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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	)	Subcase Nos. 29-00271, <i>et al.</i> (see attached Exhibit A)
	)	
	)	
	)	STATE OF IDAHO'S RESPONSE TO CITY OF
Case No. 39576	)	POCATELLO'S MOTION TO ALTER OR AMEND
	)	
	)	
	)	

COMES NOW, the State of Idaho, by and through the undersigned deputy attorney general and submits the STATE OF IDAHO'S RESPONSE TO THE CITY OF POCATELLO'S MOTION TO ALTER OR AMEND in the above-entitled matter.

BACKGROUND

This controversy relates to the determination of water rights claimed in the SRBA by the City of Pocatello, hereinafter "Pocatello." After Pocatello filed Objections to the recommendations of the Director of the Idaho Department of Water Resources ("IDWR"), there followed summary judgment proceedings and a trial. On October 2, 2007, the Special Master issued a Special Master's Report and Recommendation in which she recommended that 1) a

STATE OF IDAHO'S RESPONSE TO CITY OF POCATELLO'S MOTION TO ALTER OR
AMEND

remark identifying the original location, date and quantity of water rights with multiple points of diversion established under Idaho Code § 42-1425 was necessary to prevent injury to existing water rights, 2) ground water wells could not be claimed as alternative points of diversion for Pocatello's surface water rights, 3) water right 29-7770 should be decreed with an irrigation purpose of use, and 4) the priority dates for water rights 29-13558 and 29-13639 should be July 16, 1924 and October 21, 1952, respectively.

On October 30, 2007, Special Master Bilyeu issued an Amended Master's Report, amending the place of use description for Pocatello's municipal rights. Pocatello filed a Motion to Alter or Amend the Amended Master's Report, which was denied in a May 28, 2008 Order Denying Motion to Alter or Amend. Subsequently, on June 11, 2008, Pocatello filed a Notice of Challenge to the Amended Master's Report. The Challenge was heard on August 13, 2009, after which Pocatello requested additional briefing, which was concluded on September 18, 2009. On November 9, 2009, the Court issued its Memorandum Decision and Order on Challenge. The Decision denied the Challenge, affirming the Special Master's Report and adopting the findings of fact and conclusions of law therein as its own. The Decision was certified as a final judgment for appeal, pursuant to I.R.C.P. Rule 54(b).

On November 23, 2009, Pocatello filed the Motion to Alter or Amend, or in the alternative, Motion to Reconsider, which is currently before this Court.

SUMMARY

In its original Challenge before this Court, Pocatello sought the following dispositions: (1) removal of a condition on 21 ground water rights for the Pocatello's interconnected well systems; (2) the decree of 23 alternate points of diversion for the afore-mentioned 21 ground water rights as well as 4 surface water rights; (3) a municipal purpose of use designation for

water right 29-7770; and (4) priority dates of 1905 and 1940 for water rights 29-13558 and 29-13639, respectively. After full briefing and oral argument, the Court denied each of Pocatello's requests and affirmed the Amended Master's Report in its entirety. Now, the City, in effect, is seeking rehearing of every one of the issues raised in its Challenge. In addition, Pocatello presents new issues and legal theories for this Court to decide—despite the fact that a final judgment has been entered.

The State will first address the procedural defects of Pocatello's pleading, and then will discuss why it is improper for the City to introduce new issues and legal theories at this stage in the proceeding. Although the State maintains that these new issues are not properly before the Court, it will address the merits of these new issues. Finally, the State will briefly address Pocatello's treatment of issues previously pled and decided by the Court.

ARGUMENT

1. Pocatello's action is not properly brought under I.R.C.P. 59(e) or I.R.C.P. 11(a)(2).

Pocatello brings the current Motion to Alter or Amend pursuant to I.R.C.P. Rule 59(e), or, in the alternative, as a Motion to Reconsider pursuant to I.R.C.P. 11(a)(2). As an initial matter, a motion for reconsideration of a memorandum decision certified as a final judgment cannot be brought under I.R.C.P. 11(a)(2). Any motion for review brought after final judgment has issued must be pursued as a motion to alter or amend under I.R.C.P. 59(e). As the Idaho Supreme Court stated in *Lowe v. Lym*, "The Idaho Rules of Civil Procedure do not provide for a petition to reconsider a memorandum decision. As such, the trial court correctly treated appellant's petition as a motion to alter or amend judgment pursuant to I.R.C.P. 59(e)." 103 Idaho 259, 263, 646 P.2d 1030, 1034 (1982). Addressing a party's motion to reconsider dismissal of a case, the Idaho Supreme Court stated "a party may only make a motion to

