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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF INTEGRATED
MUNICIPAL APPLICATION PACKAGE
("IMAP") OF UNITED WATER IDAHO,
INC. BEING A COLLECTION OF
INDIVIDUAL APPLICATIONS FOR
TRANSFERS OF WATER RIGHTS AND
APPLICATIONS FOR AMENDMENT OF
PERMITS

REPLY IN SUPPORT OF PIONEER
IRRIGATION DISTRICT'S STATEMENT OF
ISSUES AND FIRST SUPPLEMENTAL
STATEMENT OF ISSUES RE UNITED WATER
IDAHO'S IMAP APPLICATION

Pioneer Irrigation District ("Pioneer") submits this reply in support of its prior Statement of Issues Re United Water Idaho's IMAP Application ("Statement"), dated October 15, 2012, and its First Supplemental Statement of Issues Re United Water Idaho's IMAP Application ("Supplemental Statement"), dated October 31, 2012, in accordance with the Idaho Department of Water Resources' ("Department") Order Setting Schedule for Parties to Respond and Propose Timetables for Discovery and Hearing ("Order"), dated October 19, 2012. Pioneer

submits this reply to clarify the record concerning matters discussed in United Water Idaho's ("UWID") Response to Initial Statements ("Response"), dated November 14, 2012.

I. BACKGROUND

On October 15, 2012, Pioneer submitted its initial Statement in a good faith effort to respond to UWID's prior IMAP filings and to further assist the parties' consideration of the issues Pioneer felt are germane to this transfer proceeding. Pioneer was not formally obligated to file its Statement because there was no administrative order requiring as much of any of the parties at the time. Nonetheless, Pioneer prepared the Statement in response to UWID's request that the parties do so, and out of acknowledgement of the briefing efforts UWID had already undertaken to date.

On October 16, 2012, the Department held a status conference in this proceeding. That status conference was largely dominated by discussion of Pioneer's Statement, and a similar filing by the Boise Project Board of Control and a number of its member entities (collectively the "Project Entities"), also dated October 15, 2012. The October 16 status conference resulted in the issuance of the Department's Order requiring the parties to submit written statements regarding issues they felt were pertinent to the IMAP proceeding, including discussions of: (1) Matters Raised at the October 16, 2012 Status Conference; (2) Scope of the Hearing; (3) Scope of the Responsibilities of the Parties; (4) Scope of Discovery; and (5) Timetable for Discovery and Hearing. Order, p. 1.

On October 31, 2012, Pioneer filed its Supplemental Statement. Pioneer filed the Supplemental Statement to address topics raised in the Department's Order that were not otherwise previously discussed in Pioneer's Statement, and to raise additional issues not

identified within its October 15, 2012 Statement. Pioneer's Supplemental Statement expressly incorporated by reference the entirety of its underlying Statement. *See* Supplemental Statement, p. 2.

II. ARGUMENT

In its Response, UWID states Pioneer failed to address the matters raised in the Department's October 16, 2012 Order "as the Hearing Officer Directed." Response, p. 4. UWID further states Pioneer did not re-address any of the issues it previously raised in its October 15 Statement. *Id.* ("When we filed United Water's Initial Statement, we assumed those issues had been put to rest, but stated that we were prepared to address them to the extent they were raised again in the parties' initial statements."). Consequently, it appears UWID considers the issues raised in Pioneer's October 15 Statement "resolved." *Id.*

Pioneer is confused by UWID's assertions. Pioneer's confusion stems from the facts that it filed its Supplemental Statement on October 31, 2012, and that the Supplemental Statement expressly incorporated the entirety of its October 15, 2012 Statement by reference therein. After filing its Statement on October 15, 2012, Pioneer was not necessarily obligated to file another, redundant initial statement on October 31. Regardless, Pioneer filed its Supplemental Statement to specifically address issues contained within the Department's October 19 Order, and to raise additional issues not previously discussed within its preceding Statement. And, out of an abundance of caution, Pioneer's October 31 Supplemental Statement expressly re-raised (via incorporation by reference) the issues contained within its October 15 Statement.

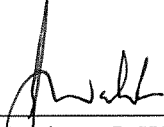
To the extent UWID contends Pioneer: (1) did not properly file an initial statement; (2) did not adequately or timely address the issues identified in the Department's October 19 Order; or (3) that it has somehow conceded any of the issues raised in its Statement and subsequent Supplemental Statement, UWID does so in error. Pioneer filed its "initial statement" on October 15, 2012, and timely supplemented that Statement on October 31, 2012. The issues Pioneer raised in those filings are properly before the Hearing Officer. Nothing in UWID's October 31, 2012 Initial Statement, nor its November 14 Response unilaterally disposes of, or otherwise decides those issues. Instead, the issues raised in Pioneer's Statement and Supplemental Statement are now ripe for the Hearing Officer's consideration and ultimate decision given that UWID has had the opportunity to respond. The issues raised are not "resolved" until the Hearing Officer (in this instance, the Director) decides them.

III. CONCLUSION

Other than clarifying the record in light of UWID's Response, Pioneer has nothing further to offer in addition to what has already been presented and briefed in accordance with the Department's Order. Pioneer has complied with both the letter and the spirit of the Department's Order. It is now up to the Hearing Officer to either: (1) move this proceeding forward; or (2) end this proceeding altogether in response to the additional issues raised in both Pioneer's Supplemental Statement and the Project Entities' pending motion to dismiss, dated November 14, 2012.

DATED this 20th day of November, 2012.

MOFFATT, THOMAS, BARRETT, ROCK &
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By 
Andrew J. Waldera – Of the Firm
Attorneys for Pioneer Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2012, I caused a true and correct copy of the foregoing **REPLY IN SUPPORT OF PIONEER IRRIGATION DISTRICT'S STATEMENT OF ISSUES AND FIRST SUPPLEMENTAL STATEMENT OF ISSUES RE UNITED WATER IDAHO'S IMAP APPLICATION** to be served by the method indicated below, and addressed to the following:

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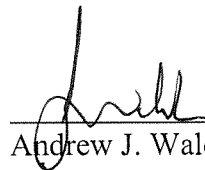
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