

RECEIVED

MAY 25 2010

DEPARTMENT OF
WATER RESOURCES

Josephine P. Beeman (Idaho Bar # 1806)
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, Idaho 83702
TELEPHONE: (208) 331-0950
FACSIMILE: (208) 331-0954
EMAIL: jo.beeman@beemanlaw.com

Attorneys for City of Pocatello

**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 No. 29-271 et al.)
(see Attachment))
_____))
CITY OF POCATELLO,)
)
Appellant,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

Supreme Court No. _____

**CITY OF POCATELLO'S
NOTICE OF APPEAL**

(Filing Fee: \$86.00)

**TO: THE ABOVE NAMED RESPONDENT AND ITS ATTORNEYS OF RECORD,
SPECIFICALLY:**

THE STATE OF IDAHO and its attorneys of record
Clive Strong, Deputy Attorney General
Shasta Kilminster-Hadley, Deputy Attorney General
Natural Resources Division Chief
State of Idaho
Attorney General's Office
PO Box 44449
Boise, Idaho 83711-4449

AND TO: THE CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant, the City of Pocatello, appeals against the above-named respondents to the Idaho Supreme Court from the *Order on Motion to Alter or Amend* entered with an IRCP 54(b) certificate, in the above-entitled action on the 12th day of April, 2010, the Honorable Judge John M. Melanson, presiding.

2. The City of Pocatello has a right to appeal to the Idaho Supreme Court, and the order described in Paragraph 1, above, is a final judgment, order, or decree appealable under and pursuant to Rule 11(a)(3) of the Idaho Appellate Rules.

3. The City of Pocatello provides a preliminary statement of the issues it intends to assert on appeal, which under Rule 17(a), Idaho Appellate Rules, does not prevent the City of Pocatello from asserting other issues on appeal:

a. Should the SRBA Court amend its decision to clarify which of Pocatello's water rights were developed prior to May 26, 1969?

b. Should the SRBA Court have enumerated findings of fact and conclusions of law in its *Order* because of errors in the Special Master's Findings of Fact.

c. Should the SRBA Court amend its decision to define what constitutes "interference" in Director Tuthill's testimony?

d. Did the SRBA Court incorrectly find that the IDWR Director has the authority to engage in an injury analysis of a water right claimed under I.C. § 42-1425 and impose an injury-based condition in the absence of a third-party objection?

e. Did the SRBA Court incorrectly apply the accomplished transfer statute to Pocatello's pre-1969 water rights?

f. Did the Special Master and the SRBA Court err by disallowing ground water wells on the Lower Portneuf River Valley Aquifer ("LPRVA") as alternative points of diversion for senior surface rights diverting from Gibson Jack and Mink Creek?

g. Did the SRBA Court err in finding that I.C. § 1425 does not authorize accomplished transfers of source?

h. Did the Special Master have substantial evidence to support the determination of injury to priority dates as *per se*?

i. Did the SRBA Court err in its determination that a substantive change in position in the administration of ground water rights by the IDWR does not require IDWR to follow the rule-making procedures of the Idaho Administrative Procedures Act?

j. Did the SRBA Court appropriately use scenarios that are not based on facts in the record and do not apply to the rights at issue in this case to illustrate adverse effects to the priorities of existing water users, absent the inclusion of a condition?

k. Did the Special Master and the SRBA Court err in recommending water right 29-7770 with an irrigation purpose of use, or recommending the priority date for 29-13639?

