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Attorney for Riverside Irrigation District Ltd.

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

IN THE MATTER OF RIVERSIDE'S
PETITION FOR DECLARATORY RULING
REGARDING NEED FOR A WATER
RIGHT UNDER REUSE PERMIT NO. M-
255-01

Docket No. P-DR-2020-01

**RIVERSIDE IRRIGATION DISTRICT
LTD.'S SECOND PRE-HEARING
CONFERENCE MEMORANDUM**

COMES NOW, Riverside Irrigation District Ltd. ("Riverside"), by and through its attorneys of record, Barker Rosholt & Simpson LLP, and hereby submits this Second Pre-hearing Conference Memorandum in advance of the Pre-hearing Conference hearing scheduled for August 20, 2020, before the Director.

Riverside's Petition sought a ruling from the Department on two points: 1) Pioneer cannot divert or accept water from the City of Nampa or apply any of that water to land in the Pioneer District boundaries under the reuse permit without obtaining a water right, and 2) any attempt by Pioneer or the City to divert water under the permit to Pioneer without applying for a water right contravenes Idaho law. The Director's *Order* of June 11, 2020, recognized that the Riverside Petition sought ruling on those precise issues. *Order* p. 1.

The Cities and Pioneer offered a proposed stipulation regarding numerous legal issues. As noted in the prior memorandum, Riverside does not agree with the intervenors' attempt to re-write

Riverside's petition. The legal issues that Riverside petitioned to be determined are set forth in the Petition. Riverside does not agree that the peripheral legal issues in the Cities and Pioneer's proposed stipulation properly frame the issues raised by the Petition. Riverside does believe that intervenors, have the right to reformulate Riverside's Petition. They take the case as they find it. This is Riverside's Petition; not Nampa's.

The Cities and Pioneer also propose to expand the Petition to include an advisory ruling on the scope of mitigation that might be required. As set forth in Riverside's initial Pre-hearing Memo, Riverside does not agree. Those issues should be decided in the context of an application, if one is required.

With respect to the proposed Stipulation of Facts, Riverside has responded to the Cities and Pioneer's proposed stipulation. The City and Pioneer replied this week. Riverside believes that agreement is likely to be reached, on most of the stipulation. However, as of this date, there is no final stipulation of facts to submit.

CONCLUSION

Riverside believes that some additional time is necessary to work out a mutually agreeable stipulation of facts and documents admissible in evidence. We are hopeful that the current briefing schedule can be maintained.

DATED this 19th day of August 2020.

BARKER, ROSHOLT & SIMPSON LLP



Albert P. Barker

Attorneys for Riverside Irrigation District Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 2020, I caused to be served a true and correct copy of the foregoing **SECOND PRE-HEARING CONFERENCE MEMORANDUM** by the method indicated below, and addressed to each of the following:

Original to:

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