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**Pro hac vice pending*

Attorneys for Petitioners

**DISTRICT COURT OF THE STATE OF IDAHO
SEVENTH JUDICIAL DISTRICT
BINGHAM COUNTY**

JERRY D. BINGHAM and VALERIE H.
BINGHAM,

Petitioners,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

Case No. CV06-26-1801

**MEMORANDUM IN SUPPORT OF
MOTION TO STAY ENFORCEMENT
OF RESPONDENT'S FINAL ORDER
PENDING JUDICIAL REVIEW**

Introduction

This case concerns whether Idaho's bedrock rule of "first in time, first in right" for the administration of water rights still governs when Respondent Idaho Department of Water Resources issues curtailment orders in the Eastern Snake River Plain aquifer. Petitioners Jerry and Valerie Bingham hold some of the most senior groundwater rights in the area, rights which their family has relied upon for decades to irrigate their Bingham County farm. Yet the Department's current curtailment order shuts those rights off entirely while allowing many junior groundwater users, some right next door to the Binghams, to continue pumping under mitigation plans that do not account for the Binghams' relative seniority.

A stay is necessary to preserve both the status quo and to avoid potentially catastrophic financial harm to the Binghams. Without immediate relief, the Binghams cannot make prudent planting, insurance, contracting, and financing decisions because of the Department's total curtailment. This inability to plant and plan for next year's growing season threatens bankruptcy for the Binghams and their family farm. Because the Department's order illegally disregards the priority system at the center of Idaho water law, and because the balance of harms overwhelmingly favors preserving the Binghams' ability to use their relatively senior rights while this Court reviews the Department's action, the Court should stay enforcement of the curtailment order.

Background

As is true throughout the several states, naturally flowing water within the State of Idaho is owned by the people of the state, but private citizens may obtain a usufruct right—*i.e.*, a right to use—the water for beneficial purposes. *See* Christopher H. Meyer, *Idaho Water Law Handbook* 28 (2025); Idaho Code § 42–101.

Like most states in the arid West, Idaho follows the principle of prior appropriation in water rights. *See* Meyer, *supra*, at 28. According to that principle, the first to put water to beneficial use has the superior right to use that water. *See* Idaho Const. art. XV, § 3; Idaho Code § 42–106. In Idaho, this principle applies to all water rights, whether in surface or subsurface waters. *See In re A&B Irrig. Dist.*, 155 Idaho 640, 650, 315 P.3d 828, 838 (2013).

When water is plentiful, senior and junior users in a prior appropriation system like Idaho's are free to use their full permitted amount for beneficial use. But when water is

insufficient to satisfy all users, a shorted senior user places a “call” with the Department requesting that junior users be curtailed in their use so as to leave enough water in the system to satisfy the senior right. *See* IDAPA 37.03.11.010(04); Meyer, *supra*, at 34.

The call system is generally straightforward in surface water systems: typically, every drop not withdrawn by a junior user is then made available for senior use. When, instead, surface and groundwater users in an interconnected watershed and aquifer are to be regulated, administering the call system is substantially more challenging. This is so for several reasons. Determining the extent to which groundwater withdrawals are affecting neighboring surface water levels is quite difficult, and oftentimes the connections are not directly proportional—*e.g.*, curtailing the junior pumper substantially might yield only a small increase in senior surface supplies. Even when interconnectedness is known, making water available to senior users can present daunting logistical difficulties. For example, a senior user may be located some distance from the most junior user, such that immediate curtailment of that junior user might not result in available water to the senior for several days or weeks or even longer—by which point the senior’s need for water might have passed. *See* Douglas L. Grant, *The Complexities of Managing Hydrologically Connected Surface Water and Groundwater Water Under the Appropriation Doctrine*, 22 Land & Water L. Rev. 63, 74, 81 (1987).

To facilitate the implementation of the call system in surface-groundwater systems, the Department in 1994 adopted its Conjunctive Management Rules. *See Am. Falls Reservoir Dist. No. 2 v. Idaho Dep’t of Water Res.*, 143 Idaho 862, 866–67, 154 P.3d 433, 437–38 (2007). *See generally* Idaho Code § 42–603 (authorizing the Department to issue rules governing water distribution “in accordance with the priorities of the rights of the users thereof”). These rules authorize the Department to develop water management plans in anticipation of the annual irrigation season so as to be able to administer the call system within a conjunctively managed basin as efficiently as possible. *See A&B Irrig. Dist.*, 155 Idaho at 650–51, 315 P.3d at 838–39.