4. No order has been entered sealing all or any portion of the record.

5. Designation of Transcripts: Transcripts of the following proceedings (items (a) through (e)) have already been prepared and provided to the parties and to the District Court:

(a) January 12, 2005: Hearing before SRBA Special Master Brigitte Bilyeu on

Pocatello's Motion for Stay its State Law-Based Claims pending determination of the City's federal law claim 29-11609;

- (b) January 17, 2007: Hearing before SRBA Special Master Brigitte Bilyeu on Pocatello's Motion for Summary Judgment on Municipal Purpose of Use, Interconnection, and Injury Under I.C. 42-1425;
- (c) February 26-March 1, March 8, 2007: Trial before SRBA Special Master Brigitte Bilyeu;
- (d) February 27, 2008: Hearing before SRBA Special Master Brigitte Bilyeu on Pocatello's Motion to Alter or Amend the Special Master's October 2, 2007 Report and Recommendation and Order on Motion to Reconsider;¹ and
- (e) August 13, 2009: Hearing before SRBA Judge John Melanson's on Pocatello's Notice of Challenge.

IN ADDITION, pursuant to Idaho Appellate Rule 25(a), Pocatello requests a transcript of the following:

- (f) March 22, 2010: Hearing on Pocatello's Motion to Alter or Amend the SRBA Court's decision.

6. Designate of the Record: The City of Pocatello requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28 of the Idaho Appellate Rules:

No.	Document	Filed by	Date
1	Basin 29 Director's Report for Irrigation and Other Uses	IDWR	7-11-03
2	Joint Motion to Dismiss Objections	US Pocatello	11-17-04
3	Order on Joint Motion to Dismiss Objections	SRBA	11-22-04
4	City of Pocatello's Motion for Summary Judgment on IDWR's Authority Under 42-1425	Pocatello	5-4-06

¹ The original Special Master's Report and Recommendation was filed on October 2, 2007 and an amended version was filed on October 30, 2007.

No.	Document	Filed by	Date
5	Brief in Support of Motion for Summary Judgment on IDWR's Authority Under 42-1425	Pocatello	5-4-06
6	Affidavit of Josephine P. Beeman in Support of City of Pocatello's Motion for Summary Judgment on IDWR's Authority Under 42-1425	Pocatello	5-4-06
7	Joint Response to City of Pocatello's Motion for Summary Judgment	Surface Water Coalition	5-25-06
8	Response Memorandum in Opposition to City of Pocatello's Motion for Summary Judgment	IDWR	5-25-06
9	Joint Motion to Accept Stipulation and Agreement between the City of Pocatello and the United States	US Pocatello	6-6-06
10	Stipulation and Agreement between the City of Pocatello and the United States	US Pocatello	6-6-06
11	Reply Brief in Support of Motion for Summary Judgment on IDWR's Authority Under I.C. 42-1425	Pocatello	6-9-06
12	Order Dismissing Portions of Objections and Responses with Prejudice	SRBA	7-14-06
13	Order on Summary Judgment	SRBA	8-18-06
14	Motion for Summary Judgment on Municipal Purpose of Use, Interconnection, and Injury Under I.C. 42-1425	Pocatello	11-30-06
15	Brief in Support of Motion for Summary Judgment on Municipal Purpose of Use, Interconnection, and Injury Under I.C. 42-1425	Pocatello	11-30-06
16	Affidavit of Joyce Angell in Support of Motion for Summary Judgment on Municipal Purpose of Use, Interconnection, and Injury Under I.C. 42-1425	Pocatello	11-30-06
17	Motion for Summary Judgment	Surface Water Coalition	11-30-06
18	Memorandum in Support of SWC Motion for Summary Judgment	Surface Water Coalition	11-30-06
19	Affidavit of Travis L. Thompson in Support of SWC Motion for Summary Judgment with exhibits	Surface Water Coalition	11-30-06
20	Response Memorandum in Opposition to Pocatello's Motion for Summary Judgment	State	12-11-06
21	Response to Pocatello's Summary Judgment Motion	SWC	12-12-06
22	Second Affidavit of Travis L. Thompson	SWC	12-12-06
23	Response Brief to Surface Water Coalition's Motion for Summary Judgment	Pocatello	12-12-06