reconsider interlocutory orders or orders entered after the entry of final judgment. I.R.C.P. 11(a)(2).” *Straub v. Smith*, 145 Idaho 65, 71, 175 P.3d 754, 760 (2007). In the current proceeding, the Memorandum Decision and Order was a final judgment and therefore, the Court should reject Pocatello’s request for reconsideration and treat its motion as a motion to alter or amend pursuant to I.R.C.P. 59(e).

Pocatello’s motion to alter or amend the final judgment should be denied because the City has failed to establish grounds for relief under I.R.C.P. 59(e). I.R.C.P. 59(e) provides a mechanism whereby the court can correct factual or legal errors made during the proceedings. It is designed to function as a “corrective action short of appeal.” *Lowe v. Lym*, 103 Idaho 259, 263, 646 P.2d 1030, 1034 (1982). Pocatello has not presented any evidence that the Court’s ruling reflects errors made during the proceedings. Rather, Pocatello restates its original claims on Challenge, essentially demanding a re-hearing of its Challenge in its entirety. The City makes no showing of factual mistakes in the Court’s decision requiring corrective action short of appeal; likewise the City has not identified any legal errors, but rather now seeks to advance new legal theories after entry of the final judgment. The City is improperly seeking to use Rule 59(e) as a substitute for appeal. As Pocatello has failed to demonstrate any factual or legal errors, its motion should summarily be denied.

2. Pocatello may not assert new legal theories and claims that were not raised in its Challenge.

In its Motion, Pocatello claims that the accomplished transfer statute does not apply to changes made to water rights before 1969, when it became necessary to seek a formal transfer for changes to water rights. Therefore, the City reasons that the Director has no authority to recommend a condition on water rights based upon such pre-1969 changes. This is a new legal issue never before argued in this subcase. AO1 § 13(c) states that “[o]nce raised and detailed,

the issue(s) on challenge may not be amended to include additional issue(s) not specifically identified in the *Notice of Challenge* except on motion and leave of court.”

Since Pocatello did not raise the issue of pre-1969 changes before the Special Master at trial or subsequently in its *Notice of Challenge*, Pocatello is precluded from raising the issue on a motion to alter or amend a final judgment. The limited purpose of a motion to alter or amend in the SRBA under AOI § 13(a) has already been described: “the Rule (AOI § 13(a)) does not provide a mechanism for advancing new legal theories and/or evidence that was discoverable during the pendency of the action...” *Order on Challenge (Consolidated Issues) of “Facility Volume” Issue and “Additional Evidence” Issue*, subcases 36-02708 et al at 21. Thus, Pocatello’s request should be denied.

3. **Pre-1969 changes to water rights are subject to injury analysis pursuant to Idaho Code § 42-108 and Idaho Code § 42-1425. Additionally, the Director can recommend conditions and remarks on any water right pursuant to his authority under Idaho Code § 42-1411.**

In the event this Court determines that the pre-1969 issue is properly before the Court, the State asserts that Pocatello’s argument is misplaced. Contrary to Pocatello’s assertion, pre-1969 transfers are subject to an injury analysis. Pocatello argues that, prior to the enactment of Idaho Code § 42-222 in 1969, water right holders could make changes to their rights at will, and therefore, the accomplished transfer statute can only apply to those changes to a water right occurring between 1969 and 1987, the date by which a change must occur to be authorized under Idaho Code § 42-1425. The City asserts that before the 1969 enactment of Idaho Code § 42-222, which required administrative approval of changes to a water right, water right holders had a constitutional right change their water rights as they wished. Accordingly, the City claims, the

Director has no authority to approve or disapprove of changes occurring before 1969, and cannot impose a condition based on an analysis of injury resulting from such changes.¹

