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DEPARTMENT OF  
WATER RESOURCES

Albert P. Barker, ISB #2867  
**BARKER ROSHOLT & SIMPSON LLP**  
1010 W. Jefferson, Suite 102  
P.O. Box 2139  
Boise, Idaho 83701-2139  
Telephone: (208) 336-0700  
Facsimile: (208) 344-6034

*Attorneys for South Valley Ground Water  
District*

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

|                                      |   |                                  |
|--------------------------------------|---|----------------------------------|
| SUN VALLEY COMPANY,                  | ) |                                  |
|                                      | ) | <b>Docket No. P-DR-2016-001</b>  |
|                                      | ) |                                  |
| Petitioner,                          | ) |                                  |
|                                      | ) | <b>SOUTH VALLEY GROUND WATER</b> |
| v.                                   | ) | <b>DISTRICT'S PETITION TO</b>    |
|                                      | ) | <b>INTERVENE</b>                 |
| GARY SPACKMAN, Director of the       | ) |                                  |
| Idaho Department of Water Resources, | ) |                                  |
|                                      | ) |                                  |
| Respondent.                          | ) |                                  |
|                                      | ) |                                  |
|                                      | ) |                                  |

COMES NOW, South Valley Ground Water District, by and through counsel of record, and pursuant to the Department's Rules of Procedure 350 – 354 (IDAPA 37.01.01), hereby petitions to intervene in the above-captioned matter.

**FACTS**

The Idaho Department of Water Resources held several meetings this summer to discuss the possibility of establishing a groundwater management area in the Eastern Snake Plain Aquifer (ESPA). South Valley participated in the meeting in Hailey and submitted written comments on the proposed Ground Water Management Area (GWMA).

On November 2, 2016, the Director issued his *Order Designating the Eastern Snake Plain Aquifer Ground Water Management Area* (“*Final Order*”). Thereafter, Sun Valley Company, the City of Pocatello, and the Coalition of Cities all filed petitions for reconsideration. Sun Valley Company also filed this petition requesting a hearing. Various parties have filed petitions to intervene. No pre-hearing conferences have been scheduled and the Director has not ruled on the pending petitions for reconsideration.

### **STANDARD OF REVIEW**

The Department’s Rules of Procedure provides:

Petitions to intervene must comply with Rules 200, 300, and 301. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it.

Rule 351.

Petitions to intervene must be filed at least 14 days before the date set for the formal hearing, or by the date of the pre-hearing conference. *See* Rule 352.

### **ARGUMENT**

#### **I. South Valley’s Petition is Timely.**

No hearing has been set in this matter. The prehearing conference is scheduled for January 12, 2017. Under Rule 352, South Valley’s petition is timely.

#### **II. Interest in Petition**

South Valley Ground Water District’s members hold groundwater rights in the Triangle area of Blaine County within the existing Big Wood Ground Water District. The water rights are administered by the Water District 37 Watermaster. Whether these rights will be part of the Ground Water Management Area is a subject of the Final Order.

South Valley seeks to participate in this hearing to respond to any contentions that might be or have been raised concerning the boundary of the ESPA Ground Water Management Area and the status of the Big Wood as a separately administered Basin.

South Valley seeks intervention in this matter to protect its interests and address any arguments or positions advanced in this proceeding by others that would alter the ESPA Ground Water Management Area boundaries to include the Big Wood or that conflict with Idaho law.

The Director's July 7, 2016 letter concerning the development of a ESPA Ground Water Management Area addressed a number of issues, including one of particular importance to the South Valley Ground Water District – the extent to which basins that were considered to be tributary to the ESPA would or would not be included in a ESPA Ground Water Management Area. This led the South Valley to provide written and oral comments to the Director concerning the boundaries of the ESPA Ground Water Management Area, and expressing concern that the proposed area should not be extended to include the existing Big Wood Ground Water Management Area.

The Director's November 2, 2016, Order addressed the basins thought to be tributary to the ESPA, including the Big Wood. The Order concluded that the boundary of the ESPA Ground Water Management Area would correspond, for the most part, to the ESPAM 2.1 boundary. The Director's Order did not address the extent to which, as a technical matter, the Big Wood aquifer contributes to the ESPA. The Order did conclude that Big Wood was a "tributary basin," but also noted that there are separate aquifers at different depths in the Bellevue triangle.

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**III. The South Valley's Petition Does Not Broaden the Issues.**

The Order ultimately recognizes that the Big Wood, and other "tributary basins," will be administered outside the ESPA Ground Water Management Area. South Valley supports this conclusion, but is concerned that other parties to this proceeding will challenge that portion of the Order, directly or indirectly. The South Valley's interest in this issue does not broaden any issue in the proceeding.

**IV. South Valley is Not Adequately Represented by Existing Parties**

None of the parties to this proceeding represent South Valley's interests in this matter. To the extent that some of these entities may advance positions or arguments in direct conflict to South Valley's interests, South Valley has a right to intervene to ensure its interests are adequately protected and represented.

