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DEPARTMENT OF
WATER RESOURCES

Scott L. Campbell, ISB No. 2251
Andrew J. Waldera, ISB No. 6608
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
slc@moffatt.com
ajw@moffatt.com
18946.0026

Attorneys for Pioneer Irrigation District

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	**REPLY IN SUPPORT OF PIONEER IRRIGATION DISTRICT'S STATEMENT OF ISSUES AND FIRST SUPPLEMENTAL STATEMENT OF ISSUES RE UNITED WATER IDAHO'S IMAP APPLICATION**

Pioneer Irrigation District ("Pioneer") submits this reply in support of its prior Statement of Issues Re United Water Idaho's IMAP Application ("Statement"), dated October 15, 2012, and its First Supplemental Statement of Issues Re United Water Idaho's IMAP Application ("Supplemental Statement"), dated October 31, 2012, in accordance with the Idaho Department of Water Resources' ("Department") Order Setting Schedule for Parties to Respond and Propose Timetables for Discovery and Hearing ("Order"), dated October 19, 2012. Pioneer

submits this reply to clarify the record concerning matters discussed in United Water Idaho's ("UWID") Response to Initial Statements ("Response"), dated November 14, 2012.

I.
BACKGROUND

On October 15, 2012, Pioneer submitted its initial Statement in a good faith effort to respond to UWID's prior IMAP filings and to further assist the parties' consideration of the issues Pioneer felt are germane to this transfer proceeding. Pioneer was not formally obligated to file its Statement because there was no administrative order requiring as much of any of the parties at the time. Nonetheless, Pioneer prepared the Statement in response to UWID's request that the parties do so, and out of acknowledgement of the briefing efforts UWID had already undertaken to date.

On October 16, 2012, the Department held a status conference in this proceeding. That status conference was largely dominated by discussion of Pioneer's Statement, and a similar filing by the Boise Project Board of Control and a number of its member entities (collectively the "Project Entities"), also dated October 15, 2012. The October 16 status conference resulted in the issuance of the Department's Order requiring the parties to submit written statements regarding issues they felt were pertinent to the IMAP proceeding, including discussions of: (1) Matters Raised at the October 16, 2012 Status Conference; (2) Scope of the Hearing; (3) Scope of the Responsibilities of the Parties; (4) Scope of Discovery; and (5) Timetable for Discovery and Hearing. Order, p. 1.

On October 31, 2012, Pioneer filed its Supplemental Statement. Pioneer filed the Supplemental Statement to address topics raised in the Department's Order that were not otherwise previously discussed in Pioneer's Statement, and to raise additional issues not

identified within its October 15, 2012 Statement. Pioneer's Supplemental Statement expressly incorporated by reference the entirety of its underlying Statement. *See* Supplemental Statement, p. 2.

II.
ARGUMENT

In its Response, UWID states Pioneer failed to address the matters raised in the Department's October 16, 2012 Order "as the Hearing Officer Directed." Response, p. 4. UWID further states Pioneer did not re-address any of the issues it previously raised in its October 15 Statement. *Id.* ("When we filed United Water's Initial Statement, we assumed those issues had been put to rest, but stated that we were prepared to address them to the extent they were raised again in the parties' initial statements."). Consequently, it appears UWID considers the issues raised in Pioneer's October 15 Statement "resolved." *Id.*

Pioneer is confused by UWID's assertions. Pioneer's confusion stems from the facts that it filed its Supplemental Statement on October 31, 2012, and that the Supplemental Statement expressly incorporated the entirety of its October 15, 2012 Statement by reference therein. After filing its Statement on October 15, 2012, Pioneer was not necessarily obligated to file another, redundant initial statement on October 31. Regardless, Pioneer filed its Supplemental Statement to specifically address issues contained within the Department's October 19 Order, and to raise additional issues not previously discussed within its preceding Statement. And, out of an abundance of caution, Pioneer's October 31 Supplemental Statement expressly re-raised (via incorporation by reference) the issues contained within its October 15 Statement.

To the extent UWID contends Pioneer: (1) did not properly file an initial statement; (2) did not adequately or timely address the issues identified in the Department's October 19 Order; or (3) that it has somehow conceded any of the issues raised in its Statement and subsequent Supplemental Statement, UWID does so in error. Pioneer filed its "initial statement" on October 15, 2012, and timely supplemented that Statement on October 31, 2012. The issues Pioneer raised in those filings are properly before the Hearing Officer. Nothing in UWID's October 31, 2012 Initial Statement, nor its November 14 Response unilaterally disposes of, or otherwise decides those issues. Instead, the issues raised in Pioneer's Statement and Supplemental Statement are now ripe for the Hearing Officer's consideration and ultimate decision given that UWID has had the opportunity to respond. The issues raised are not "resolved" until the Hearing Officer (in this instance, the Director) decides them.

