

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 72128)
(REGARDING WATER RIGHT NOS.)
61-2072, 61-2167, 61, 2170, 61-2210,)
61-7184, & 61-7339) IN THE NAME)
OF THE CITY OF MOUNTAIN HOME)
_____)

**REQUEST FOR SUBMISSION OF
IDWR STAFF MEMORANDUM**

WHEREAS IDAPA 37.01.01.600 allows the Idaho Department of Water Resources ("IDWR's") "experience, technical competence and specialized knowledge" to be used in the evaluation of evidence; and

WHEREAS IDAPA 37.01.01.602 allows a hearing officer to notice technical or scientific facts within IDWR's specialized knowledge, including agency staff memoranda and data; and

WHEREAS the hearing officer is not an employee of IDWR and has no means to utilize IDWR's experience, technical competence and specialized knowledge other than by querying IDWR;

WHEREAS a Settlement Agreement received by IDWR on September 25, 2006, has been executed by the Applicant and all Protestants;

THEREFORE the hearing officer invites IDWR to present staff memoranda or other data compilations evaluating whether this Settlement Agreement should be approved without an evidentiary hearing pursuant to IDAPA 37.01.01.612 which provides:

Settlements must be reviewed under this rule. ... [T] he presiding officer could summarily accept settlement of essentially private disputes that have no significant implication for administration of the law for persons other than the affected parties. ... [W]hen the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider settlement and whether acceptance of the settlement is consistent with the agency's charge under the law.

Any such staff memoranda or data compilations shall be submitted to the hearing officer on or before **October 6, 2006**, and served upon the parties to this matter. IDWR would be required to make relevant staff available for cross-examination at any hearing set in this matter

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pursuant to IDAPA 37.01.01.201 and 602.

Dated this 20th day of September, 2006.

A handwritten signature in cursive script that reads "Peter R. Anderson". The signature is written in black ink and is positioned above a horizontal line.

Peter R. Anderson
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of September, 2006, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

CITY OF MOUNTAIN HOME
C/O JAY FRIEDLY
340 E 2 N
MOUNTAIN HOME ID 83647
(208) 587-3144

☒ U.S. Mail, Postage Prepaid
☐ Facsimile
☐ E-mail

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SHELLEY M DAVIS
BARKER RSHOLT
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(208) 344-6034

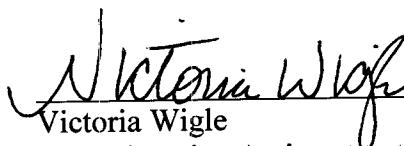
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Victoria Wigle
Administrative Assistant to the Director