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DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

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.

**UNITED WATER'S OBJECTION AND
MOTION TO STRIKE THE CITY OF
POCATELLO'S INITIAL STATEMENT**

Applicant United Water Idaho Inc. ("United Water") hereby objects to, and moves to strike, *City of Pocatello's Initial Statement* dated October 31, 2012 and filed a second time with an amended certificate of service on November 1, 2012 (collectively, "*Initial Statement*") because the City of Pocatello's ("Pocatello") is not a party entitled to submit an initial statement.

The Hearing Officer's *Order Setting Schedule for Parties to Respond and Propose Timetables for Discovery and Hearing* ("*Initial Statement Order*") (Oct. 19, 2012) invited "parties to submit information setting out their position on a number of preliminary issues." *Initial Statement Order* at 1. Pocatello has not filed a protest and is not a party to this proceeding, but rather is an "interested person." See *Order Affirming Party Status and Notice of Status Conference* at 2 (Aug. 8, 2012); IDAPA 37.01.01.158 ("Persons not parties who have an

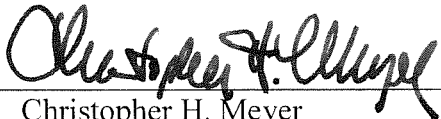
interest in a proceeding are called ‘interested persons.’”). Under the Department’s Rule of Procedure 158, an interested person is entitled to participate only as a “public witness,” which means it “do[es] not have parties’ rights to examine witnesses or otherwise participate in the proceedings as parties.” IDAPA 37.01.01.355. Pocatello’s participation is limited to that of a “public witness” unless it becomes a party, *i.e.* an intervenor, under the Department’s Rules of Procedure (a request that United Water would oppose). In any case, Pocatello is not a party at this time and it has no right to submit an initial statement pursuant to the Hearing Officer’s *Initial Statement Order*, or to otherwise influence the course of proceedings or the evidence in the record prior to hearing. IDAPA 37.01.01.355 (“public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing”).

Prior to filing this motion, undersigned counsel twice attempted to communicate by email with counsel for the City of Pocatello, requesting that Pocatello’s filing be withdrawn. No response was received. Accordingly, United Water respectfully requests the Hearing Officer to strike from the record Pocatello’s *Initial Statement*.

United Water has no substantive objection to the two documents attached to Pocatello’s *Initial Statement*. Indeed, they are public documents within the Department’s files. However, if they are to be included in the record, this should be accomplished through an appropriate offer by a party, by the Department, or by an interested person at the time of the hearing.

Respectfully submitted this 14th day of November, 2012.

GIVENS PURSLEY LLP

By 
Christopher H. Meyer

By 
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of November, 2012, the foregoing was filed, served, and copied as follows:

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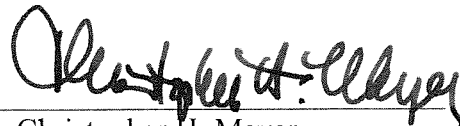
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