ss  
County of Ada                    )

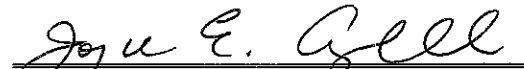
Josephine P. Beeman, duly sworn, upon oath, deposes and says:

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: April 9, 2007



  
\_\_\_\_\_  
Notary Public for the State of Idaho  
Residing at: Boise, Idaho  
My Commission Expires: July 29, 2008

## CERTIFICATE OF MAILING

I certify that on April 19, 2007, 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:

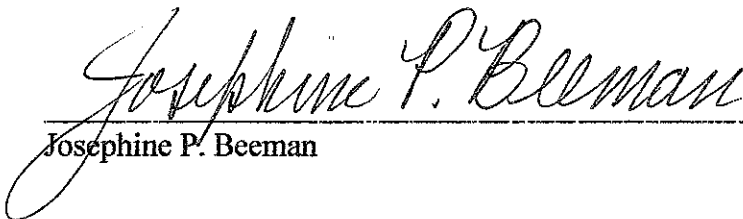
Name: United States of America Acting Through  
Regional Director PN Region  
Bureau of Reclamation PN-3100  
Address: 1150 N. Curtis Road  
Suite 100  
Boise, Idaho 83706-1234

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