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

IN THE MATTER OF THE ALLOCATION OF
STORED WATER TO THE CITY OF
POCATELLO BY WATER DISTRICT 01

Docket No. _____

**CITY OF POCATELLO'S
PETITION REQUESTING A
HEARING ON WD01'S 2023
STORAGE REPORT**

COMES NOW the City of Pocatello ("Pocatello"), by and through its undersigned counsel, and hereby submits this petition pursuant to Idaho Department of Water Resources ("IDWR") Rules of Procedure 210 (IDAPA 37.01.01.210) and Idaho Code section 42-1701A(3) to request a hearing to contest Water District 01's ("WD01") allocation of stored water to Pocatello as set forth in the 2023 Storage Report.

BACKGROUND

On April 10, 2024, Pocatello received actual notice of WD01's publication of the final version of the 2023 Storage Report.¹ WD01's publication of the 2023 Storage Report, and the allocation of stored water to spaceholders contained therein, "constitutes an action of the Director." *City of Pocatello v. Idaho Water Resources Control Board*, Case No. 42CV-23-1668, *Amended Order on Cross Motions for Summary Judgment* at 19-20 (Twin Falls Dist. Ct., Jan. 10,

¹ A copy of the 2023 Storage Report is available at <https://www.waterdistrict1.com/media/ibdgtgvj/2023-storage-report.pdf> (last visited April 18, 2024).

2024). Consistent with Idaho Code section 42-1701A(3), Pocatello files this petition within fifteen (15) days of receipt of actual notice to contest this action and requests a hearing thereon.

REQUEST FOR HEARING

Pocatello is informed and believes that WD01's allocation of stored water to Pocatello's space in Palisades Reservoir in 2023 was erroneous and that it has been aggrieved thereby.

Pocatello has not been previously afforded an opportunity for a hearing on the matter.

Pocatello's grounds for contesting the 2023 Storage Report include:

1. The application of WD01 Rental Pool Procedure 7.3 (a/k/a the "Last to Fill Rule") against Pocatello in 2023 was unlawful;

2. The allocation of stored water in 2023 was contrary to the Watermaster's duties as provided by the decree for Water Right No. 01-02068 and Idaho law; and


3. The allocation of stored water to Pocatello in 2023 in the amount of 46,590 acre-feet deprived Pocatello of stored water to which it was entitled under its contract with the Bureau of Reclamation, Contract No. 14-06-100-1825.

Accordingly, Pocatello respectfully requests that IDWR initiate formal proceedings to address this petition in accordance with IDWR Rules of Procedure 102 (IDAPA 37.01.01.102) and authorize discovery pursuant to IDWR Rules of Procedure 521 (IDAPA 37.01.01.521).

Pocatello reserves the right to raise additional grounds for contesting the 2023 Storage Report as more facts may become available in the course of discovery.

Respectfully submitted this 25th day of April 2024.

SOMACH SIMMONS & DUNN

By 
Sarah A. Klahn (ISB # 7928)
Maximilian C. Bricker (ISB #12283)

Attorneys for City of Pocatello
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of April 2024, I caused to be filed and served a true and correct copy of the foregoing document via electronic mail to the following:

IDAHO DEPT. OF WATER RESOURCES

Director Mathew Weaver

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