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DEPARTMENT OF
WATER 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

Case No. 39576

)
) **Subcase Nos.: SEE EXHIBIT A**
)
) **JOINT RESPONSE TO CITY OF**
) **POCATELLO'S MOTION TO**
) **PARTICIPATE**
)
)

COME 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 (for purposes of this response collectively referred to
JOINT RESPONSE TO CITY OF POCATELLO'S MOTION TO PARTICIPATE

as the “Coalition”), by and through counsel of record, and submit this *Joint Response to the City of Pocatello’s Motion to Participate*, in the above captioned subcases. For the following reasons, the Coalition does not object to Pocatello’s participation in this matter.

Pocatello has indicated in both its *Motion to Participate* and its *Memorandum in Support of Motion to Participate* that it “agrees to be limited to the issues previously identified by the claimants and objectors to this matter.” *Motion* at 2; *Memo* at 5 (“Pocatello agrees to be limited to the issues raised by other parties to this matter”).¹ Pocatello further asserts that its participation “will not prejudice existing parties,” *Memo* at 5, and that its intervention “will not unduly delay nor prejudice the adjudication of the rights,” *Motion* at 2.

The Coalition does not object to Pocatello’s participation, provided any order granting participation limits and holds Pocatello to its representations in its *Motion*. Furthermore, the Coalition does not object to Pocatello’s participation provided Pocatello does not seek to disqualify the Special Master or otherwise disrupt these proceedings. *See AFRD#2, et al. v. IDWR, et al.*, 143 Idaho 862, 154 P.3d 433, 452-53 (2007) (wherein the Coalition agreed to withhold objection to Pocatello’s intervention after Pocatello made similar representations to the district court and parties. Notwithstanding Pocatello’s representations to the court in that case, after Pocatello was granted permissive intervention it then filed a motion to disqualify the presiding judge, Judge R. Barry Wood. Judge Wood recognized Pocatello’s misrepresentations and revoked Pocatello’s intervenor status – allowing the city to participate as amicus only. The Supreme Court upheld Judge Wood’s decision on this issue).

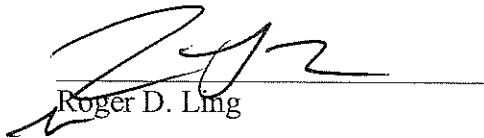
¹ Notwithstanding its claim to be “limited to the issues raised by other parties to this matter,” Pocatello has filed a *Motion to Amend Objection* on water rights 01-00212 and 01-00213, among others not listed on Pocatello’s “Exhibit A.” These motions are filed with the express intent to “broaden [Pocatello’s] objections” to the relative water rights. The Coalition opposes these motions, in part, as being directly contrary to Pocatello’s express representations in its *Motion to Participate* and supporting memorandum.

Accordingly, so long as Pocatello's participation will not expand the issues, prejudice the parties or cause undue delay, as it has expressly represented, the Coalition does not object to Pocatello's *Motion*. The Coalition requests any order granting Pocatello's participation include the following conditions:

- 1) Pocatello's participation is limited to the issues already raised by the claimants and objectors.
- 2) Pocatello accepts the appointment of the Special Master to these subcases and agrees not to disqualify the judge for any reason.

DATED this 13th day of March, 2008.

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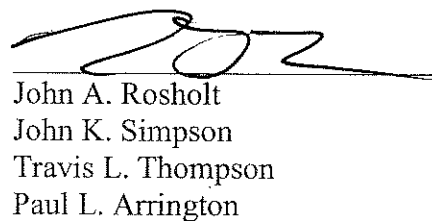
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CERTIFICATE OF MAILING

I certify that on March 13, 2008, I mailed the original and copies of the foregoing motion, including all exhibits, to the following persons:

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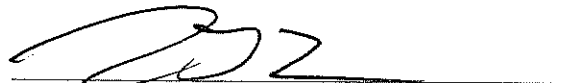

Travis L. Thompson

EXHIBIT A

SUBCASES:

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