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DEPARTMENT OF
NATURAL RESOURCES

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

In Re SRBA	)	Subcase Nos. 29-00271, <i>et al.</i> (see attached Exhibit A)
	)	
	)	
	)	
Case No. 39576	)	STATE OF IDAHO'S MOTION TO STRIKE
	)	AFFIDAVIT OF JOSEPHINE P. BEEMAN IN
	)	SUPPORT OF POCATELLO'S POST-TRIAL BRIEF
	)	
	)	

The State of Idaho moves this Court for an order striking the *Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief*. The grounds for this motion are as follows:

1. This Court entered its *Eighth Amended Trial Scheduling Order* on November 21, 2006 and set this matter for five days of trial commencing on February 26, 2007. When the trial did not conclude on that date, the Court entered its *Notice Setting Hearing* on March 6, 2007, which set the matter for one additional day of trial on March 8, 2007. The trial concluded on March 8, 2007.

2. I.R.C.P. 16(d) provides that "such order when entered shall control the subsequent course of the action, unless modified at trial to prevent manifest injustice." The City has not obtained an amendment of the *Eighth Amended Trial Scheduling Order* that would allow the presentation of additional evidence after the conclusion of the trial.

3. The *State of Idaho's Brief in Support of Motion to Strike Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief* is lodged contemporaneously with this motion.

PRAYER FOR RELIEF

1. That the district court set this *Motion to Strike Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief* for hearing on May 4, 2007 at 10:00 a.m. or at such time as counsel may be heard.

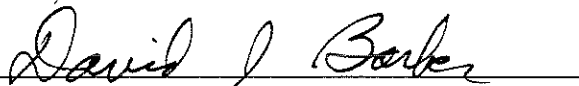
2. That the district court enter an *Order Striking the Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief*.

3. That the district court grant such other and further relief as it deems proper and just.

RESPECTFULLY SUBMITTED this 3rd day of May 2007.

STATE OF IDAHO
LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
DEPUTY ATTORNEY GENERAL
CHIEF, NATURAL RESOURCES DIVISION



DAVID J. BARBER
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I certify that on this 3rd day of May 2007, I caused to be served the original and/or copy of the STATE OF IDAHO'S MOTION TO STRIKE AFFIDAVIT OF JOSEPHINE P. BEEMAN IN SUPPORT OF POCA TELLO'S POST-TRIAL BRIEF on each of the following persons by the indicated method:

1. One Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

- ☐ U.S. Mail, postage prepaid
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2. Copies to

Special Master Brigitte Bilyeu
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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City of Pocatello
c/o Josephine P. Beeman
BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, ID 83702

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United States Department of Justice
Environment and Natural Resource
Division
550 West Fort Street, MSC 033
Boise, ID 83724

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Jeanette Wolfley
Attorney at Law
202 North Arthur
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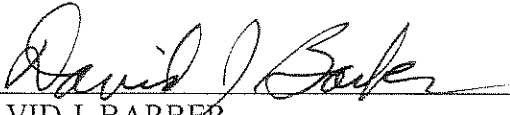
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Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

Not Applicable



DAVID J. BARBER
Deputy Attorney General

EXHIBIT A

Subcase Numbers

29-00271
29-00272
29-00273
29-02274
29-02338
29-02401
29-02499
29-04221
29-04222
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29-04226
29-07106
29-07118
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