No.	Document	Filed by	Date
24	Affidavit of Celeste Thaine in Support of City of Pocatello's Response Brief to the Surface Water Coalition's Motion for Summary Judgment	Pocatello	12-12-06
25	Reply to Pocatello's Response to Surface Water Coalition's Motion for Summary Judgment	SWC	12-21-06
26	Affidavit of Paul Arrington	SWC	12-21-06
27	Affidavit in Support of Pocatello's Reply Brief	Pocatello	12-21-06
28	Reply Brief	Pocatello	12-21-06
29	Parties Stipulation Regarding 42-1425 Remand	Pocatello/State/SWC	1-26-07
30	Order Vacating Fact-Finding Hearing	IDWR	1-26-07
31	Surface Water Coalition's Trial Brief	SWC	2-14-07
32	Surface Water Coalition's Witness & Exhibit List	SWC	2-14-07
33	Trial Brief	State	2-14-07
34	List of Witnesses	State	2-14-07
35	Witness & Exhibit List	Pocatello	2-15-07
36	Trial Brief	Pocatello	2-15-07
37	Motion for Judicial Notice of Records in Related Subcases & Memorandum in Support	Pocatello	2-15-07
38	Motion to Leave to File Amended Notices of Claim (29-271, 29-272, & 29-273)	Pocatello	2-15-07
39	Motion to Take Judicial Notice	State	2-15-07
40	Second Order on Summary Judgment	SM Bilyeu	2-16-07
41	Order Granting Motion to Amend Claims	SM Bilyeu	2-23-07
42	Order Resolving Motion to Take Judicial Notice	SM Bilyeu	2-23-07
43	Certificate of Service and Amended Director's Reports for 29-2401, 29-2499, 29-4221, 29-4223, 29-4224, 29-4225, 29-4226, 29-7106, 29-7322, 29-11339, 29-11348, 29-13559, 29-13560, 29-13561, 29-13562, 29-13637, & 29-13639	IDWR	3-20-07
44	Special Master's Report and Recommendation for 29-2354, 29-2382, 29-7222, 29-7431, 29-7502, 29-7782, 29-11344, & 29-13636	SM Bilyeu	4-13-07
45	Post-Trial Brief	State	4-27-07
46	Post-Trial Brief	Pocatello	4-30-07
47	Appendix to Pocatello's Post-Trial Brief	Pocatello	4-30-07
48	Affidavit in Support of Pocatello's Post-Trial Brief	Pocatello	4-30-07
49	Motion to Strike Affidavit of Josephine Beeman in Support of Pocatello's Post-Trial Brief	State	5-3-07

No.	Document	Filed by	Date
50	Brief in Support of Motion to Strike Affidavit of Josephine P. Beeman in Support of Pocatello's Post-Trial Brief	State	5-3-07
51	Motion for Reconsideration of Order Granting State's Motion to Strike	Pocatello	5-7-07
52	Special Master's Report & Recommendation	SRBA	10-2-07
53	Letter from Garrick Baxter (IDWR) to Special Master Bilyeu	IDWR	10-12-07
54	Amended Special Master's Report & Recommendation	SRBA	10-30-07
55	Motion to Alter or Amend	Pocatello	11-28-07
56	Second Amended Special Master's Report & Recommendation	SRBA	11-30-07
57	City of Pocatello's Brief in Support of Motion to Alter or Amend	Pocatello	12-13-07
58	Affidavit of Josephine P. Beeman in Support of Pocatello's Motion to Alter or Amend	Pocatello	12-13-07
59	Notice Setting Hearing (for Feb 27 2008)	SRBA	12-19-07
60	Order Denying Motion to Alter or Amend	SRBA	5-28-08
61	Motion to Stay Proceedings in (30) State Law Claims	Pocatello	6-11-08
62	City of Pocatello's Notice of Challenge	Pocatello	6-11-08
63	Notice Setting Hearing On Motion To Stay Proceedings In Thirty (30) State Law Claims	SRBA	6-12-08
64	Notice of Errata for City of Pocatello's Notice of Challenge	Pocatello	6-25-08
65	Letter from Jo Beeman to Court and counsel regarding Notice of Errata being filed	Pocatello	6-25-08
66	City of Pocatello's Brief in Support of Motion to Stay Proceedings in Thirty (30) State Law Claims	Pocatello	6-25-08
67	Notice Setting Status Conference	SRBA	7-16-08
68	Challenge Scheduling Order	SRBA	12-18-08
69	Order Setting Hearing	SRBA	4-10-09
70	Brief of United Water Idaho, City of Nampa, and City of Blackfoot Addressing Alternative Points of Diversion Condition	United Water	4-10-09
71	United Water Idaho, City of Nampa, and City of Blackfoot's Motion for Leave to Participate or to Participate as Amici Curiae; Statement in Support of Motion for Leave; Request for Hearing; and Motion for Shortening of Time	United Water	4-10-09