The most significant deployment of these rules has been in the Eastern Snake River Plain aquifer. Although the aquifer is reputed to have as much water as Lake Erie, tremendous and increasing demands for agricultural, urban, and industrial use over the last

several decades have resulted in shortfalls for the senior surface water users in the watershed. *See Clear Springs Foods, Inc. v. Spackman*, 150 Idaho 790, 793–94, 252 P.3d 71, 74–75 (2011).

Because of those shortfalls, the Surface Water Coalition—a group of senior surface water users in the Snake River basin—placed a call for water in 2005. Since then, the Department has on an annual basis administered water curtailment and mitigation plans for the junior groundwater users in the basin. *See City of Idaho Falls v. Idaho Dep’t of Water Res.*, 177 Idaho 239, 587 P.3d 708, 710–711 (2026). The Department is assisted in this task by a rather complicated computer model that predicts, for each irrigation season, the likely shortfall in the senior users’ demand. *See Idaho Ground Water Ass’n v. Idaho Dep’t of Water Res.*, 160 Idaho 119, 122–23, 369 P.3d 897, 900–901 (2016). The Department then determines how to make up for that computer-modeled shortfall from the junior users through approval of mitigation plans, which usually require pumping restrictions, monetary contributions to a mitigation fund, and development of alternative water supplies. *See* IDAPA 37.03.11.043(b)–(c). A junior user is then faced with a choice: operate pursuant to an approved mitigation plan (either one’s own or, what is much more common, one developed by a local water district) or be subject to a Department curtailment order. *See* Declaration of Reed W. Larsen (“Larsen Dec”),¹ Exhibit F, at Bates Nos. 136–137 (*Final Order Curtailing Ground Water Rights* at 3–4, Doc. No. CM-DC-2010-001 (May 14, 2026)); IDAPA 37.03.11.030(07)(g), 37.03.11.040(05). Critically, the Department’s determination as to the mitigation obligation of junior users does *not* consider the relative priority of those users. *See* Larsen Dec., Exhibit A, at Bates No. 42 (*Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover*, Doc. No. CM-DC-2010-001 at 42 (July 19, 2023)) (requiring “junior ground water users [to] secure, to the satisfaction of the Director, a volume of water equal to their proportionate share” of the anticipated in-season demand shortfall). *See also* Larsen Dec., Exhibit C, (Idaho Dep’t of Water Resources Staff Memo. for A&B Hearing 15

¹ See Declaration of Reed W. Larsen, filed concurrently herewith, Exhibits A-I, which are the principal Department orders at issue in this motion to stay. All of the Department’s orders pertaining to the Surface Water Coalition delivery call may be found on the Department’s website, <https://idwr.idaho.gov/delivery-call-action/swc-2010/>.

(Jennifer Sukow, Dec. 30, 2025)) (noting that “neither transient nor steady-state [Eastern Snake Plain Aquifer Model (ESPAM)] simulations inherently consider water right priority dates,” and the transient method currently in use for assessing short-term impacts apportions the mitigation obligation “solely based on which water users have the largest short-term impact,” which “result[s] in more senior groundwater users . . . having to mitigate for a larger fraction . . . than a more junior groundwater user . . .”).

Petitioners Jerry and Valerie Bingham are farmers in Bingham County, Idaho, raising potatoes, wheat, and other crops on about one thousand acres. The Bingham family has farmed in the Eastern Snake River Basin for many decades. The Binghams have some of the most senior groundwater water rights in the area, most dating from 1950 to 1952. *See* Declaration of Jerry D. Bingham ¶¶ 2–3.²

Until last year, the Department’s curtailment orders issued in response to the senior surface water users’ continuing call were pegged to priority dates junior to the Binghams’ rights, so the Binghams weren’t affected by the Department’s increasingly draconian pumping curtailment. *See, e.g., Final Order Curtailing Groundwater Rights Junior to January 25, 1970*, Doc. No. CM-DC-2010-001 (Dec. 17, 2024). But last July, the Department issued a general curtailment order requiring that all groundwater users with priorities after 1900 (essentially every groundwater pumper in the basin) completely curtail pumping or operate pursuant to a mitigation plan. *See* Larsen Dec., Exhibit B, Bates No. 054 (*Final Order Curtailing Ground Water Rights Junior to October 11, 1900*, Doc. No. CM-DC-2010-001 (July 25, 2025)). Since then, the Department has issued several more curtailment orders, each of which (with one exception, *see infra* note 5) continues to curtail entirely the Binghams’ water rights.³ The Binghams petitioned the Department for

² Specifically, the Binghams’ water rights priorities are: September 5, 1950 (35-2183D), August 9, 1951 (35-2202B), November 9, 1951 (35-2205E), October 9, 1952 (35-2266), October 23, 1952 (35-2269G), and April 1, 1987 (35-12226). Bingham Decl. ¶ 3. The Binghams do not object to the continuing curtailment of their 1987 water right.