**CONCLUSION**

South Valley's petition is timely, demonstrates a direct and substantial interest, does not broaden the issues, and demonstrates that no existing party adequately represents its interests. Therefore, South Valley requests an order from the Director granting intervention in this proceeding.

DATED this 21<sup>st</sup> day of December, 2016.

**BARKER ROSHOLT & SIMPSON LLP**



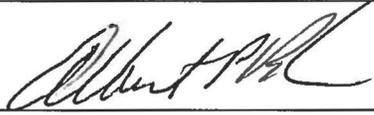
Albert P. Barker

*Attorneys for South Valley Ground Water District*

## CERTIFICATE OF SERVICE

I hereby certify that on this 21<sup>st</sup> day of December, 2016, I served a true and correct copy of the foregoing *South Valley Ground Water District's Petition to Intervene* on the following by the method indicated:

|  |  |   |
|--|--|---|
| <p>Director Gary Spackman<br/>c/o Deborah Gibson<br/>Idaho Dept. of Water Resources<br/>322 E Front St<br/>Boise, Idaho 83720-0098<br/>*** service by U.S. and electronic mail</p> <p><a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a><br/><a href="mailto:deborah.gibson@idwr.idaho.gov">deborah.gibson@idwr.idaho.gov</a><br/><a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a></p> | <p>Scott Campbell<br/>Matt McGee<br/>Sarah McCormack<br/>Moffatt Thomas, Chtd.<br/>P.O. Box 829<br/>Boise, Idaho 83701<br/>*** service by electronic mail only</p> <p><a href="mailto:slc@moffatt.com">slc@moffatt.com</a><br/><a href="mailto:mjm@moffatt.com">mjm@moffatt.com</a><br/><a href="mailto:sam@moffatt.com">sam@moffatt.com</a></p> | <p>Dylan Lawrence<br/>J. Will Varin<br/>Varin Wardwell LLC<br/>P.O. Box 1676<br/>Boise, Idaho 83701-1676<br/>*** service by electronic mail only</p> <p><a href="mailto:dylanlawrence@varinwardwell.com">dylanlawrence@varinwardwell.com</a><br/><a href="mailto:willvarin@varinwardwell.com">willvarin@varinwardwell.com</a></p> |
| <p>Randy Budge<br/>T.J. Budge<br/>Racine Olson<br/>P.O. Box 1391<br/>Pocatello, Idaho 83204-1391<br/>*** service by electronic mail only</p> <p><a href="mailto:rbc@racinelaw.net">rbc@racinelaw.net</a><br/><a href="mailto:tjb@racinelaw.net">tjb@racinelaw.net</a></p>  | <p>Sarah A. Klahn<br/>Mitra Pemberton<br/>White &amp; Jankowski, LLP<br/>511 Sixteenth Street, Suite 500<br/>Denver, Colorado 80202<br/>*** service by electronic mail only</p> <p><a href="mailto:sarahk@white-jankowski.com">sarahk@white-jankowski.com</a><br/><a href="mailto:mitrap@white-jankowski.com">mitrap@white-jankowski.com</a></p> | <p>A. Dean Tranmer<br/>City of Pocatello<br/>P.O. Box 4169<br/>Pocatello, Idaho 83201<br/>*** service by electronic mail only</p> <p>facsimile – 208-234-6297<br/><a href="mailto:dtranmer@pocatello.us">dtranmer@pocatello.us</a></p>  |
| <p>Michael C Creamer<br/>Givens Pursley<br/>P.O. Box 2720<br/>Boise, Idaho 83701-2720<br/>*** service by electronic mail only</p> <p><a href="mailto:mcc@givenspursley.com">mcc@givenspursley.com</a></p>  | <p>Candice McHugh<br/>Chris Bromley<br/>McHugh Bromley PLLC<br/>380 S. Fourth St., Suite 103<br/>Boise, Idaho 83702<br/>*** service by electronic mail only</p> <p><a href="mailto:cbromley@mchughbromley.com">cbromley@mchughbromley.com</a><br/><a href="mailto:cmchugh@mchughbromley.com">cmchugh@mchughbromley.com</a></p>                   | <p>Joe James<br/>Brown &amp; James<br/>130 Fourth Ave. West<br/>Gooding, Idaho 83330<br/>*** service by electronic mail only</p> <p><a href="mailto:joe@brownjameslaw.com">joe@brownjameslaw.com</a></p>  |
| <p>John K. Simpson<br/>Travis L. Thompson<br/>Paul L. Arrington<br/>Barker Rosholt &amp; Simpson, LLP<br/>163 South Avenue West<br/>P.O. Box 63<br/>Twin Falls, ID 83303-0063<br/>***service by electronic mail only</p> <p><a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a><br/><a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a><br/><a href="mailto:pla@idahowaters.com">pla@idahowaters.com</a></p>                     | <p>W. Kent Fletcher<br/>Fletcher Law Office<br/>P.O. Box 248<br/>Burley, ID 83318<br/>***service by electronic mail only</p> <p><a href="mailto:wkf@pmt.org">wkf@pmt.org</a></p>   |   |

  
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 Albert P. Barker