

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

IN THE MATTER OF DISTRIBUTION OF)	Docket No. CM-DC-2014-002
WATER TO WATER RIGHT HELD BY)	
ARK FISHERIES, INC., WATER RIGHT NO.)	ORDER DESIGNATING THE
32-07278)	CITY OF POCATELLO
)	AS A RESPONDENT
_____)	

On July 11, 2014, the Director (“Director”) of the Idaho Department of Water Resources (“Department”) received the *City of Pocatello’s Petition to Be Designated a Respondent or Alternatively to Intervene* (“Petition”) in this matter before the Department. The Petition requests that the Director designate the city of Pocatello (“Pocatello”) as a respondent pursuant to the Department’s Rules of Procedure, IDAPA 37.01.01 *et seq.*, in response to ARK Fisheries Inc.’s letter regarding delivery of water to water right no. 36-7278, received by the Department May 28, 2014 (“Delivery Call”). Alternatively, Pocatello requests to intervene.

A status conference was held on July 22, 2014, wherein Lynn Babington, the representative for ARK Fisheries, stated that ARK Fisheries does not oppose Pocatello’s Petition.

A respondent is defined as: “Persons against whom complaints are filed or about whom investigations are initiated” IDAPA 37.01.01.154. Under the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11 *et seq.*, the Director is authorized to curtail junior ground water rights for the benefit of senior surface or ground water rights.

The Delivery Call asserts water right no. 36-7278, which has a priority date of February 14, 1973, is entitled to delivery of 4.69 cfs of water from Spring Creek Springs for fish propagation from January 1 through December 31. The Delivery Call also asserts ARK Fisheries, Inc. has received 4.69 cfs of water only two times since 1992. ARK Fisheries, Inc. demands that watermasters of water districts 120, 130, and 36A administer water rights by priority as required by Idaho Code § 42-607.

Pocatello diverts its municipal water supply from wells in the Eastern Snake Plain Aquifer and owns and operates associated surface water rights. Some of Pocatello’s rights are among those which ARK Fisheries, Inc. asserts are causing it injury. Accordingly, Pocatello meets the definition of a respondent and shall be designated and permitted to participate as such in this matter.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the City of Pocatello is designated as a respondent in the above-captioned proceeding.

Dated this 23rd day of July, 2014.



GARY SPACKMAN

Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 2014, a true and correct copy of the above and foregoing document described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Designating the City of Pocatello as a Respondent

ARK FISHERIES
ATTN: LYNN BABINGTON
2825 SOUTH 1050 EAST
HAGERMAN, IDAHO 83332

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Deborah Gibson
Admin. Assistant for the Director