Pocatello's argument is misplaced. Despite the lack of mandated administrative approval, water right holders desiring to change their water rights prior to 1969 could only do so if the change was not injurious to other water users. Idaho Code § 42-108 states that a water right holder may change the point of diversion so long as the change does not injure the water rights of others. This limitation has been part of the statute since it was enacted in 1899. Idaho common law dating from the early 1900's also holds that a person cannot change their water right if others are injured thereby. *Walker v. McGinness*, 8 Idaho 540, 69 P. 1003, 1006 (1902); see also *Montpelier Milling Co. v. City of Montpelier*, 19 Idaho 212, 113 P.741, 745 (1911). "[A] prior appropriator has no right to change the point of diversion, when it will in any manner injure a subsequent appropriator." *Bennett v. Nourse*, 22 Idaho 249, 125 P.1038, 1039-1040 (1912); see also *Crockett v. Jones*, 42 Idaho 652, 249 P.483 (1926).

Pocatello argues that:

IDWR cannot now retroactively use the provisions of Idaho Code § 42-1425 to place a condition on a water right that would impede a water right holder from diverting water in accordance with changes rightfully accomplished prior to May 26, 1969 because water right holders had a constitutional right to make changes to their water right without prior administrative approval up until May 26, 1969.

Motion at 20. This analysis is incorrect because, as discussed above, prior to 1969, water right holders had a constitutional right to make changes to their water rights **only if such changes did not cause injury to other water users**. Idaho Code § 42-1425(2) states that changes to water rights occurring prior to 1987 may be claimed in the SRBA "even though the person has not complied with sections 42-108 and 42-222" provided no other water rights were injured.

¹ Although in some places in its Motion Pocatello asserts that all water rights with priority dates senior to 1969 are outside the scope of Idaho Code § 42-1425, the State understands the City's actual argument to be about changes made to its water rights prior to 1969, not the priority date of the right.

Pocatello hangs its hat on the requirement of administrative approval mandated by Idaho Code § 42-422 but neglects the reference in Idaho Code § 42-1425 to Idaho Code § 42-108, which requires that any of the changes permitted therein cause no injury to other water users.

The Special Master determined that Pocatello's claimed changes in points of diversion undermined the priority of other water rights, and that:

Where a change or transfer would undermine a priority date, the injury is real and material even if the damage is not immediately manifest. In a prior appropriation system, undermining a priority date is a seminal injury. Thus, the condition appears to correctly protect juniors from injury to their priorities.

Amended Report at 19. The Court agreed with the Special Master's analysis, stating that:

Injury also includes the diminished effect on the priority dates of existing water rights in anticipation of there being insufficient water to satisfy all rights on a source (or in this case a discrete region of the aquifer) and priority administration is sought. Even though the priority administration may occur at some point in the future, injury to the priority date occurs at the time the accomplished transfer is approved.

Memorandum Decision at 14. This analysis makes clear that Pocatello's designation of alternative points of diversion for its water rights caused injury to the priority of other water rights—regardless of whether the change occurred before or after 1969. To the extent that such changes occurred before 1969, they are not in compliance with the requirements of Idaho Code § 42-108. To the extent that they occurred after 1969, they are not in compliance with Idaho Code § 42-222. In both circumstances, however, the water right changes, if claimed, come under the purview of Idaho Code § 42-1425. The Director is therefore unquestionably vested with authority to analyze such changes and to recommend the condition thereon.

Finally, Pocatello neglects the language of Idaho Code § 42-1411, which empowers the Director, when recommending a water right, to add such conditions and remarks “as are necessary for definition of the right, for clarification of any element of a right, or for

administration of the right...” This authority is distinct from that provided by Idaho Code § 42-1425. As shown in the course of this proceeding, the condition on Pocatello’s water rights is necessary for the administration of the rights in times of shortage, under scenarios of both local well interference and regional administration. Thus, even without the analysis conducted pursuant to Idaho Code § 42-1425, the Director is empowered to impose the condition as a necessity for administration under prior appropriation.

Pocatello’s argument that the accomplished transfer statute does not apply to its water rights is unavailing. Under State law, it is not permissible to change a water right in such a way as to injure someone else’s right. As pointed out by both the Special Master and the Court, if, as Pocatello contends, there is no injury to other water rights from its use of alternative points of diversion then there is no cause for concern about the condition, which only comes into play if administration is required.