No.	Document	Filed by	Date
72	Amended Notice of Hearing on Motion for Leave to Participate and Motion for Extension of Time	Judge Melanson	4-17-09
73	Order Granting Amici Curiae Participation to United Water, City of Nampa and Blackfoot and Amended Challenge Scheduling Order	Judge Melanson	4-24-09
74	Letter from Chris Meyer to Jo Beeman regarding language conditions	Chris Meyer	5-6-09
75	City of Pocatello's Opening Brief on Challenge	Pocatello	6-05-09
76	State of Idaho's Response to City of Pocatello's Opening Brief on Challenge	State	7-6-09
77	City of Pocatello's Response to Brief of United Water Idaho, City of Nampa, and City of Blackfoot Addressing Alternative Points of Diversion Condition	Pocatello	7-20-09
78	Reply Brief of United Water Idaho, City of Nampa, and City of Blackfoot Addressing Alternative Points of Diversion Condition	Providers	7-31-09
79	City of Pocatello's Reply to State of Idaho's Response Brief	Pocatello	8-3-09
80	State of Idaho's Reply to City of Pocatello's Response to Amicus Brief	State	8-3-09
81	Letter to SRBA Court Requesting Additional Briefing	Pocatello	8/14/09
82	Order Allowing Post-Hearing Briefing Schedule	SRBA J. Melanson	8/21/09
83	City of Pocatello's Post-Hearing Brief	Pocatello	9/4/09
84	State of Idaho's Response to Pocatello's Post-Hearing Brief	State	9/18/09
85	Errata to Pocatello's August 3, 2009 Reply to State's July 6, 2009 Response Brief	Pocatello	9/21/09
86	Memorandum Decision & Order on Challenge	SRBA	11/9/09
87	Pocatello's Motion to Alter or Amend Nov. 9, 2009 Memorandum Decision & Order on Challenge	Pocatello	11/23/09
88	Pocatello's Brief in Support of Motion to Alter or Amend Nov. 9, 2009 Memorandum Decision and Order on Challenge	Pocatello	12/10/09
89	State of Idaho's Response to City of Pocatello's Motion to Alter or Amend	State	1/14/10
90	Order on Motion to Alter or Amend	SRBA Melanson	4/12/10

EXHIBITS

EX #	PARTY	DOCUMENT
1	IDWR	April 13, 2006 Supplemental Director's Report
2	IDWR	Water Right No. 29-271 Director's Report Amended Notice of Claim Smith et al. vs. City of Pocatello et al. Decree
3	IDWR	Water Right No. 29-272 Director's Report Amended Notice of Claim Smith et al. vs. City of Pocatello et al. Decree
4	IDWR	Water Right No. 29-273 Director's Report Amended Notice of Claim Smith et al. vs. City of Pocatello et al. Decree
5	IDWR	Water Right No. 29-4222 Director's Report Amended Notice of Claim Posted Notice
6	IDWR	Water Right No. 29-7118 Director's Report Amended Notice of Claim License Application for Permit
7	IDWR	Water Right No. 29-7119 Director's Report Amended Notice of Claim License Application for Permit
8	IDWR	Water Right No. 29-7770 Director's Report Amended Notice of Claim License Application for Permit
9	IDWR	Water Right No. 29-13558 Amended Director's Report Amended Notice of Claim License for 29-2324 Article
10	IDWR	Water Right No. 29-13639 Amended Director's Report Amended Notice of Claim for 29-11343 License for 29-2324

