

FAX COVER SHEET

November 1, 2012

TO: IDWR / I MAP
FAX: 287-6700
FROM: Jo Beeman
RE: I MAP

Pocatello's Initial Statement, dated October 31, 2012 with AMENDED CERTIFICATE OF SERVICE, dated November 1, 2012

The information contained in this facsimile is confidential information or attorney work product or both and is for the exclusive use of the intended recipient listed above. Any reading, disclosure, use or reproduction of this communication other than by the intended recipient is prohibited. If you have received this communication in error, please notify us by collect telephone call immediately and return the communication to us by U. S. Mail.

NUMBER OF PAGES BEING TRANSMITTED (INCLUDING THIS PAGE) = 5

IF ALL PAGES ARE NOT RECEIVED, PLEASE CALL JOYCE AT (208) 331-0950.

ORIGINAL BY MAIL: YES NO

BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, Idaho 83702
Phone: (208) 331-0950
Fax: (208) 331-0954
joyce.angell@beemanlaw.com

Josephine P. Beeman (ISB # 1806)
Jane M. Newby (ISB #2848)
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, ID 83702
Phone: 208-331-0950
Fax: 208-331-0954
jo.beeman@beemanlaw.com

Attorneys for City of Pocatello

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

IN THE MATTER OF INTEGRATED)
MUNICIPAL APPLICATION PACKAGE)
("IMAP") OF UNITED WATER IDAHO,)
INC. BEING A COLLECTION OF)
INDIVIDUAL APPLICATIONS FOR)
TRANSFERS OF WATER RIGHTS AND)
APPLICATIONS FOR AMENDMENT OF)
PERMITS)
_____)

**CITY OF POCATELLO'S INITIAL
STATEMENT**

The City of Pocatello (Pocatello), by and through its attorneys, Beeman & Associates, P.C., submits this *Initial Statement* pursuant to the October 19, 2012 *IDWR Order Setting Schedule for Parties to Respond and Propose Timetable for Discovery and Hearing*. Attached to the *Initial Statement* are two documents which Pocatello is providing from the record in *City of Pocatello v. State of Idaho*, 152 Idaho 830, 275 P.3d 845 (2012):

Brief of United Water Idaho, City of Nampa, and City of Blackfoot Addressing Alternative Points of Diversion Condition, filed April 10, 2010 in In Re SRBA Case No. 39576, Subcase Nos. 29-00271, in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls.(UWI amicus brief).

Stipulation and Agreement between Pocatello and the Surface Water Coalition in Pocatello's SRBA Subcases 29-271 et seq. dated February 26, 2007. (Pocatello-SWC Stipulation)

According to the IDWR Order, the following matters are to be addressed in the parties' initial statements:

1) Matters raised at Status Conference including recent documents submitted by the parties;

Pocatello believes certain injury issues (as discussed in the *Pioneer Irrigation District's Statement of Issues Re United Water Idaho's IMAP Application*, October 15, 2012, and as discussed in the *Boise Project Board of Control, Big Bend Irrigation District, Wilder Irrigation District and Boise-Kuna Irrigation District's Statement of Issues and Request for Clarification*, October 15, 2012) need to be addressed. Specifically:

- If the APOD remark allows United Water Idaho (UWI) to increase the historic rate of diversion (well capacity) of a well, following approval of the IMAP, does the burden of proof and burden of persuasion of "no injury" still reside with United Water Idaho, as to injury associated with this future increase in well capacity?
- Should the historic rate of diversion of wells which operate as APODs be included in the conditions of approval of the IMAP?
- Should future increases of historic rates of diversion for UWI wells in the IMAP be subject to separate transfer proceedings?

2) Scope of the Hearing;

Pocatello respectfully defers to IDWR and the parties on this issue.

3) Scope of Responsibilities of the Parties;

Pocatello respectfully defers to IDWR and the parties on this issue, except as to the factual issues associated with documenting the existing rates of diversion for the UWI wells in the IMAP.

4) Scope of Discovery;

Pocatello respectfully defers to IDWR and the parties on this issue.

5) Timetable for Discovery and Hearing.

Pocatello respectfully defers to IDWR and the parties on this issue.

Dated this 31st day of October, 2012.

