

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



ERIC J. WILDMAN
PRESIDING JUDGE
(208) 736-3011
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SRBA CHAMBERS
P.O. BOX 2707
TWIN FALL, IDAHO 83303-2707

June 3, 2010

Via Facsimile to (208) 331-0954

Josephine Beeman
Beeman & Associates, PC
409 W. Jefferson
Boise, ID 83702

Re: In Re SRBA, Case No. 39576, Subcase No. 29-00271, *et al.* - Record on appeal

Dear Ms. Beeman:

On May 24, 2010, the City of Pocatello filed its Notice of Appeal in the above-entitled matter. The SRBA District Court is presently preparing the documents designated by the City in its Notice of Appeal to be included in the clerk's record on appeal. From our review of the record in the above-entitled matter, it appears that the below listed documents, which have been requested by the City of Pocatello to be a part of the clerk's record on appeal, were not part of the underlying record.

With respect to the below listed exhibits, a review of the trial minutes indicates that the same were never introduced and/or admitted into the record at trial:

EX #	PARTY	DOCUMENT
110	Pocatello	Idaho Department of Water Resources, Table, City of Pocatello Claims (www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ/asp).
114	Pocatello	Daily Mink Creek Use for June 1985.
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.
123	Pocatello	Table - 38 State-law SRBA Claims and Sublisting of IDWR Recommendations for Ground Water Claims with Alternate Points of Diversion.
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.

134	Pocatello	Cosgrove D.M, Contro, 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.
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.
145	Pocatello	Resume of Karen Wogslund.
146	Pocatello	Will #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.
152	Pocatello	7/31/1952 Alameda Enterprise news article.
160	Pocatello	License 29-2274.
161	Pocatello	License 29-2338.
162	Pocatello	License 29-7375.
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.
180	Pocatello	Historical Map of Pocatello Water System - Offered & Withdrawn.

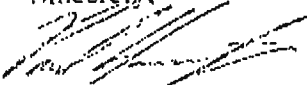
With respect to the following documents, a review of the record and register of actions indicate that the same were not filed in this matter: Document No. 30, Order Vacating Fact-Finding Hearing, and Document No. 35, City of Pocatello Witness & Exhibit List. The register of action shows that only the Notice of Service for the City of Pocatello's Witness & Exhibit List was filed with the Court.

Last, with respect to requested Document No. 44, which requests the Special Master's Reports and Recommendations for water right nos. 29-2354, 29-2382, 29-7222, 29-7431, 29-7502, 29-7782, 29-11344, & 29-13636, the same are not documents filed or lodged in the subcases at issue in the notice of appeal. *Administrative Order 13* governs documents filed or lodged in other subcases and provides that the same may "be included

[in the clerk's record] only by motion granted by the presiding judge." No such motion has been made by the City.

Please review the above-listed documents. If you believe they are included in the underlying record, please specify where in the record they can be found. If no response is received, the above-listed documents will not be included in the Clerk's Record on appeal, as it appears they were not part of the underlying record. Please feel free to contact me if you have any questions. Thank you.

Sincerely,



Paul R. Harrington
Law Clerk
SRBA District Court

cc: via facsimile to: Director of IDWR; Natural Resources Div. Chief, State of Idaho, Attorney General's Office; U.S. Department of Justice, Environment & Nat'l Resources; Givens Pursley, LLP.