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*Attorneys for City of Pocatello*

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR  
PERMIT 29-14315 IN THE NAME OF  
344 NORTH 15 LLC

**CITY OF POCA TELLO'S  
PRE-HEARING CONFERENCE  
MEMORANDUM**

Fee Category: Exempt  
Idaho Code § 67-2301

CITY OF POCA TELLO, by and through its attorney of record, Sarah A. Klahn, files this Pre-Hearing Conference Memorandum in advance of the pre-hearing conference scheduled by the Hearing Officer for July 20, 2020.

The April 8, 2020, application filed by 344 North 15<sup>th</sup> LLC seeks a permit for an irrigation water right, no. 29-14315, to be operated within the City of Pocatello water service area. Pocatello filed a timely protest to the application.

344 North 15<sup>th</sup> LLC operates an apartment complex within the City of Pocatello, and is connected to and served by the City of Pocatello's treated water system for both culinary and irrigation supplies. If this permit is approved, 344 North 15<sup>th</sup> LLC proposes to irrigate with its new irrigation water right instead of the water supplied under its customer account with the City

of Pocatello. Irrigation with any water right granted under this application would require 344 North 15<sup>th</sup> LLC to physically disconnect from the City's treated water system.

Under Pocatello Ordinance 13.040.030(C), it is unlawful for a customer such as 344 North 15<sup>th</sup> LLC to disconnect from the City water system. *See*, Exhibit 1, Ordinance 13.040.030. This ordinance was adopted on May 2, 2019; further, because of discussions had with City staff and the applicant, the applicant had actual notice of the City's plans to adopt the ordinance as early as January or February of 2019.

The City adopted the Ordinance 13.040.030 to protect the local public interest. The ordinance is designed to protect source water quantity and quality, and to ensure that water conservation measures or watering restrictions apply equally across the service area. Permitting and development of private wells within the municipal service boundary is inconsistent with the local public interest, inconsistent with preserving and conserving the City's finite ground water resources, and interferes with the City's ability to manage its ground water supplies during times of water shortage or drought.

### **Conclusion**

The City's objections to the application are laid out in its Protest; however, the City's primary concern is that this application is not in the local public interest. As an initial matter, the City believes it will be important for the Hearing Officer to determine if the Ordinance creates a basis for the Hearing Officer to reject the application altogether. Pocatello will be prepared to discuss a briefing schedule on motions for summary judgment at the Pre-Hearing Conference, as well as other relevant deadlines.

Dated this 17<sup>th</sup> day of July, 2020

CITY OF POCA TELLO

By 

Sarah A. Klahn, ISB #7928

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## CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July, 2020, I caused to be served a true and correct copy of the foregoing **CITY OF POCA TELLO'S PRE-HEARING CONFERENCE MEMORANDUM** by the method indicated below, addressed to the following:

Idaho Department of Water Resources Eastern Region 900 N Skyline Dr Ste A Idaho Falls, ID 83402-1718 <a href="mailto:James.Cefalo@idwr.idaho.gov">James.Cefalo@idwr.idaho.gov</a> <a href="mailto:Christina.henman@idwr.idaho.gov">Christina.henman@idwr.idaho.gov</a> Phone: 208-497-3784	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Federal Express <input checked="" type="checkbox"/> Email
Greg Sullivan Brockway Engineering PLLC 2016 N Washington St Ste 4 Twin Falls, ID 83301 <a href="mailto:Greg.sullivan@brockwayeng.com">Greg.sullivan@brockwayeng.com</a>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input checked="" type="checkbox"/> Email
344 North 15 LLC 344 N 15 <sup>th</sup> Avenue Pocatello, ID 83201-4023	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Federal Express <input type="checkbox"/> Email



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Sarah Klahn