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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 DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A & B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, and TWIN FALLS CANAL COMPANY	**MOTION TO AMEND REBUTTAL EXPERT REPORT SCHEDULE**

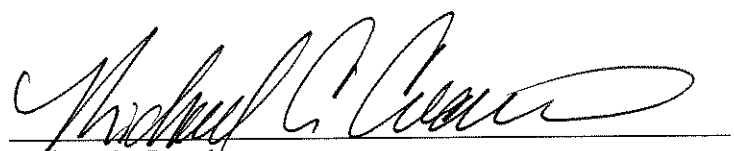
IGWA and City of Pocatello hereby request that the Director amend the current scheduling order in the above-captioned matter to extend the deadline for exchange of rebuttal expert reports to February 10, 2006 per the attached Agreement and Stipulation among IGWA, the City of Pocatello and the members of the Surface Water Coalition. The purpose of the proposed change is to allow the parties to conduct depositions of each others' experts before exchanging rebuttal reports. The parties to the attached Agreement do not intend that any other scheduled deadlines or dates, including the hearing date, be changed. Counsel for the SWC has authorized the filing of this Motion with the attached Agreement. The parties to the attached

Agreement have discussed the proposed amendment of the deadline for exchanging rebuttal reports and the contemplated three week deposition schedule described in paragraph 9 of the Agreement with counsel for the U.S. Bureau of Reclamation (i.,e. the only other party to this proceeding who filed an expert report), and the Bureau has no objection.

For the foregoing reasons and as recited in the Agreement, the parties thereto request the above amendment to the current Scheduling Order in this matter.

RESPECTFULLY SUBMITTED this 11th day of January, 2006.

GIVENS PURSLEY LLP



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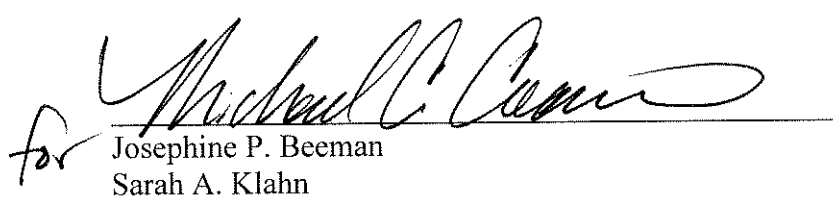
CITY OF POCATELLO



for Josephine P. Beeman
Sarah A. Klahn

Attorneys for the City of Pocatello

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January 2006, 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. Karl J. Dreher Director Idaho Department of Water Resources 322 East Front Street P.O. Box 83720 Boise, ID 83720-0098	_____ U.S. Mail _____ Facsimile _____ Overnight Mail _X_ Hand Delivery _____ E-mail
C. Tom Arkoosh, Esq. Arkoosh Law Offices, Chtd. 301 Main Street P.O Box 32 Gooding, ID 83330	_X_ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery _✓_ E-mail
W. Kent Fletcher, Esq. Fletcher Law Office P.O. Box 248 Burley, ID 83318-0248	_X_ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery _✓_ E-mail
Roger D. Ling, Esq. Ling, Robinson & Walker 615 H St. P.O. Box 396 Rupert, ID 83350-0396	_X_ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery _✓_ E-mail
John A. Rosholt, Esq. John K. Simpson, Esq. Travis L. Thompson, Esq. Barker, Rosholt & Simpson 113 Main Avenue West, Ste. 303 Twin Falls, ID 83301-6167	_X_ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery _✓_ E-mail
Kathleen Marion Carr, Esq. Office of the Field Solicitor U.S. Department of the Interior 550 West Fort Street, MSC 020 Boise, ID 83724-0020	_X_ U.S. Mail _____ Facsimile _____ Overnight Mail _____ Hand Delivery _✓_ E-mail

