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ATTORNEYS FOR THE CITY OF POCATELLO

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A & B IRRIGATION DISTRICT,)
)
Petitioner,)
)
vs.) Case No. CV 2011-512
)
THE IDAHO DEPARTMENT OF WATER) **CITY OF POCATELLO'S RESPONSE TO**
RESOURCES and GARY SPACKMAN) **JOINT MOTION FOR**
Director of the Idaho Department of Water) **RECONSIDERATION**
Resources,)
)
Respondents,)
)
and)
)
THE IDAHO GROUND WATER)
APPROPRIATORS, INC., and THE CITY OF)
POCATELLO,)
)
Respondents-Intervenors.)
_____)
)
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)
_____)

COMES NOW the City of Pocatello (“Pocatello”) and responds to the Joint Motion for Reconsideration filed February 7, 2014 (“Motion”).

The Motion requesting the Court re-issue a Remittitur that “include[s] a requirement that the parties comply with the terms and conditions of the Stipulation” should be denied. Motion at 3. The Court does not need to modify its Remittitur, as the three movants have agreed to the terms of the December 3, 2013 Stipulation to Dismiss Appeal (“Stipulation”) and the Idaho Department of Water Resources, to whom the matter is being remitted, is a party to the Stipulation. Thus, there is no reason to believe that the Director will not comply with its terms.

However, if this Court issues the requested order requiring all parties to comply with the terms of the Stipulation, it will effectively make Pocatello a party to the Stipulation over its objection to the substantive terms found therein.¹ If the movants want to proceed in the manner prescribed by their Stipulation, they are free to do so and importantly, are free to do so whether Pocatello acquiesces or not. The Court’s Remittitur should stand.

WHEREFORE, Pocatello respectfully requests that the Court deny the Motion.

¹ As detailed in its brief before the Idaho Supreme Court, Pocatello declined to join in the Stipulation because the Stipulation went beyond issues raised by A&B’s appeal before the Idaho Supreme Court, and required the Idaho Supreme Court to order relief that was not relief sought by A&B’s appeal.

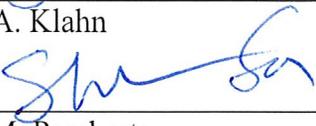
Dated this 11th day of February, 2014.

CITY OF POCA TELLO ATTORNEY'S OFFICE

By 
A. Dean Tranmer

WHITE & JANKOWSKI

By 
Sarah A. Klahn

By 
Mitra M. Pemberton

ATTORNEYS FOR CITY OF POCA TELLO

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2014, a copy of **City of Pocatello's Response to Joint Motion for Reconsideration in SRBA Case CV-2011-512, Minidoka County** was served to the following parties as noted:



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Via electronic mail to:

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