

Pocatello also takes issue with the Director's statement that "this delivery call will likely become precedent for future proceedings." Pocatello argues that decisions issued in this proceeding are not binding on all other water users in the ESPA because the Director has not provided adequate notice. *Motion* at 3. First, all the parties to the SWC call are now parties to this proceeding. So issues decided here will likely become precedent in the SWC call through the doctrine of res judicata. Second, whether or not a decision in this matter is binding on all other waters users has little to do with whether the SWC should be allowed to participate in this proceeding. It is without question that this proceeding will establish a foundation for future water delivery call proceedings that use ESPAM 2.0, much as the first administrative proceeding applying ESPAM 1.1 established a foundation that other delivery calls built upon. In this context, the SWC's desire to participate in the first proceeding applying ESPAM 2.0 makes sense. Questions of the precedential nature of any decisions issued in this proceeding will be addressed in future proceedings and are not a reason to prevent the SWC from participating in this proceeding now.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

The City of Pocatello's Motion for Clarification and/or Reconsideration is DENIED.

Dated this 11th day of September, 2012.



Gary Spackman
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September, 2012, the above and foregoing, was served by the method indicated below, and addressed to the following:

J JUSTIN MAY
MAY BROWNING & MAY PLLC
1419 W WASHINGTON ST
BOISE ID 83702-5039
jmay@maybrowning.com

U.S. Mail
 Facsimile
 E-mail

ROBYN BRODY
BRODY LAW OFFICE PLLC
PO BOX 554
RUPERT ID 83350-0554
robynbrody@hotmail.com

U.S. Mail
 Facsimile
 E-mail

FRITZ X HAEMMERLE
HAEMMERLE & HAMMERLE
PO BOX 1800
HAILEY ID 83333-1800
fxh@haemlaw.com

U.S. Mail
 Facsimile
 E-mail

RANDALL C BUDGE
CANDICE MCHUGH
THOMAS J BUDGE
RACINE OLSON NYE BUDGE & BAILEY CHTD
101 S CAPITOL BLVD STE 300
BOISE ID 83702-5079
rcb@racinelaw.net
cmm@racinelaw.net
tjb@racinelaw.net

U.S. Mail
 Facsimile
 E-mail

A DEAN TRANMER
CITY OF POCATELLO
PO BOX 4169
POCATELLO ID 83205-4169
dtranmer@pocatello.us

U.S. Mail
 Facsimile
 E-mail

C THOMAS ARKOOSH
CAPITOL LAW GROUP
PO BOX 2598
BOISE ID 83702
tarkoosh@capitolawgroup.net

U.S. Mail
 Facsimile
 E-mail

SARAH A KLAHN
MITRA PEMBERTON
J RYLAND HUTCHINS
WHITE & JANKOWSKI LLP
511 16TH ST STE 500
DENVER CO 80202-4260
sarahk@white-jankowski.com
mitrap@white-jankowski.com
rylandh@white-jankowski.com

U.S. Mail
 Facsimile
 E-mail

JOHN K SIMPSON
TRAVIS L THOMPSON
PAUL L ARRINGTON
BARKER ROSHOLT & SIMPSON LLP
195 RIVER VISTA PL STE 204
TWIN FALLS ID 83301-3029
jks@idahowaters.com
tlt@idahowaters.com
pla@idahowaters.com

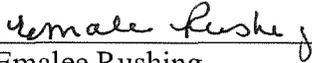
U.S. Mail
 Facsimile
 E-mail

W KENT FLETCHER
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318-0248
wkf@pmt.org

U.S. Mail
 Facsimile
 E-mail

JERRY R RIGBY
HYRUM ERICKSON
ROBERT H WOOD
RIGBY ANDRUS & RIGBY CHTD
PO BOX 250
REXBURG ID 83440
jrigby@rex-law.com
herickson@rex-law.com
rwood@rex-law.com

U.S. Mail
 Facsimile
 E-mail



Emalee Rushing
Administrative Assistant