EX #	PARTY	DOCUMENT
11	IDWR	Water Right No. 29-2274 Director's Report Amended Notice of Claim Transfer
12	IDWR	Water Right No. 29-2338 Director's Report Amended Notice of Claim Transfer
13	IDWR	Water Right No. 29-7375 Director's Report Amended Notice of Claim Transfer
14	IDWR	Water Right No. 29-2401 Amended Director's Report Amended Notice of Claim
15	IDWR	Water Right No. 29-2499 Amended Director's Report Amended Notice of Claim
16	IDWR	Water Right No. 29-4221 Amended Director's Report Amended Notice of Claim
17	IDWR	Water Right No. 29-4223 Amended Director's Report Amended Notice of Claim
18	IDWR	Water Right No. 29-4224 Amended Director's Report Amended Notice of Claim
19	IDWR	Water Right No. 29-4225 Amended Director's Report Amended Notice of Claim
20	IDWR	Water Right No. 29-4226 Amended Director's Report Amended Notice of Claim
21	IDWR	Water Right No. 29-7106 Amended Director's Report Amended Notice of Claim
22	IDWR	Water Right No. 29-7322 Amended Director's Report Amended Notice of Claim
23	IDWR	Water Right No. 29-11339 Amended Director's Report Amended Notice of Claim

EX #	PARTY	DOCUMENT
24	IDWR	Water Right No. 29-11348 Amended Director's Report Amended Notice of Claim
25	IDWR	Water Right No. 29-13559 Amended Director's Report Amended Notice of Claim
26	IDWR	Water Right No. 29-13560 Amended Director's Report Amended Notice of Claim
27	IDWR	Water Right No. 29-13561 Amended Director's Report Amended Notice of Claim
28	IDWR	Water Right No. 29-13562 Amended Director's Report Amended Notice of Claim
29	IDWR	Water Right No. 29-13567 Amended Director's Report Amended Notice of Claim for 29-11343
30	IDWR	Water Right No. 29-7450 Amended Director's Report Amended Notice of Claim
31	IDWR	Water Right No. 29-13638 Amended Director's Report Amended Notice of Claim for 29-11343
32	IDWR	Water Right No. 29-2354 (resolved) Director's Report
33	IDWR	Water Right No. 29-2354 (resolved) Director's Report
34	IDWR	Water Right No. 29-2382 (resolved) Director's Report
35	IDWR	Water Right No. 29-7431 (resolved) Director's Report
36	IDWR	Water Right No. 29-7502 (resolved) Director's Report
37	IDWR	Water Right No. 29-7782 (resolved) Director's Report
38	IDWR	Water Right No. 29-11344 (resolved) Amended Director's Report
39	IDWR	Water Right No. 29-13636 (resolved) Amended Director's Report
40	IDWR	Hand drawn diagram of Mink Creek and Gibson Jack Creek by Carter Fritschle – for illustrative purposes
41	IDWR	Hand draw diagram by Dave Tuthill – for illustrative purposes