³ *See* Larsen Dec., Exhibit F, 134 (*Final Order Curtailing Ground Water Rights Junior to October 11, 1900* (May 14, 2026)); Exhibit G, 162 (*Order Amending Curtailment List to Include Unmitigated Ground Water Rights* (June 17, 2026)); Exhibit H, 168 (*Order Revising April 2026 Forecast Supply and Continuing May 14, 2026 Curtailment Order* (July 21, 2026)).

reconsideration of, and requested a hearing for, the Department's most recent curtailment order maintaining and extending this total curtailment. The Department denied the petition on the ground that the Bingham's priority-based objection has nothing to do with the Department's curtailment orders but rather is an impermissible collateral attack on the Department's underlying methodology for assigning mitigation among junior users. *See* Larsen Dec., Exhibit I, at Bates Nos. 185–186 (*Order Denying Pet'n for Reconsideration & Request for Hearing* at 3–4, Docket No. CM-DC-2010-001 (Aug. 24, 2026)).

The Bingham's strongly object to the Department's curtailment-mitigation-plan regime. Nevertheless, the Bingham's have undertaken significant conservation measures. Among other things, the Bingham's have proposed reducing their overall consumption by over 40%. Currently pending with the Department is their fifth proposed mitigation plan; four prior plans the Department has rejected for various reasons. Bingham Decl. ¶ 5. Since their water rights were first curtailed in July 2025, the Bingham's have lost nearly \$700,000 in revenue. *Id.* ¶ 6.

Standard of Review

Idaho Code section 67–5274 and Rule 84(m) of the Idaho Rules of Civil Procedure provide that the Court “may order . . . a stay upon appropriate terms.” *See Platz v. State*, 154 Idaho 960, 969, 303 P.3d 647, 656 (Ct. App. 2013). Although these authorities do not specify the factors that should be considered when determining whether to issue a stay, the standards that govern requests for analogous relief—such as stays of lower court judgments or preliminary injunctions—provide guidance. *See B.A. Wackerli, Co. v. Volkswagen of Am., Inc.*, No. 4:12-cv-00373-BLW, 2012 WL 3308678, at *6–*7 (D. Idaho Aug. 13, 2012).

A stay of a lower court judgment is appropriate “where it appears necessary to preserve the *status quo* to do complete justice.” *McHan v. McHan*, 59 Idaho 41, 46, 80 P.2d 29, 31 (1938). For example, a stay is merited “when it would be unjust to permit the execution on the judgment, such as where there are equitable grounds for the stay or where certain other proceedings are pending.” *Haley v. Clinton*, 123 Idaho 707, 709, 851 P.2d 1003, 1005 (Ct. App. 1993).

Similarly, a preliminary injunction is appropriate where the petitioner has shown a substantial likelihood of success on the merits and would suffer irreparable harm without a

stay. *See Insure Idaho, LLC v. Horn*, 175 Idaho 885, 902, 572 P.3d 183, 200 (2025). *See also B.A. Wackerli, Co.*, 2012 WL 3308678, at *7 (also considering whether the balance of equities tips in petitioner’s favor, and if a stay would be in the public interest).