The very fact that Pocatello contests the condition is an acknowledgment that without the condition the priorities of existing water rights will be diminished in favor of the alternative point of diversion for one of Pocatello’s more senior rights, i.e. injury. If however, the wells from which the alternative points of diversion never result in interference with the wells of existing users then priority administration between wells will not be triggered and the condition will not pose any limitation on Pocatello’s rights.

Memorandum Decision at 16. The City’s motion to alter and amend on this issue should therefore be denied.

4. Pocatello has simply reiterated its previous arguments on the remaining issues in its Motion and has not shown legal or factual error in this Court’s Memorandum Decision and Order.

- A. Pursuant to Idaho Code § 42-1425, the Special Master properly addressed the issue of injury in analyzing the Director’s Recommendations for Pocatello’s water rights.

Pocatello argues in its Motion that the Special Master's inquiry into injury is not authorized under Idaho Code § 42-1425. "A plain reading of I.C. § 42-1425 supports the conclusion that an inquiry into injury is not triggered unless a third party objects to the accomplished transfer claim." Motion at 15. The Court disagreed, holding that: "[a] plain reading of the statutory language provides just the opposite." Memorandum Decision at 9. The Memorandum Decision clearly sets forth the rationale used by the Court in reaching its decision. *See* Memorandum Decision at 9-19. Pocatello presents no evidence that an error of fact or law has occurred—the City simply repeats its previous arguments and makes clear that it stridently disagrees with the Court's conclusions. Thus the motion to alter and amend should be denied.

- B. The Special Master's findings of fact with regard to Pocatello's surface water rights are supported by well-documented analysis and have not been shown to be clearly erroneous.

Pocatello argues that:

"The Special Master's findings and conclusions on the issue of injury should be disregarded as clearly erroneous because they do not address or take account of vital contrary evidence and testimony and because they lack sufficient factual support."

Motion at 27. Pocatello states, as it has before, that it offered persuasive testimony that demonstrates a direct hydraulic connection between Mink and Gibson Jack Creek and the Lower Portneuf River Valley Aquifer ("LPRVA"). Pocatello is again equating hydraulic interconnection with diversion **from the same source**, and ignores both the standard of review and the analysis offered by the Special Master in her Amended Report.

In the Report, after reviewing the testimony of both witnesses, the Special Master concluded that

"[a] showing that two separate water rights have independent sources or are fed by different springs supports a finding of a

separate source...the city wells, although closely connected to the surface creeks, derive water from a different source when they draw from the LPRVA. Although the LPRVA derives a large portion of its water from the two creeks, it derives a significant portion of water from other sources.”

Amended Report, p. 12. The Court reviewed the Special Master’s conclusion and the testimony of Pocatello’s expert, regarding the degree of interconnectedness between the surface water rights and the City’s wells and found that: “the evidence overwhelmingly supports the Special Master’s finding.” Memorandum Decision at 23. With regard to the injury analysis, the Court stated:

By allowing the transfer the injury to the priority dates of existing ground pumpers would be unavoidable. ... While evidence was presented that the two creeks contribute to the aquifer no evidence was presented supporting that the aquifer contributed to the creeks. ... Pocatello fails to address the issue of the water it would receive from sources other than Mink or Gibson Jack Creek which contribute to roughly half of the supply of the aquifer. The finding of the Special Master is affirmed.

Memorandum Decision at 23-24. The Court shall adopt the Special Master’s findings of fact unless they are clearly erroneous. I.R.C.P. 53(e)(2). In this case, the Special Master’s findings of fact are well supported in the Amended Report, and, upon review of the evidence, this Court has reached the same conclusion as the Special Master. Once again, Pocatello points to no error, but rather takes exception to the District Court’s conclusion. Pocatello’s disagreement with the Court’s conclusion must be pursued on appeal rather than through a motion to alter or amend.

- C. The Special Master’s analysis of whether allowing Pocatello to designate its well as alternate points of diversion for its surface water rights causes injury to existing rights need not have addressed the agreement between the City and the Surface Water Coalition.

Pocatello is particularly concerned that the Special Master failed to discuss the import of the City's agreement with the Surface Water Coalition ("SWC"). Pocatello characterizes the agreement as:

an essential component of any discussion of injury because the agreement is designed to mitigate injury to other water users from Pocatello's use of its wells as alternative points of diversion for its surface water rights. ... The Special Master's failure to mention or address the SWC agreement is particularly worrisome in light of the fact that several of its provisions were specifically designed to deal with concerns about injury.