EX #	PARTY	DOCUMENT
42	IDWR	Hand drawing of ESPA boundary as of 2005 by Dave Tuthill – for illustrative purposes
43	IDWR	Stipulation and Agreement Between Pocatello and The Surface Water Coalition in Pocatello's SRBA Subcases 29-271 <i>et seq.</i>
101	Pocatello	Map of Eastern Snake River Basin (oversized)
102	Pocatello	Map of Pocatello Vicinity and LPRVA (oversized)
103	Pocatello	Map of All SRBA Claims, City of Pocatello (oversized)
104	Pocatello	Map of Surface Water Rights Alternate Points of Diversion, City of Pocatello (oversized)
105	Pocatello	Map of Ground Water Rights Alternate Points of Diversion, City of Pocatello(oversized)
106	Pocatello	Map of Biosolids Water Rights and Wells, City of Pocatello (oversized)
107	Pocatello	Photographs of surface water diversions and wells
108	Pocatello	Photographs of Pocatello and Vicinity
109	Pocatello	City of Pocatello, Existing System Hydraulic Schematic
110	Pocatello	Idaho Department of Water Resources, Table, City of Pocatello Claims (www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ/asp)
111	Pocatello	Water Department, City of Pocatello, Monthly Report (January to December, 1962 - 1993)
112	Pocatello	Memorandum from Tom Dekker, City of Pocatello Water Department, to Ivan Legler, City Attorney, City of Pocatello (March 31, 1989) (Surface Supply from Mink Creek and Gibson Jack Creek)
113	Pocatello	Report, City of Pocatello, Yearly Water Consumption from 1956 to Present (April 12, 1989)
114	Pocatello	Daily Mink Creek Use for June 1985
115	Pocatello	City of Pocatello Historical Water Level Data for City's wells (beginning of period of record to March 2006 (print out of spreadsheets prepared by the City of Pocatello Water Department)
116	Pocatello	Spronk Water Engineers, Inc., Expert Report Dated September 29, 2006, Prepared for the City of Pocatello
117	Pocatello	Spronk Water Engineers, Inc. Expert Rebuttal Report Dated December 1, 2006, Prepared for the City of Pocatello
118	Pocatello	Summary of State-law SRBA Claims

EX #	PARTY	DOCUMENT
119	Pocatello	Idaho Department of Water Resources, Supplemental Director's Report Regarding City of Pocatello's Basin 29 State-Based Water Rights, dated April 13, 2006, and list of exhibits
120	Pocatello	Idaho Department of Water Resources Director's Supplemental Report Exhibit F
121	Pocatello	Brockway Engineering PLLC Rebuttal Expert to Spronk Water Engineers Inc. Expert Report Dated September 29, 2006 Prepared November 2, 2006
122	Pocatello	Table – Ground Water and Surface Water Alternate Points of Diversion Claims
123	Pocatello	Table - 38 State-law SRBA Claims and Sublisting of IDWR Recommendations for Ground Water Claims with Alternate Points of Diversion
124	Pocatello	Idaho Code Section 42-1425
125	Pocatello	Example – Ground Water Alternate Points of Diversion Claim (APOD), with Cumulative Rate of Diversion, Example Illustrating APOD Operation
126	Pocatello	Graphs - Measured Ground Water Levels for Interconnected Wells
127	Pocatello	Table - Average Measured Pumping Drawdown 1987, City of Pocatello Wells
128	Pocatello	Figure - Interconnected Wells, Average Measured Ground Water Level Drawdown During Pumping, Beginning of Record to 1987
129	Pocatello	Decree, <i>Smith et al. vs. City of Pocatello et al.</i> , June 5, 1926
130	Pocatello	Welhan, J.A., and Meehan, C., 1994, Hydrogeology of the Pocatello Aquifer: Implications for Wellhead Protection Strategies, 30th Symposium, Engineering Geology and Geotechnical Engineering, Boise, Idaho
131	Pocatello	Welhan, J.A., Meehan, C, and Reid, T., 1996, The Lower Portneuf River Valley Aquifer: A Geologic/Hydrologic model and Its Implications for Wellhead Protection Strategies
132	Pocatello	Welhan, John, 2006, Idaho Geologic Survey Staff Report, -5-6, Water Balance and Pumping Capacity of the Lower Portneuf River Valley Aquifer, Bannock County, Idaho

