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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Idaho Ground Water Appropriators, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE CITY OF) IDAHO GROUND WATER APPROPRIATORS,
POCATELLO APPLICATION FOR) INC. PROTEST TO APPLICATION
LEASING OF WATER FOR)
HYDROELECTRIC GENERATION) Hearing Date: July 31, 2008
_____)

COME NOW Idaho Ground Water Appropriators, Inc. and its members ("IGWA") through counsel, and pursuant to the *Notice of Proposed Leasing of Water for Hydroelectric Generation* published in the Post Register, Times News and Idaho Statesman on July 10 and 17, 2008 and hereby file this protest to the approval of the City of Pocatello's ("City") Application for Leasing of Water For Hydroelectric Generation ("Application") filed with the Idaho Department of Water Resources ("IDWR" or "Department") on June 19, 2008.

The bases for this protest are briefly stated as follows:

1. IGWA is an Idaho nonprofit corporation whose members include American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground

Water District, Fremont-Madison Irrigation District, Southwest Irrigation District, municipal water providers, commercial and industrial entities operating within the state of Idaho who depend upon ground water from the Eastern Snake Plain Aquifer for irrigation, municipal, commercial, industrial, and other authorized beneficial uses.

2. The City's Application proposes to lease up to 20,000 acre-feet of water to Idaho Power Company for hydroelectric generation at its hydropower facilities. Application at ¶ 4. The water rights associated with the City's Application are water right no. 01-2068 and the United States Bureau of Reclamation Contract with the City, Contract No. 14-06-100-1825.

3. IGWA and its members rent water from storage contract holders under private leases and through the Water District 01 Rental Pool for mitigation, irrigation, and other beneficial purposes. The Lease of water for delivery below Milner for power production purposes would adversely effect all ground water users by reducing storage water supplies needed for mitigation purposes to reduce or eliminate the risks of curtailment

4. The City's Application should be rejected for one or more of the following reasons:
- a. Because it conflicts with the local public interest contrary to Idaho Code § 42-1763;
 - b. Because it would adversely affect the local economy of the watershed or the local area within which the source of water originates contrary to Idaho Code § 42-1763;
 - c. Because the Application violates long-standing state policy, the state water plan and the Swan Falls Agreement requiring a "zero" minimum flow at Milner dam; and
 - d. Because the proposed lease does not comply with the requirements of the Water District 01 Rental Pool Rules.

IGWA expects this matter may involve multiple parties with various interests and therefore reserves the right to amend its protest and assert additional grounds once all issues involved in this matter are fully known.

WHEREFORE, IGWA requests that the Director deny the City's Application, or condition any approval in a manner that protects junior and senior water users together with such further relief the Director may deem appropriate.

Respectfully submitted this 22nd day of July, 2008.

RACINE OLSON NYE BUDGE & BAILEY

By: *Randall C. Budge* for
RANDALL C. BUDGE
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of July, 2008, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

Mr. David R. Tuthill, Director
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