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RECEIVED

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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 Numbers: See Attachment
A ["Minidoka Credit Remark"]**

**CITY OF POCATELLO'S MOTION
TO WITHDRAW OBJECTION TO
MINIDOKA CREDIT REMARK**

The City of Pocatello hereby moves to withdraw its objection to the Minidoka Credit Remark. On April 19, 2007, Pocatello filed objections in the sub-cases listed in Exhibit A regarding, *inter alia*, the Minidoka Credit remark. The Exhibit A sub-cases were grouped together for trial in the SRBA on the limited issue of the "Minidoka Credit Remark", with trial scheduled to begin May 20, 2009. *See* Amended Trial Scheduling Order of November 4, 2008.

At the May 14, 2009 pretrial conference before this Court counsel for the Idaho Department of Water Resources (IDWR) represented that the Director intends to change the Remark included in the Director's 2006 Amended Report for the sub-cases identified in Exhibit A. At that time, Counsel for IDWR represented that the remark will read as follows:

The administration of this right is further defined and set forth in the Settlement Agreement for Determining Natural Flow Pursuant to Foster Decree, signed on February 14, 2006 and recorded as instrument number [insert recording number] in [insert county] Recorder's Office, in [insert county], Idaho.

Subsequently, in an email on May 18, 2009, counsel for IDWR represented that the remark will now read as follows:

The operation, use and administration of this water right is subject to the terms and conditions of the Settlement Agreement signed on February 14, 2006 with Minidoka Irrigation District, Burley Irrigation District, Twin Falls Canal Company, North Side Canal Company and American-Falls Reservoir District #2 and recorded in the Bonneville County Recorder's Office as Instrument No. _____.

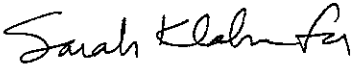
Pocatello withdraws its objection to the Minidoka Credit Remark so long as the substance of the above-described remark, disclosed in the May 18, 2009 email, is included in any partial decree in this matter rather than the Director's remark as disclosed by IDWR in the Amended Director's Report dated December 19, 2006.

This withdrawal is effective only with respect to trial on the Minidoka Credit Remark, and does not operate to withdraw the City's objections on other issues involved in these subcases that have been set for separate trials.

Pocatello is authorized to say that the Claimants, IDWR, the State of Idaho, the Ground Water Districts, and the United States Bureau of Reclamation consent to the City's withdrawal.

Dated this 18th of May, 2009.

CITY OF POCATELLO ATTORNEY'S
OFFICE

By 
A. Dean Tranmer, ISB #2793

WHITE & JANKOWSKI, LLP

By 
Sarah Klahn, ISB #7928

Attorneys for the City of Pocatello

ATTACHMENT A = "MINIDOKA CREDIT REMARK" subcases

Subcase Nos:

01-00209
01-00210
01-00211A
01-00211B
01-00212
01-00213
01-00214A
01-00214B
01-00217
01-00218
01-00219
01-10187
01-10188
01-10192
01-10194

CERTIFICATE OF MAILING/SERVICE

I hereby certify that on this 18th day of May, 2009, a true and correct copy of **CITY OF POCA TELLO'S MOTION TO WITHDRAW OBJECTION TO MINIDOKA CREDIT REMARK** for [Minidoka Credit Remark Subcases was served by email to those with email addresses and U.S. Mail, postage pre-paid and addressed to the following:



Sarah A. Klahn

Clerk of SRBA Court 253 3 rd Ave North Twin Falls ID 83303-2707 VIA FAX 208-736-2121 [15 copies via mail]	IDWR Repository PO Box 83720 Boise ID 83720-0098
John A. Rosholt John K. Simpson Travis L. Thompson Barker Rosholt & Simpson LLP PO Box 485 Twin Falls ID 83303-0485 Facsimile 208-735-2444 [North Side Canal Co, Twin Falls Canal Co] jar@idahowaters.com jks@idahowaters.com tlr@idahowaters.com	Roger D. Ling Attorney at Law PO Box 623 Rupert ID 83350 Facsimile: 208-436-6804 [A&B Irr Dist, Burley Irr Dist, Falls Irr Dist] rdl@idlawfirm.com
John K. Simpson 1010 W Jefferson Ste 102 PO Box 2139 Boise ID 83701-2139 [Idaho Power Co] jks@idahowaters.com	W. Kent Fletcher Fletcher Law Office PO Box 248 Burley ID 83318 Fax: 208-878-2548 [Minidoka Irr Dist] wkf@pmt.org
Jerry R. Rigby Rigby Andrus & Moeller 25 N 2 nd E PO Box 250 Rexburg ID 83440-0250 [Blackfoot Irr Co, Fremont-Madison Irr; United Canal Co] jrigby@rex-law.com	Randall C. Budge Candice McHugh Racine Olson Nye Budge & Bailey 101 S Captiol Blvd Ste 208 Boise ID 83702 Fax: 208-433-0167 ["Groundwater Districts"] rcb@racinelaw.net cmm@racinelaw.net

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United States of America Regional Director PN Region Bureau of Reclamation 1150 N Curtis Rd Ste 100 Boise ID 83706-1234 Phone: 208-378-5322	State of Idaho – Natural Resources Div Chief 700 W Jefferson Room 210 PO Box 44449 Boise ID 83711-4449 Phone: 208-334-2400 [State of Idaho]
US Department of Justice Environment & Natural Resources 550 W Fort St MSC 033 Boise ID 83724 [US, USDI Bureau of Reclamation]	James S. Lochhead Brownstein Hyatt 410 – 17 th St Ste 2200 Denver CO 80202 [Idaho Power Co]