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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
DEC 30 2008	
By _____	Clerk Deputy Clerk

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION ON
Case No. 39576	)	POCATELLO'S MOTION FOR
	)	RECONSIDERATION OF EIGHT (8)
	)	PARTIAL DECREES
	)	
	)	SUBCASE NOS.: 29-2354, 29-2382,
	)	29-7222, 29-7431, 29-7502, 29-7782,
	)	29-11344, 29-13636

On July 31, 2007, the City of Pocatello filed a *Motion for Reconsideration of Eight (8) Partial Decrees*. Hearings on the *Motion* were held October 10, 2007, July 9, 2008, and December 17, 2008. The eight (8) *Partial Decrees* that Pocatello seeks to have set aside are from 38 claims it filed in the SRBA based on state law.

On the first day of the trial for the 38 claims, Pocatello and other parties represented that the eight (8) subcases had reached settlement. The parties agreed that the eight (8) subcases should have the same elements as set forth in the *Director's Report*. Thus, the eight (8) subcases were not contested at trial, and a *Special Master's Report and Recommendation* was issued on April 13, 2007.

Pocatello did not file *Motions to Alter or Amend* or *Challenges* for these subcases. *Partial Decrees* were issued by the Presiding Judge on July 16, 2007. Subsequently, Pocatello filed the *Motion for Reconsideration of Eight (8) Partial Decrees*. The *Motion to Reconsider* was based solely on the ongoing appeal of Pocatello's federal-law claims because it was asserted that if Pocatello prevailed on that theory, it could impact all of the state-based claims. "Pocatello's federal-law SRBA claim 29-11609 is currently on appeal to the Idaho Supreme Court. That appeal may moot these 8 partial decrees or may require the eight (8) partial decrees to be modified to be consistent with the mandate in the appeal." *Motion for Reconsideration* at 1. The

appeal of Pocatello's federal-law theory was finalized after the U.S. Supreme Court denied Pocatello's *Writ of Certiorari* in December 2008.

Therefore, after considering the *Motion* and the record for these subcases, the court finds no reason to delay proceedings. Therefore, IT IS RECOMMENDED that the *Motion for Reconsideration* be **denied**.

Dated: December 29, 2008.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND RECOMMENDATION ON POCATELLO'S MOTION FOR RECONSIDERATION OF (8) PARTIAL DECREES was mailed on December 30, 2008, with sufficient first-class postage to the following:

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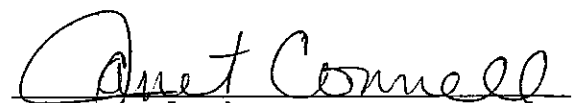
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