Motion at 25-28. As discussed in the State's Reply to City of Pocatello's Response to Amicus Brief ("State's Reply"), the agreement with the SWC only addressed one possible reason for well interference—increased diversion rate due to increased well capacity. State's Reply at 2-3. Additionally, it is not binding on non-signatory parties or the State. Furthermore, Pocatello asserts on one hand that no injury to other water rights exists, while on the other hand pointing to an agreement with the SWC that "is designed to mitigate injury to other water users from Pocatello's use of its wells as alternative points of diversion for its surface water rights." Motion at 25. By Pocatello's own admission, the agreement is designed to prevent or alleviate injury to other water rights that would otherwise occur from the Pocatello's use of alternate points of diversion. If anything, the rationale behind the City's agreement with SWC supports the Special Master's conclusions regarding the existence of injury to other water rights.

The Court has already addressed this issue as well. In response to Pocatello's argument that its agreement with the SWC prevents injury, the Court stated:

Pocatello argues that there is no injury to other water rights because the volume of water pumped from each well would not exceed beyond what was established on the date of commencement. Pocatello's argument misses the point. To the extent the use of the alternative point of diversion interferes with the well of a pre-existing senior water right the priority of senior right is injured – irrespective of the reason for the interference.

Memorandum Decision at 18-19. The Special Master's findings are not clearly erroneous, and there has been no showing of legal or factual error. Pocatello is simply using its Motion to re-argue an adverse decision by the Court.

- D. The Special Master did not rely on IDWR's Transfer Processing Memo 24 in reaching her conclusion that the Pocatello's surface and groundwater rights do not divert from the same source.

Pocatello claims that the Special Master relied on IDWR Transfer Processing Memo 24 ("TPM 24") to determine whether the City's surface water and ground water rights divert from the same source. This is not true. The Special Master's analysis began with the determination that Idaho Code § 42-1425 does not permit a change in source (a determination that Pocatello did not take issue with or raise in its Notice of Challenge). Then the Special Master conducted her analysis of whether the surface and ground water rights divert from the same source, that is to say, divert the same water. The Special Master listened to and understood the testimony offered by both the City's witnesses and IDWR, and determined that,

...the city wells, although closely connected to the surface creeks, derive water from a different source when they draw from the LPRVA. Although the LPRVA derives a large portion of its water from the two creeks, it derives a significant portion of water from other sources.

Amended Report at 12.

The Special Master relied on the evidence and testimony offered at trial, not on TPM 24. This Court stated that it had "reviewed the testimony of Pocatello's expert Greg Sullivan" and then concluded "that the evidence overwhelmingly supports the Special Master's finding." Memorandum Decision at 23. Pocatello is attempting to color the Special Master's findings and conclusions as legal error, when in reality the evidence and testimony Pocatello presented during

trial was simply not persuasive enough to rebut the prima facie evidence provided by the Director's recommendation.

- E. Despite finding that Pocatello's change in use of its surface water rights occurred after 1987, the Special Master analyzed the change under the accomplished transfer statute, both as to source and as to injury before reaching the conclusion that groundwater wells could not be alternate points of diversion for the City's surface water rights.

This is another procedurally improper argument. The City of Pocatello listed this argument in its statement of the issues in the Notice of Challenge, and then failed to offer any briefing on it, either in its Opening Brief on Challenge or in any subsequent briefing. This current Motion is **the first time** in this proceeding that Pocatello sets forth any argument on the issue. To argue issues for the first time after entry of a final judgment is improper and should be disallowed. What's more, this argument constitutes the ultimate red herring. Although a finding that the City's rights were not changed prior to 1987 could have been dispositive on the issue, the Special Master chose not to dispose of the issue on that basis. Instead, the Special Master undertook a complex analysis of whether the transfer was otherwise authorized by Idaho Code § 42-1425. As discussed above, the Special Master determined the change was not authorized, as it amounted to a change in source, and furthermore, that it was not authorized because such a change would necessarily injure other water rights. The City's attempt to argue this issue at this time constitutes a disregard of the rules of procedure and therefore should be summarily denied.

- F. The scenarios presented by Amici provide an illustration of how the condition on Pocatello's water rights could be administered.