III.
CONCLUSION

Other than clarifying the record in light of UWID's Response, Pioneer has nothing further to offer in addition to what has already been presented and briefed in accordance with the Department's Order. Pioneer has complied with both the letter and the spirit of the Department's Order. It is now up to the Hearing Officer to either: (1) move this proceeding forward; or (2) end this proceeding altogether in response to the additional issues raised in both Pioneer's Supplemental Statement and the Project Entities' pending motion to dismiss, dated November 14, 2012.

DATED this 20th day of November, 2012.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Andrew J. Waldera – Of the Firm
Attorneys for Pioneer Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2012, I caused a true and correct copy of the foregoing **REPLY IN SUPPORT OF PIONEER IRRIGATION DISTRICT'S STATEMENT OF ISSUES AND FIRST SUPPLEMENTAL STATEMENT OF ISSUES RE UNITED WATER IDAHO'S IMAP APPLICATION** to be served by the method indicated below, and addressed to the following:

Director IDAHO DEPARTMENT OF WATER RESOURCES 322 E. Front Street, 6th Floor P.O. Box 83720 Boise, ID 83720 gary.spackman@idwr.idaho.gov	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Christopher H. Meyer Michael P. Lawrence GIVENS PURSLEY LLP 601 W. Bannock Street P.O. Box 2720 Boise, ID 83701-2720 chm@givenspursley.com	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Albert P. Barker Shelley M. Davis BARKER ROSHOLT & SIMPSON LLP 1010 W. Jefferson, Suite 102 P.O. Box 2139 Boise, ID 83701-2139 apb@idahowaters.com	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile

Thomas H. Barry
Public Works Director
CITY OF MERIDIAN PUBLIC WORKS DEPARTMENT
33 E. Broadway Avenue, Suite 200
Meridian, ID 83642
tbarry@meridiancity.org

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Josephine P. Beeman
BEEMAN & ASSOCIATES P.C.
409 W. Jefferson Street
Boise, ID 83702
jo.beeman@beemanlaw.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Kathleen M. Carr
U.S. DEPARTMENT OF THE INTERIOR
Office of the Solicitor
Pacific Northwest Region
960 Broadway Street, Suite 400
Boise, ID 83706
kathleenmarion.carr@sol.doi.gov

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

CITY OF KUNA
City Clerk
763 W. Avalon
P.O. Box 13
Kuna, ID 83634

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Daniel V. Steenson
S. Bryce Farris
RINGERT LAW CHTD.
455 S. 3rd
PO Box 2773
Boise, ID 83701-2773
dan@ringertlaw.com
bryce@ringertlaw.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Charles L. Honsinger
HONSINGER LAW PLLC
P.O. Box 517
Boise, ID 83701
honsingerlaw@gmail.com

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Matt Howard PN-3130 E. Gail McGarry BUREAU OF RECLAMATION Pacific Northwest Region 1150 North Curtis Road Boise, ID 83706-1234 mhoward@pn.usbr.gov emcgarry@pn.usbr.gov	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Gordon Law City Engineer CITY OF KUNA P.O. Box 13 Kuna, ID 83634 gordon@cityofkuna.com	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Bruce M. Smith MOORE SMITH BUXTON & TURCKE, CHTD. 950 W. Bannock, Suite 520 Boise, ID 83702 bms@msbtlaw.com	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Ed Squires HYDROLOGIC, INC. 1002 W. Franklin Boise, ID 83702-5431 ed@hydrologicinc.net	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Matthew K. Wilde CITY OF BOISE 150 N. Capitol Blvd. P.O. Box 500 Boise, ID 83701-0500 mwilde@cityofboise.org	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Richard T. Roats ROATS LAW OFFICE, PLLC 6126 W. State St., Suite 203 P.O. Box 9811 Boise, ID 83707 rtr@roatslaw.com	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile

Brent Orton, P.E. Public Works Director CITY OF CALDWELL 621 Cleveland Blvd. Caldwell, ID 83605 borton@ci.caldwell.id.us	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Courtesy Copy John Westra Manager Western Region Office IDAHO DEPARTMENT OF WATER RESOURCES 2735 Airport Way Boise, ID 83705-5082 john.westra@idwr.idaho.gov	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Courtesy Copy Garrick L. Baxter ATTORNEY GENERAL STATE OF IDAHO 322 E. Front Street, 6th Floor P.O. Box 83720 Boise, ID 83720-0098 garrick.baxter@idwr.idaho.gov	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Courtesy Copy Jeff Peppersack Water Allocation Bureau Chief IDAHO DEPARTMENT OF WATER RESOURCES 322 E. Front Street P.O. Box 83720 Boise, ID 83720-0098 jeff.peppersack@idwr.idaho.gov	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile

Andrew J. Waldera