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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS HELD BY OR FOR THE BENEFIT OF A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY	Docket Nos. CM-MP-2016-001, CM-MP-2015-001, CM-MP-2015-004, CM-MP-2015-005 **MOTION FOR ORDER APPROVING STIPULATION TO CONDITIONALLY WITHDRAW PROTESTS**
IN THE MATTER OF IGWA'S SETTLEMENT AGREEMENT MITIGATION PLAN	
IN THE MATTER OF THE MITIGATION PLAN FILED BY THE CITY OF POCATELLO	
IN THE MATTER OF THE MITIGATION PLAN FILED BY THE COALITION OF CITIES	
IN THE MATTER OF THE CITY OF IDAHO FALLS MITIGATION PLAN FOR THE SURFACE WATER COALITION CALL	

The City of Idaho Falls (the "City"), an Idaho municipal corporation, the City of Pocatello ("Pocatello") an Idaho municipal corporation, the Coalition of Cities ("COC") (collectively "cities"), the Surface Water Coalition and the Idaho Ground Water Appropriators (collectively,

"Parties"), by and through their above-identified counsel, hereby submits this *Motion for Order Approving Stipulation to Conditionally Withdraw Protests*.

The Parties hereby stipulate as follows:

1. The *Surface Water Coalition's and IGWA's Stipulated Mitigation Plan and Request for Order* (the "SWC/IGWA Plan") was filed with the Idaho Department of Water Resources ("IDWR" or "Department") on March 9, 2016, and the Cities timely filed protest on April 4, 2016.

2. To resolve the Idaho Falls and Pocatello's Protests of the SWC/IGWA Plan, the Parties agree:

   a. Pocatello and Idaho Falls are not participants in the SWC/IGWA Plan and are not bound by any of the terms or conditions found therein.

   b. SWC and IGWA will not ask the Department to impose the obligations and goals of the SWC/IGWA Plan on any of the cities, despite the fact that the March 9, 2016, SWC/IGWA Request for Order at paragraph 14 requests such relief.

   c. The Pocatello and Idaho Falls Protests to the IGWA/SWC Plan are to be withdrawn upon entry of an order of the Department approving the SWC/IGWA Plan which includes the following provisions, or provisions in substantially the same form or content:

      - "The SWC/IGWA Plan requires numerous on-going activities, such as monitoring, reporting, and verification of data. The parties to the SWC/IGWA Plan should be responsible for these activities."

- "The SWC/IGWA Plan includes reference to certain hydrologic goals and benchmarks. The goals and benchmarks are applicable only to the parties to the SWC/IGWA Plan."[1]
- "Approval of the SWC/IGWA Plan does not begin the process of establishing the Eastern Snake Plain Aquifer ("ESPA") as a 'ground water management area' pursuant to Idaho Code § 42-233b. Any such action to establish the ESPA as a 'ground water management area' pursuant to Idaho Code § 42-233b shall only be addressed through a separate administrative proceeding designated for that purpose."

d. In the event the above provisions or provisions in substantially the same form or content are not included in the order approving the SWC/IGWA Plan, this stipulation shall be null and void.

3. The *Joint Motion for Order Entering Settlement Between Pocatello, Coalition of Cities, Idaho Falls and the Surface Water Coalition* ("Cities' Plan") was filed with the Department on March 15, 2016 and IGWA timely filed a protest on April 18, 2016.

4. In order to resolve the Protest to the Cities' Plan:

a. SWC agrees to provide a letter to IGWA by May 5, 2016, stating that, in the event SWC determines it does not require the 2600 acre-feet of storage water provided pursuant to the Cities Plan in 2016 for irrigation purposes, the SWC commits to using that 2600 acre-feet of water for recharge instead.

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1 Similar language for paragraphs 1 and 2 herein are found in the *Final Order Approving Mitigation Plan for 2016*, In the Matter of Southwest and Goose Creek Irrigation Districts Mitigation Plan for the Surface Water Coalition Delivery Call, Docket No. CM-MP-2010-01, March 29, 2016, at 3.

b. Upon receipt of the above-referenced letter, IGWA will file a formal withdrawal of its Protest to the Cities Plan.

Therefore, the Parties request that the Director enter an order approving this Stipulation.

DATED this 22nd day of April, 2016.

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By _____ for ___
W. Kent Fletcher

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2016, I caused to be served a true and correct copy of the foregoing **MOTION FOR ORDER APPROVING STIPULATION TO CONDITIONALLY WITHDRAW PROTESTS** in **Docket Nos. CM-MP-2016-001; CM-MP-2015-001, CM-MP-2015-004, CM-MP-2015-005** upon the following by the method indicated:

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