BEEMAN & ASSOCIATES, P.C.
Attorneys for City of Pocatello

By Josephine P. Beeman
Josephine P. Beeman

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2012, I caused to be served the foregoing document by U.S. Mail on:

Christopher H. Meyer
Michael P. Lawrence
Givens Pursley LLP
P. O. Box 2720
Boise, ID 83701-2720

Albert P. Barker
Shelley M. Davis
Barker Rosholt & Simpson LLP
P. O. Box 2139
Boise, ID 83710-2139

Thomas H. Barry, Public Works Director
Kyle Radek, Assistant City Engineer
City of Meridian
33 E. Broadway Avenue, Suite 200
Meridian, ID 83642

Scott Campbell
Andrew Waldera
Moffatt Thomas
P. O. Box 829
Boise, ID 83701-0829

Kathleen M. Carr
U.S. Department of Interior
960 Broadway Street, Suite 400
Boise, ID 83706

Kuna City Clerk
Gordon Law, City Engineer
P. O. Box 13
Kuna, ID 83634

S. Bryce Farris
Ringert Law Chartered
P. O. Box 2773
Boise, ID 83701-2773

Charles L. Honsinger
Honsinger Law PLLC
P. O. Box 517
Boise, ID 83701-0517

Matt Howard PN-3130
E. Gail McGarry
Bureau of Reclamation
1150 North Curtis Road, Suite 100
Boise, ID 83706-1234

Bruce M. Smith
Moore Smith Buxton & Turcke Chtd.
950 W. Bannock, Suite 520
Boise, ID 83702

Ed Squires
Hydrologic, Inc.
1002 W. Franklin Street
Boise, ID 83702-5431

Robert W. Talbo
Talbo Simmons PA
1031 E. Park Blvd.
Boise, ID 83712

Matthew K. Wilde
City of Boise
P. O. Box 500
Boise, ID 83701-0500

Brent Orton
City of Caldwell
621 Cleveland Blvd.
Caldwell, ID 83605

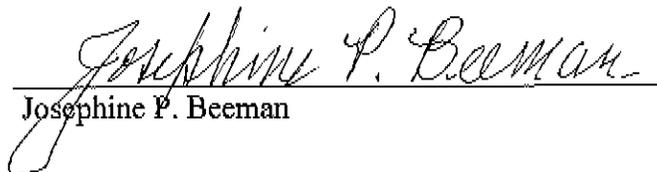
Richard Roats
6126 W. State St. Ste. 203/PO Box 9811
Boise, Idaho 83707

cc:
Gary Spackman
IDWR Director
P. O. Box 83720
Boise, ID 83720-0098

John Westra
IDWR Western
2735 Airport Way
Boise, ID 83705-5082

Garrick Baxter
IDWR State
P. O. Box 83720
Boise, ID 83720-0098

Jeff Peppersack
IDWR State
P. O. Box 83720
Boise, ID 83720-0098


Josephine P. Beeman

AMENDED CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2012, I caused to be served the foregoing document by U.S. Mail on:

Christopher H. Meyer
Michael P. Lawrence
Givens Pursley LLP
P. O. Box 2720
Boise, ID 83701-2720

Garrick Baxter
IDWR State
P. O. Box 83720
Boise, ID 83720-0098

I hereby certify that on November 1, 2012 I caused to be served the foregoing document by U.S. Mail on:

Albert P. Barker
Shelley M. Davis
Barker Rosholt & Simpson LLP
P. O. Box 2139
Boise, ID 83710-2139

Bruce M. Smith
Moore Smith Buxton & Turcke Chtd.
950 W. Bannock, Suite 520
Boise, ID 83702

Thomas H. Barry, Public Works Director
Kyle Radek, Assistant City Engineer
City of Meridian
33 E. Broadway Avenue, Suite 200
Meridian, ID 83642

Ed Squires
Hydrologic, Inc.
1002 W. Franklin Street
Boise, ID 83702-5431

Scott Campbell
Andrew Waldera
Moffatt Thomas
P. O. Box 829
Boise, ID 83701-0829

Robert W. Talboy
Talboy Simmons PA
1031 E. Park Blvd.
Boise, ID 83712

Kathleen M. Carr
U.S. Department of Interior
960 Broadway Street, Suite 400
Boise, ID 83706

Matthew K. Wilde
City of Boise
P. O. Box 500
Boise, ID 83701-0500

Kuna City Clerk
Gordon Law, City Engineer
P. O. Box 13
Kuna, ID 83634

Brent Orton
City of Caldwell
621 Cleveland Blvd.
Caldwell, ID 83605

S. Bryce Farris
Ringert Law Chartered
P. O. Box 2773
Boise, ID 83701-2773

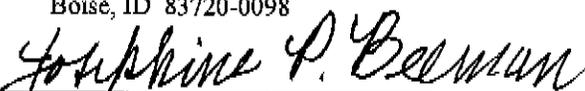
Richard Roats
6126 W. State St. Ste. 203/ PO Box 9811
Boise, Idaho 83707
cc:
Gary Spackman
IDWR Director
P. O. Box 83720
Boise, ID 83720-0098

Charles L. Honsinger
Honsinger Law PLLC
P. O. Box 517
Boise, ID 83701-0517

John Westra
IDWR Western
2735 Airport Way
Boise, ID 83705-5082

Matt Howard PN-3130
E. Gail McGarry
Bureau of Reclamation
1150 North Curtis Road, Suite 100
Boise, ID 83706-1234

Jeff Peppersack
IDWR State
P. O. Box 83720
Boise, ID 83720-0098


Josephine P. Beeman