EX #	PARTY	DOCUMENT
133	Pocatello	CH2M-Hill, 1994, Hydrogeology and Assessment of TCE Contamination in the Southern Portion of the Pocatello Aquifer - Phase I Aquifer Management Plan
134	Pocatello	Cosgrove D.M, Contor, B.A., and Johnson G.S., Enhanced Snake Plan Aquifer Model Final Report, Prepared for the Idaho Department of Water Resources, with guidance from the Eastern Snake Hydrologic Modeling Committee, Idaho Water Resources Research Institute Technical Report 06-002, July 2006
135	Pocatello	Lower Portneuf River Valley Aquifer Illustrations
136	Pocatello	Figure - Centroid of Annual Well Production
137	Pocatello	Idaho Department of Water Resources, Enhanced Ground water Rights Transfer Spreadsheet (version 2.2)
138	Pocatello	Graph - Annual Depletions Resulting from Surface Water Diversions and Ground Water Pumping of Alternate Points of Diversion.
139	Pocatello	Table - Summary of Surface Water Use (1980 - 1987)
140	Pocatello	Order, April 19, 2005, In The Matter of Distribution of Water to Various Water Rights Held by or for the Benefit of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company
141	Pocatello	Amended Order, May 2, 2005, In The Matter of Distribution Of Water To Various Water Rights Held by or for the Benefit of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company
142	Pocatello	Second Supplemental Order Amending Replacement Water Requirements, December 27, 2005
143	Pocatello	Graph – Annual Depletions Resulting from Surface Water Diversions and Ground Water Pumping of Alternate Points of Diversion
144	Pocatello	Resume of Gregory K. Sullivan, P.E.
145	Pocatello	Resume of Karen Wogsland

EX #	PARTY	DOCUMENT
146	Pocatello	Well #21 Documents: File Wells 10/21/1947; Minutes of Adjourned Meetings of the City of Alameda City Council, 3/31/1955 and 8/8/1955; City of Alameda 1954-554 Municipal Water Project, Pine Street Pumping Station
147	Pocatello	"A Scant Supply in 1924" from Griffin, H. Leigh Pocatello Portrait: The Early Years, 1878-1928, pp 170-171
148	Pocatello	July 17, 1924 The Pocatello Tribune article
149	Pocatello	4/10/1952 Alameda Enterprise news article
150	Pocatello	7/20/1952 Alameda Enterprise news article
151	Pocatello	"Alameda The Fastest Growing City in the State..." Polk's Pocatello City Directory 1962
152	Pocatello	7/31/1952 Alameda Enterprise news article
153	Pocatello	City of Alameda Application for Permit
154	Pocatello	IDWR file for License 29-2324
155	Pocatello	2/2/2004 City of Pocatello 11th Annual POTW Biosolids Report
156	Pocatello	9/7/1999 City of Pocatello National Pollutant Discharge Elimination System Permit (Permit No. ID-002178-4)
157	Pocatello	Part 503 Final Rule Signed 11/25/1992, "New Sludge Rules"
158	Pocatello	2/1998 City of Pocatello Biosolids Management Plan
159	Pocatello	5/17/2005 City of Pocatello Crop Management Plan
160	Pocatello	License 29-2274
161	Pocatello	License 29-2338
162	Pocatello	License 29-7375
163	Pocatello	Transfer No. 5452
164	Pocatello	License 29-7770

EX #	PARTY	DOCUMENT
165	Pocatello	Permit 29-7770
166	Pocatello	Application for Permit 29-7770
167	Pocatello	10/12/1989 Letter from Jay Ulrich to Harold Jones, IDWR, re: Permit #29-7770, Additional Information and attachments
168	Pocatello	11/1991 Farm Lease between City of Pocatello and Smith
169	Pocatello	11/1991 Farm Lease between City of Pocatello and Smith (different document)
170	Pocatello	5/6/1969 Deed of Release made by U.S. Administrator of the Federal Aviation to the City of Pocatello
171	Pocatello	Records of related cases listed in Pocatello's Motion for Judicial Notice
172	Pocatello	Notice of Claim, Director's Report, Partial Decree for 35-4071 (City of Aberdeen)
173	Pocatello	Notice of Claim, Director's Report, Partial Decree for 35-7808 (City of Aberdeen)
174	Pocatello	Notice of Claim, Director's Report, Partial Decree for 36-7115 (City of Rupert)
175	Pocatello	Notice of Claim, Director's Report, Partial Decree for 36-7656 (City of Rupert)
176	Pocatello	Notice of Claim, Director's Report, Partial Decree for 36-7862 (City of Rupert)
177	Pocatello	Notice of Claim, Director's Report, Partial Decree for 36-15488 (City of Rupert)
178	Pocatello	Notice of Claim, Director's Report, Partial Decree for 36-15489 (City of Rupert)
179	Pocatello	Notice of Claim, Director's Report, Partial Decree for 36-2518 (City of Jerome)
180	Pocatello	Historical Map of Pocatello Water System – Offered & Withdrawn
181	Pocatello	Court's list of individual claims listed with circled elements that are in dispute