Argument

A stay of the Department’s curtailment order should be granted

1. The Binghams are likely to prevail on their petition for review

The Binghams’ petition for review challenges the Department’s failure to consider the relative seniority of the Binghams’ water rights as against the many water users who are junior to the Binghams but whom the Department allows to continue to pump out of priority. Idaho law requires water rights to be administered according to the priority date of each water right appropriation. *See A&B Irrig. Dist.*, 155 Idaho at 650, 315 P.3d at 838 (identifying “first . . . in time is the first in right” as a “bedrock principle[]” of Idaho water law). According to the rule of priority, the obligation to make up for the shortfall of the most senior water user falls first on the most junior user and then proceeds back through increasing seniority. *See generally Beecher v. Cassia Creek Irrig. Co.*, 66 Idaho 1, 9, 154 P.2d 507, 510 (1944) (“Each junior appropriator is entitled to divert water only at such times as all prior appropriators are being supplied under their appropriations under conditions as they existed at the time the appropriation was made.”); Wells A. Hutchins, *The Idaho Law of Water Rights*, 5 Idaho L. Rev. 1, 50 (1968) (“The junior appropriator . . . is entitled to protection . . . against those whose rights are subsequent to his . . .”). Yet the Department has curtailed the Binghams, while allowing junior users to continue pumping, simply because the latter are participating in approved mitigation plans, *see* Larsen Dec., Exhibit H, at Bates No. 179 (July Curtailment Order at 12), irrespective of their junior priority as against the Binghams. That violates the rule of priority.

It is true that *strict* priority is not the rule. Rather, priority is tempered by the requirement of beneficial use, along with the related doctrines of futility, waste, and reasonable pumping level. *See Am. Falls Reservoir Dist. No. 2*, 143 Idaho at 880, 154 P.3d at 451; *Idaho Ground Water Ass’n*, 160 Idaho at 132–34, 369 P.3d at 910–12. But none of these limitations on strict priority supports the Department’s disregard of priority in deciding whether to curtail pumpers like the Binghams.

First, without curtailment, the Bingham would put their water to beneficial use in the raising of crops. Bingham Decl. ¶¶ 7–8.

Second, observing priority among junior users would not lead to the waste of water on account of inefficiencies in making groundwater available to the senior surface users. *See* Declaration of R. Jeffrey Davis ¶ 2.d, ¶¶ 14–20 (allowing the Bingham to pump through the end of the irrigation season would result in a 39-cubic-feet-per-second (cfs) depletion of the Snake River, which is a 0.015% reduction). *Cf. Fellhauer v. People*, 447 P.2d 986, 996–97 (Colo. 1968) (recognizing that such inefficiencies preclude the administration of wells on the basis of strict priority but nevertheless holding that the “wells must be administered in accordance with priority, along with other factors”); *Kuiper v. Well Owners Conservation Ass’n*, 490 P.2d 268, 286 (Colo. 1971) (State Engineer regulation requiring that the “priority dates of those ground water rights which have heretofore been adjudicated shall be fully recognized”). Moreover, the Department has already affirmed that any such immediate inefficiencies cannot eliminate a junior user’s duty to seniors. *See* Larsen Dec., Exhibit C, at Bates No. 111 (Sukow memo at 29) (noting that “avoiding obligation because of delayed impact is contrary to the [Conjunctive Management] rules”).

Third, and closely related to the preceding point, observing priority would not be futile. A senior user cannot prevent a junior user from using water if curtailment of the junior would not result in water being made available to the senior. *See S. Valley Ground Water Dist. v. Idaho Dep’t of Water Res.*, 173 Idaho 762, 792, 548 P.3d 734, 764 n.7 (2024). Here, however, the further curtailment of users junior to the Bingham would satisfy the senior surface users’ demand as well as allow the Bingham to continue pumping. Such curtailment would, however, be most unlikely given that the Bingham’s proposed late-season pumping would have no functional impact on Snake River flows. *See* Davis Decl. ¶¶ 22, 26.

Fourth, there is no evidence that observing priority would result in an unreasonable pumping level. The Ground Water Act provides that priority of appropriation is protected only with respect to “reasonable ground water pumping levels.” Idaho Code § 42–226. This limitation on groundwater pumping rights does not pertain to the *amount* of water pumped but rather to the *means* of pumping. In other words, a senior pumper is not allowed to insist that junior users refrain from pumping simply to keep the aquifer water level very high so

that the senior's very shallow well won't run dry. *See Clear Springs Foods*, 150 Idaho at 803, 252 P.3d at 84. Here, however, the Department has never contended that the Binghams need to deepen wells to access water; the dispute is over who must stop withdrawing water from otherwise functioning wells.

