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## BEFORE DEPARTMENT OF WATER RESOURCES

### STATE OF IDAHO

IN THE MATTER OF THE PETITION  
FOR DELIVERY CALL OF A&B  
IRRIGATION DISTRICT FOR THE  
DELIVERY OF GROUND WATER  
AND FOR THE CREATION OF A  
GROUND WATER MANAGEMENT  
AREA

Docket No.: 37-03-11-1

**IGWA AND POCATELLO 'S RESPONSE TO  
A&B'S PETITION FOR  
RECONSIDERATION OF DIRECTOR'S  
JUNE 30, 2009 FINAL ORDER REGARDING  
THE A&B IRRIGATION DISTRICT'S  
DELIVERY CALL**

COMES NOW, IDAHO GROUND WATER APPROPRIATORS, INC., ("IGWA"), and the CITY OF POCATELLO, by and through their undersigned counsel of record, and request that the Director deny the relief requested by A&B Irrigation District ("A&B") in its *Petition for Reconsideration of Director's June 30, 2009 Final Order Regarding the A&B Irrigation Districts Delivery Call* ("A&B's Petition") and issue a Final Order affirming the Director's prior

orders in this matter.

A&B raises no new substantial issues that would warrant reconsideration of the Director's June 30, 2009 Final Order in this matter. As ground therefore, IGWA and Pocatello specifically incorporate their prior briefs and arguments filed in this matter which include:

- Response to Petitioner's Exceptions Brief and Request for Final Order Dated June 29, 2009;
- IGWA's Response to A&B's Post Hearing Memorandum and Proposed Findings dated February 13, 2009;
- IGWA's and Pocatello's Response to Petition for Clarification and Request for Director's Order That Deadline to File Exceptions Has Expired dated June 15, 2009
- IGWA's Post Hearing Brief dated January 23, 2009
- Pocatello's Post Hearing Brief dated January 23, 2009
- Pocatello's Response to A & B's Petition for Reconsideration dated May 1, 2009
- Ground Water Users' Response to A & B's Petition for Reconsideration dated May 1, 2009

The record in this matter supports the Director's June 30, 2009 Final Order that A&B is not water short and has not suffered material injury to its Ground Water Right No. 36-2080. The record is replete with substantial and competent evidence that A&B Irrigation District farmers use more than or similar amounts of water than surrounding farmers. There is simply no substantial and competent evidence that A&B has suffered material injury. Therefore, the Director's June 30, 2009 Final Order should be affirmed and A&B's Request for Reconsideration denied.

DATED this 28th day of July, 2009.

RACINE, OLSON, NYE, BUDGE &  
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