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DEPARTMENT OF
WATER RESOURCES

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

IN THE MATTER OF THE REQUEST FOR)
ADMINISTRATION IN WATER DISTRICT 120)
AND THE REQUEST FOR DELIVERY OF WATER)
TO SENIOR SURFACE WATER RIGHTS BY)
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)
_____)

**CITY OF POCATELLO'S
MOTION FOR ORDER
AUTHORIZING
DISCOVERY**

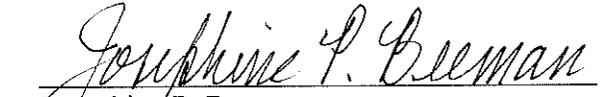
The City of Pocatello ("Pocatello"), pursuant to Rule 521 of the IDAPA ("Rules") of the Idaho Department of Water Resources ("IDWR"), and the June 16, 2005 Order entered in the captioned matter, moves for an order authorizing discovery by Pocatello in this proceeding. Pocatello seeks to engage in all forms of discovery authorized by the Rules and seeks leave to conduct discovery against all parties or other knowledgeable persons or entities.

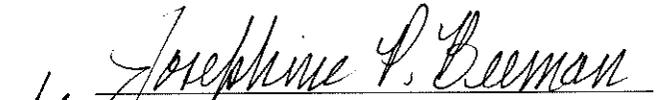
The grounds for this motion are as follows:

1. This is a contested case and Pocatello is a party to this proceeding.
2. The IDAPA allow discovery by a party in a contested case but only pursuant to an order from the Director of the IDWR (“Director”) authorizing discovery.
3. In the June 16, 2005 Order, the Director advised the parties of his intention to conduct the hearing in January of 2006.
4. The factual issues that the Director must address in this hearing are complex, extensive and potentially in controversy. Discovery will permit the parties to develop a more adequate record and thus will facilitate the Director’s task as hearing officer.
5. To date, the Director has proceeded without a hearing, citing the “emergency” nature of the SWC’s request for a delivery call. Thus, while the facts in this matter may have been sufficiently developed for the Director’s purposes in rendering his May 2, 2005 Order requiring curtailment of certain wells, the facts have not been developed through the adversarial process.
6. The current record for decision is limited, and there are substantial information gaps. For example, the Director requested information from the Surface Water Coalition to which the SWC made only a partial response. The material that has not been provided is needed for the Director to make the findings and decisions that he is required to make.
7. Discovery will also serve to develop the issues and to let the parties focus on the important facts for purposes of the hearing. The unsatisfactory alternative – absent discovery – is extended cross-examination to develop basic information that could have been gained before the hearing had there been discovery. Allowing discovery before the hearing will make the hearing more efficient and productive.
8. Pocatello’s interests in this case are unique, as it is the only municipal ground water user party to the matter. However, with that said, Pocatello will coordinate its discovery efforts with other ground water users to avoid duplicative discovery against the various surface water interests, including the SWC.

9. A proposed discovery schedule is included in *Idaho Ground Water Appropriators and Pocatello's Joint Proposal For Hearing Procedures and Schedule For The Hearing On The Surface Water Coalition Delivery Call* filed today under separate cover.

Respectfully submitted this 29th day of June 2005.


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CERTIFICATE OF SERVICE

I hereby certify that on this 29 th day of June 2005, I caused to be served a true and correct copy of the foregoing document by regular U.S. Mail, postage prepaid, to:

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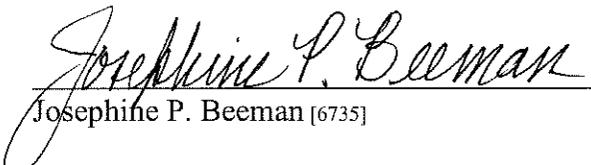
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