

CANDICE MCHUGH
IDAHO STATE BAR NO. 5908
CHRIS M. BROMLEY
IDAHO STATE BAR NO. 6530
MCHUGH BROMLEY, PLLC
Attorneys at Law
380 S. 4th St., Ste. 103
Boise, ID 83702
Telephone: (208) 287-0991
Facsimile: (208) 287-0864
cmchugh@mchughbromley.com
cbromley@mchughbromley.com

*Attorney for Cities of Bliss, Burley, Carey, Declo, Hazelton, Heyburn, Jerome,
Paul, Rupert, Shoshone and Wendell*

RECEIVED

APR 17 2019

DEPARTMENT OF
WATER RESOURCES

IN RE SRBA

Case No. 39576

Subcase Nos: 63-303, 63-3613, 63-3614 and
63-3618

**COALITION OF CITIES' RESPONSE
TO MOTION TO ALTER OR AMEND
PARTIAL DECREES**

COMES NOW the Cities of Bliss, Burley, Carey, Declo, Hazelton, Heyburn, Jerome, Paul, Rupert, Shoshone and Wendell, ("Coalition of 11 Cities") by and through its attorneys of record, McHugh Bromley, PLLC, and files this *Response to Motion to Alter or Amend Partial Decrees* for Water Right Nos. 63-303, 63-3613, 63-3614, and 63-3618 ("Response").

On February 19, 2019, the State of Idaho filed three motions: (1) *Motion to Decree Water Right No. 63-33724b and Disallow Water Right Claim Nos. 63-33732, 63-33733, 63-33734, 63-33737, and 63-33738*; (2) *Motion to Decree Water Right No. 63-33734A*; and (3) *Motion to Alter or Amend Partial Decrees for Water Right Nos. 63-303, 63-3613, 63-3614, and 63-3618* ("Motion to Alter or Amend").

The Court issued a *Notice of Hearing* in the above-captioned subcases, setting a hearing date of May 21, 2019, which was then subsequently changed to June 18, 2019 and ordered the filing of responses to the *Motion to Alter or Amend* consistent with A.O.1. The Coalition of 11 Cities hereby files this *Response*.

The *Motion to Alter or Amend* is one of three motions filed by the State of Idaho to effectuate a settlement involving the four above captioned waters among other settlement terms involving refill of reservoirs located in the Boise River Basin. The settlement requires the re-opening of the reservoir base rights, 63-303, 63-3613, 63-3614, and 63-3618 (Base Rights"). According to the *Motion to Alter or Amend* the reason for re-opening the Base Rights is to include two conditions: one involving the "Quantity element," and the other to include a second condition in the "Other Provisions element," as it relates to storage "'reset.'" *Motion to Alter or Amend* at 2. According to the State, it is proper to review the *Motion to Alter or Amend* under I.R.C.P. 60(b)(6), "because addition of the above-described remarks to the partial decrees for [the Base Rights] is a limited amendment and necessary for the efficient administration of the water rights under the proposed settlement of the ongoing disputes over the 'fill' and/or 'refill' of the storage water rights for on-stream reservoirs in Administrative Basin 63." *Id.* at 2-3.

The Coalition of 11 Cities are involved in settlement negotiations with parties in Basin 01 in the "Upper Snake" involving a similar issue as that faced by the water users in Basin 63 as to what is the proper "reset" date. As part of that settlement, it is anticipated that a I.R.C.P. 60(b) motion may be filed to effectuate that settlement's provisions in part. The Coalition of 11 Cities does not contest whether the State's *Motion to Alter or Amend* meets the standards of I.R.C.P. 60(b)(6). However, it is important to the Coalition of 11 Cities to participate in any legal issues

relating to the procedure of reopening previously decreed rights and adding quantity limitations or other provisions to effectuate a settlement of stakeholders.

Thus, the Coalition of 11 Cities files this response to participate in the *Motion to Alter or Amend* as needed.

Submitted this 15th day of April, 2019.

MCHUGH BROMLEY, PLLC

A handwritten signature in cursive script, reading "Candice McHugh", written in dark ink.

Candice McHugh

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following on this 15th day of April, 2019, by the following method:

SRBA District Ct
PO Box 2707
Twin Falls, ID 83303-2707

☐	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☒	Facsimile
☐	E-mail

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Travis L. Thompson
Barker Rosholt & Simpson, LLP
P.O. Box 63
Twin Falls, ID 83303-0063

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

John K. Simpson
Barker Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701-2139

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Chief, Natural Resources
Division
Office of Attorney General, State
of Idaho
PO Box 83720
Boise, ID 83720-0010

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Jerry A. Kiser
620 W Hayes
Boise, ID 83702

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Christopher H. Meyer
Michael P. Lawrence
Givens Pursley, LLP
PO Box 2720
Boise, ID 83701-2720

☐	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☒	E-mail

Erika E. Malmen
Perkins Coie LLP
1111 W Jefferson St., Ste. 500
PO BO x737
Boise, ID 83701-0737

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Chris Bromley
McHugh Bromley, PLLC
380 S 4th St., Ste. 103
Boise, ID 83702

☐	U. S. Mail, postage pre-paid
☒	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

David W. Gehlert
Natural Resources Section
Environment & Natural Resources Division
U.S. Dept of Justice
999 18th St., S. Terrace, Ste. 370
Denver, CO 80294

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Daniel V. Steenson
Bryce Farris
Andrew Waldera
Sawtooth Law Office, PLLC
PO BO x7985
Boise, ID 83707

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

U.S. Dept of Justice
Environment & Natural Resources Div.
550 W Fort St., MSC 033
Boise, ID 83724

☐	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☒	E-mail

Scott L. Campbell
Campbell Law Chtd.
PO Box 170538
Boise, ID 83717

☒	U. S. Mail, postage pre-paid
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☐	E-mail

Candice McHugh