EX #	PARTY	DOCUMENT
182	Pocatello	Hand drawn diagram by Greg Sullivan
183	Pocatello	Pump Effect – APOD Illustration
301	State of Idaho	Partial Decrees entered in the SRBA Court where the point of diversion is from Gibson Jack Creek or Mink Creek and any tributary thereof. (These partial decrees were provided in the State's 2/15/07 Motion to Take Judicial Notice and later submitted as an exhibit.) List of Partial Decrees: 29-274C 29-274D 29-274E 29-274F 29-274G 29-274I 29-275 29-276B 29-276C 29-276D 29-276E 29-277A 29-2257 29-2323 29-4235 29-4273 29-4339 29-10608 29-10843 29-10923 29-11079 29-11300 29-11331 29-11345 29-11526 29-13434
302	State of Idaho	Hand drawing of cone depression by Harold Hargreaves

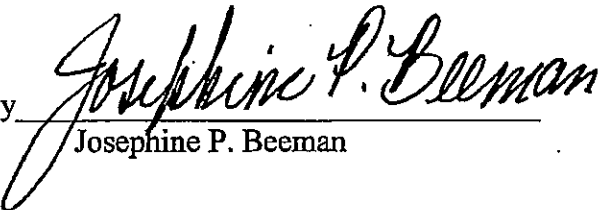
7. I certify:

- a. That a copy of this notice of appeal has been served on the reporter.
- b. That Appellant City of Pocatello has made arrangements with Court Reporter Maureen Newton for the fees for preparation of the reporter's transcript of the March 22, 2010 hearing.
- c. That the estimated fee for preparation of the clerk's record has been paid.
- d. That the appellate filing fee has been paid.
- e. That service has been made upon all parties required to be served pursuant to Rule 20 of the Idaho Appellate Rules.

DATED this 24th day of May 2010.

BEEMAN & ASSOCIATES, P.C.
Attorneys for the City of Pocatello

By


Josephine P. Beeman

CERTIFICATE OF SERVICE

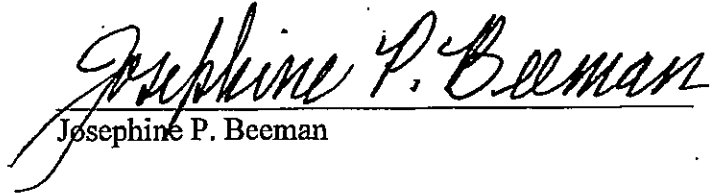
I HEREBY CERTIFY that on the 24th day of May 2010, I caused a true and correct copy of the foregoing document to be served on the following by U.S. Mail:

NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NAT'L RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CHRISTOPHER H. MEYER
JOHN M. MARSHALL
GIVENS PURSLEY LLP
P. O. BOX 2720
BOISE, ID 83701-2720


Josephine P. Beeman

Attachment (30 subcases)

29-00271
29-00272
29-00273
29-02274
29-02338
29-02401
29-02499
29-04221
29-04222
29-04223
29-04224
29-04225
29-04226
29-07106
29-07118
29-07119
29-07322
29-07375
29-07450
29-07770
29-11339
29-11348
29-13558
29-13559
29-13560
29-13561
29-13562
29-13637
29-13638
29-13639