Pocatello argues that the scenarios described by Amici do not apply to Pocatello's water rights because the City has agreed not to increase its well capacity in a stipulation with the SWC. As discussed above, this argument misses the point, as there are other reasons for well interference not addressed by the City's agreement with SWC. Additionally, the agreement has

no impact on the potential for avoiding a regional administration by diverting an out-of-region senior right from a well inside the administration area.

- G. There is no error as a matter of law in the designation of water right 29-2770 as irrigation.

Pocatello claims that water right 29-2770 must be recommended with a municipal purpose of use. The City states “[t]he primary function of water right 29-2770 was never intended to be irrigation.” Motion at 40. Pocatello continues to offer no explanation as to why it, presumably in good faith, “requested the irrigation designation in order to expedite the long overdue licensing of 29-2770.” Opening Brief on Challenge at 15. Regardless, the point is moot because water right 29-2770 was licensed well after the commencement of the SRBA and therefore is not entitled to seek a change in the nature of use under the accomplished transfer statute. If Pocatello wishes to change the nature of use of 29-2770 to the more broadly defined municipal designation, there is a formal transfer procedure for such changes.

- 5. The State should be awarded its attorney fees and costs because Pocatello’s Motion is procedurally defective and is without reasonable basis in fact or law.**

While the State respects the right of the City of Pocatello to seek redress under the Idaho Rules of Civil Procedure, and does not as a general practice request attorney’s fees and costs, it does so in this proceeding because the City of Pocatello has demonstrated a disregard for procedural requirements, timeliness and judicial efficiency. It has repeatedly asserted claims and legal theories that were not raised in its Challenge. It has repeatedly cast its failure to persuade the Special Master, and now this Court, as legal error on the part of both. Pocatello seeks now to have its challenge reheard in the guise of a motion to alter and amend, and introduces new issues and legal theories never before raised, and some that it raised but neglected to argue. As a result,

the State has been forced to spend considerable time and resources responding to the City's pleadings. Because there is no reasonable basis in fact or law for Pocatello's motion to alter or amend, the State should be awarded its reasonable attorney's fees and costs pursuant to Idaho Code § 12-117.

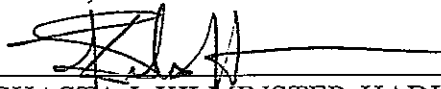
CONCLUSION

For the reasons stated herein, Pocatello's Motion should be denied in its entirety and the State awarded its reasonable attorney fees and costs.

RESPECTFULLY SUBMITTED this 14th day of January, 2010.

STATE OF IDAHO
LAWRENCE G. WASDEN
ATTORNEY GENERAL

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



SHASTA J. KILMINSTER-HADLEY
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EXHIBIT A

Subcase Numbers

29-00271
29-00272
29-00273
29-02274
29-02338
29-02354
29-02382
29-02401
29-02499
29-04221
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29-13561
29-13562
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29-13639

CERTIFICATE OF SERVICE

I certify that on this 14th day of January 2010, I caused to be served the original and/or copy of the STATE OF IDAHO'S RESPONSE TO CITY OF POCA TELLO'S MOTION TO ALTER OR AMEND on each of the following persons by the indicated method:

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☒ Federal Express
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☐ Statehouse Mail

2. Copies to

Special Master Brigitte Bilyeu
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☐ Statehouse Mail

City of Pocatello
c/o Josephine P. Beeman
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Environment and Natural Resource
Division
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☐ Facsimile: _____
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United Water Idaho
City of Nampa
City of Blackfoot
c/o C. Thomas Arkoosh
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Gooding, ID 83330

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Minidoka Irrigation District
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Burley, ID 83318

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

A & B Irrigation District
Burley Irrigation District
c/o Roger D. Ling
PO Box 396
Rupert, ID 83350-0396

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
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- ☐ Statehouse Mail

Milner Irrigation District
Northside Canal Company
Twin Falls Canal Company
c/o Travis L. Thompson
113 Main Ave., W., Ste. 303
PO Box 485
Twin Falls, ID 83303-0485

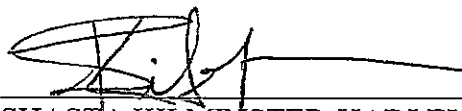
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Chief of Natural Resource Division
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Not Applicable



SHASTA KILMINSTER-HADLEY
Deputy Attorney General