Matt J. Howard, Esq. U.S. Bureau of Reclamation Pacific Northwest Region 1150 N. Curtis Road Boise, ID 83706-1234	X ✓	U.S. Mail Facsimile Overnight Mail Hand Delivery E-mail
Scott L. Campbell, Esq. Moffatt Thomas Barrett Rock & Fields, Chtd. 101 S. Capitol Blvd., 10th Floor P.O. Box 829 Boise, ID 83701-0829	X ✓	U.S. Mail Facsimile Overnight Mail Hand Delivery E-mail
Michael S. Gilmore, Esq. Deputy Attorney General Civil Litigation Division Office of the Attorney General P.O. Box 83720 Boise, ID 83720-0010	X ✓	U.S. Mail Facsimile Overnight Mail Hand Delivery E-mail
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James S. Lochhead, Esq. Adam T. DeVoe, Esq. Brownstein, Hyatt & Farber P.C. 410 17th Street, 22nd Floor Denver, CO 80202	X U.S. Mail ___ Facsimile ___ Overnight Mail ___ Hand Delivery ✓ E-mail
Mr. Ron Carlson Mr. Lewis Rounds Idaho Department of Water Resources Eastern Regional Office 900 North Skyline Dr. Idaho Falls, ID 83402-6105	X U.S. Mail ___ Facsimile ___ Overnight Mail ___ Hand Delivery ___ E-mail
Mr. Allen Merritt Ms. Cindy Yenter Idaho Department of Water Resources Southern Regional Office 1341 Fillmore St., Ste. 200 Twin Falls, ID 83301-3033	X U.S. Mail ___ Facsimile ___ Overnight Mail ___ Hand Delivery ___ E-mail

Michael C. Creamer

AGREEMENT

The following agreement is made as of January 10, 2006, between the Surface Water Coalition (A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Irrigation Company and Twin Falls Canal Company), Idaho Ground Water Appropriators, Inc. ("IGWA"), and the City of Pocatello ("the Parties"). These entities are Parties to the Surface Water Delivery Case scheduled for hearing before IDWR beginning March 6, 2006, and this Stipulation is made for purposes of those proceedings.

Recitals

1. On July 22, 2005, the Director of the IDWR ("Director") entered a Scheduling Order, which addressed, among other things, expert disclosures to be made by the Parties. The Scheduling Order reads, in pertinent part, as follows:

   "By October 17, 2005, the parties must submit expert witness reports. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; ...."

2. The date for submission of the expert reports later was modified, but the language describing their content was not.

3. The Parties timely exchanged expert reports. Subsequently, they have discussed what "data or other information considered" must be provided to each other. IGWA has requested materials from the Surface Water Coalition, as described in the attached Exhibit A, and Pocatello has requested information from the Surface Water Coalition, as described in the attached Exhibit B. The information requested from IGWA and Pocatello by the Surface Water Coalition is attached as Exhibit C.

4. The Parties also have discussed the timing of expert depositions and of expert rebuttal reports, and agree that conducting depositions of experts before the exchange of rebuttal expert reports is a more expeditious means to proceed with discovery while maintaining the current hearing date.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE:

5. The expert rebuttal report deadline, currently scheduled for January 13, 2006, should be extended until February 10, 2006 to allow depositions to be conducted before exchanging rebuttal reports.

6. The Surface Water Coalition will provide or identify for ready access to IGWA and to Pocatello the data or other information considered by the witness in forming the opinions and relating to those subjects set out in the attached Exhibits A and B. IGWA and Pocatello will provide or identify for ready access to the Surface Water Coalition the data or other information considered by the witness in forming the opinions and relating to those subjects set out in Exhibit C.

7. The Parties will make best efforts to exchange the data and information described in paragraphs 6 - 7 above, wherever possible, no later than 5pm, MST on Monday, January 16, 2006, with the exception of data and information relating to the VIC Model, which the Surface Water Coalition will make best efforts to deliver to IGWA and Pocatello no later than Wednesday, January 18, 2006.

8. If any Party claims that any of the foregoing data and information is proprietary, that Party shall propose to provide such material under a protective stipulation, to be tendered by such Party no later than January 12, 2006, which will limit the use of such material to this proceeding only, and provide for the return of the same.

9. The Parties will begin expert depositions in Boise, Idaho, beginning in the afternoon of Monday, January 23, 2006. The Parties currently estimate that it will take approximately three weeks to conduct these expert depositions. The Parties will use their best efforts to agree no later than January 12, 2006 upon which witnesses will be deposed and on what schedule.

10. The Parties will jointly move the Director for this change in schedule, and provide him with a copy of this stipulation.

IF A PARTY DOES NOT RECEIVE THE DATA AND INFORMATION REQUESTED AS DESCRIBED ABOVE, THE FOLLOWING ADDITIONAL PROVISIONS SHALL APPLY:

11. The Party alleging that the appropriate data and information has not been received (the "Complaining Party") shall move to compel the same after appropriate request and conference.

This agreement is made as of January 10, 2006, as a stipulation in these proceedings.

C. Tom Arkoosh

American Falls Reservoir District #2

John Simpson

Twin Falls Canal Company, Milner Irrigation Dist. and North Side Canal Company

W. Kent Fletcher

Minidoka Irrigation District

Roger Ling

A & B Irrigation and Burley Irrigation District

Michael C. Creamer

For the Idaho Ground Water Appropriators, Inc.

for William A. Hillhouse II

For the City of Pocatello