

A. Dean Tranmer ISB # 2793  
City of Pocatello  
P. O. Box 4169  
Pocatello, ID 83201  
(208) 234-6149  
(208) 234-6297 (Fax)  
[dtranmer@pocatello.us](mailto:dtranmer@pocatello.us)

Sarah A. Klahn, ISB #7928  
Mitra Pemberton  
White & Jankowski, LLP  
511 Sixteenth Street, Suite 500  
Denver, Colorado 80202  
(303) 595-9441  
(303) 825-5632 (Fax)  
[sarahk@white-jankowski.com](mailto:sarahk@white-jankowski.com)  
ATTORNEYS FOR THE CITY OF POCATELLO

Randall C. Budge (ISB #1949)  
Candice M. McHugh (ISB #5908)  
Thomas J. Budge (ISB #7465)  
RACINE OLSON NYE BUDGE &  
BAILEY, CHARTERED  
101 S. Capitol Boulevard, Suite 208  
Boise, Idaho 83702  
(208) 395-0011 – Telephone  
(208) 433-0167 – Facsimile

ATTORNEYS FOR IDAHO GROUND  
WATER APPROPRIATORS, INC.  
("IGWA").

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

IN THE MATTER OF THE PETITION )  
FOR DELIVERY CALL OF THE A&B )  
IRRIGATION DISTRICT FOR THE )  
DELIVERY OF GROUND WATER AND ) **CITY OF POCATELLO'S and IGWA'S**  
FOR THE CREATION OF A GROUND ) **JOINT RESPONSE TO MOTIONS TO**  
WATER MANAGEMENT AREA ) **STRIKE**  
\_\_\_\_\_ )

DOCKET NO. CM-DC-2011-001

The City of Pocatello ("City" or "Pocatello") and Idaho Ground Water Appropriators, Inc. ("IGWA") hereby submit this joint response to A&B's twin Motions to Strike.<sup>1</sup>

On March 14, 2011 Pocatello filed its "Motion for the Director to Consider City of Pocatello's Proposed Order on Remand" ("Pocatello's Motion"), as well as the City's "Proposed

<sup>1</sup> A&B apparently filed a motion to strike Pocatello's February 14 Proposed Order on Remand on March 16, 2011; however, the motion was not received by Pocatello until March 31, 2011 when counsel for A&B finally emailed the March 16 pleading to Pocatello's counsel. A&B also filed a Motion to Strike IGWA's Response in Support of Pocatello's Motion on March 30, 2011. Given the problems associated with A&B's service and the delay in Pocatello's receipt of A&B's motion, this joint response is timely.

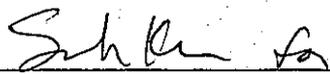
Order on Remand”, to assist the Department in responding to the District Court’s February 14, 2011 *Order Granting Motion to Enforce in Part and Denying Motion to Enforce in Part*. On March 28, 2011, IGWA filed a “Response to the City of Pocatello’s Motion for the Director to Consider the City of Pocatello’s Proposed Order on Remand” (“IGWA’s Response”). A&B’s twin Motions to Strike request the Director to strike Pocatello’s Motion and Proposed Order on Remand as well as IGWA’s Response.

Under IDWR Procedural Rule 564, “any party may ask to file ...briefs...[or] proposed orders”. IDAPA 37.01.01.564. Pocatello’s March 14, 2011 filing is such a proposed order and Pocatello’s and IGWA’s pleadings referenced herein are squarely within the scope of filings to be made under Rule 564. Further, none of Pocatello’s or IGWA’s pleadings that A&B seeks to strike contain extra-record evidence.

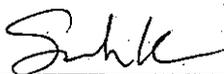
Rule 564 applies equally to all parties. A&B may offer its own order on remand if it desires; alternatively, it may offer briefing. However, A&B has offered no legal basis for its Motion to Strike and its motion must be denied.

Respectfully submitted, this 4<sup>th</sup> day of April, 2011.

CITY OF POCATELLO ATTORNEY’S OFFICE  
Attorneys for the City of Pocatello

By   
A. Dean Tranmer

WHITE & JANKOWSKI, LLP  
Attorneys for the City of Pocatello

By   
Sarah A. Klahn, #7928

RACINE OLSEN NYE BUDGE & BAILEY, Chtd.  
Attorneys for IGWA

By:   
Candice M. McHugh, #5908

## CERTIFICATE OF SERVICE

I hereby certify that on this 4<sup>th</sup> day of April, 2011, a copy of **City of Pocatello's and IGWA's Joint Response to A&B's Motions to Strike in Case CM-DC-2011-001 [Docket No. 37-03-11-1]** was served by email only to the following:



Sarah A. Klahn, White & Jankowski, LLP

<p>Gary Spackman, Interim Director State of Idaho, Dept of Water Resources 322 E Front St PO Box 83720 Boise ID 83720-0098</p> <p>Deborah.Gibson@idwr.idaho.gov</p>	<p>Garrick Baxter Chris Bromley Deputy Attorneys General Idaho Dept of Water Resources PO Box 83720 Boise ID 83720-0098</p> <p>garrick.baxter@idwr.idaho.gov chris.bromley@idwr.idaho.gov</p>	<p>John K. Simpson Travis L. Thompson Barker Rosholt &amp; Simpson 113 Main Ave West Ste 303 PO Box 485 Twin Falls ID 83303-0485</p> <p>facsimile 208-735-2444 jks@idahowaters.com tlt@idahowaters.com</p>
<p>Jerry R. Rigby Rigby Andrus and Moeller 25 N 2<sup>nd</sup> East Rexburg ID 83440</p> <p>jrigby@rex-law.com</p>	<p>Randy Budge Candice M. McHugh Racine Olson Nye Budge &amp; Bailey 201 E Center St PO Box 1391 Pocatello ID 83204-1391</p> <p>rob@racinelaw.net cmm@racinelaw.net</p>	<p>A. Dean Tranmer, Esq. City of Pocatello PO Box 4169 Pocatello ID 83201</p> <p>dtranmer@pocatello.us</p>