The Department will likely object that the Binghams' petition for review constitutes an impermissible collateral attack on prior administrative decisions that reject priority when issuing groundwater curtailment orders, which decisions are now immune from direct attack. *See Larsen Dec.*, Exhibit I, at Bates Nos. 185–186 (*Order Denying Pet'n for Reconsideration & Request for Hearing* at 3–4). The objection is without merit. If the Binghams are correct that the Department's ignoring of the relative seniority of their water rights violates the Idaho law of prior appropriation, *see* Idaho Const. art. XV, § 3; Idaho Code §§ 42–602, 42–603, then all of the Department's actions that ignore priority—both those that do so expressly, as well as those that do so impliedly by necessary reliance upon earlier decisions—are void and thus subject to collateral attack. *Cf. Wernecke v. St. Maries Joint Sch. Dist. No. 401*, 147 Idaho 277, 286 n.10, 207 P.3d 1008, 1017 n.10 (2009) (“Therefore, because we determine that the Agreement approved by the Commission violates the Act, and the Commission is not authorized to approve agreements that violate the Act, the Commission acted outside its statutory authority and the Agreement is void and subject to collateral attack.”).

The Department may also argue that the Binghams have not exhausted their administrative remedies because they have not sought a stay from the Department. *Cf. Idaho Code* § 67–5271(1) (requiring exhaustion of administrative remedies). But exhaustion is not required when it is futile. *See Peterson v. City of Pocatello*, 117 Idaho 234, 236, 786 P.2d 1136, 1138 (Ct. App. 1990). Here, the Department has already rejected the Binghams' administrative effort to seek relief from the curtailment order through a petition for reconsideration and a request for hearing.⁴ Hence, there would be no point to forcing the Binghams futilely to seek relief again from the Department.

⁴ The Department also has rejected the Binghams' request for an administrative stay of curtailment pending approval of their mitigation plan. *See Larsen Dec.*, Exhibit E, at Bates No. 131 (*Order Denying Motion for Stay of Order of Curtailment*, Docket No. CM-MP-2025-003 (May 14, 2026)).

2. The Bingham will suffer irreparable harm without a stay

As noted above, the Bingham grow potatoes and other crops on a farm of about 1,000 acres which they own in Bingham County. Bingham Decl. ¶ 2. For irrigation, the Bingham rely upon several groundwater rights, many of which are among the most senior in the aquifer. *Id.* ¶ 3. Since July 2025, the Bingham have suffered from a near-total curtailment of their water rights by the Department.⁵ *Id.* ¶ 4. This curtailment has already resulted in substantial financial losses to the Bingham. *Id.* ¶ 6. But without a stay of the continuing curtailment, the impact on the Bingham could be catastrophic.

Decisions about what to plant for the winter and spring must be made now, before the conclusion of the irrigation season, *see supra* note 5, and those decisions depend principally on the availability of water. For example, planting in winter and spring must be preceded now by the application of fertilizer. But without adequate water, application of fertilizer will be ineffective. Bingham Decl. ¶ 7a. Moreover, maintaining proper soil moisture through irrigation now is essential to avoid the creation of excessive clods, which can substantially interfere with harvest. *Id.* ¶ 7b. Also, irrigation is needed now if the ground is to be made ready in time for the planting of a winter wheat crop. *Id.* ¶ 7c.

The importance of a stay is relevant as well to overall farm business concerns. For example, federal crop insurance is generally unavailable for crops planted when water is curtailed; and without the availability of crop insurance, planting a crop would be reckless. *Id.* ¶ 7d. Further, water availability now affects the Bingham's ability to obtain a contract for potatoes; without assured water, it's unlikely that the Bingham will be able to obtain a contract, which in turn will lead to a substantial reduction in their anticipated revenue. *Id.* ¶ 7e.

⁵ In December 2025, the Department revised the then-current curtailment order to advance the priority cut-off date from October 1900 to August 1952. *See Final Order Curtailing Ground Water Rights Junior to August 15, 1952*, Doc. No. CM-DC-2010-001 (Dec. 8, 2025). That allowed the Bingham to resume pumping on three water rights in April 2026, when the irrigation season commenced. *See generally Twin Falls Land & Water Co. v. Lind*, 14 Idaho 348, 351–52, 94 P. 164, 165–66 (1908) (“There is but one irrigating season during each year. That season is defined by law as extending from April 1st to November 1st.”). But the Bingham were then again completely curtailed when the Department issued its May 2026 curtailment, which covered all rights junior to October 1900.

These injuries are, even in isolation, significant, but they become disastrous when aggregated with the financial harm that the Bingham's have already suffered from the ongoing curtailment. Although they cannot pump, the Bingham's must still pay for a variety of expenses associated with their farm, such as land and equipment payments and property taxes. Without immediate relief from this Court, the Bingham's fear that bankruptcy may be inevitable. *Id.* ¶¶ 8–10. And these injuries would be irreparable, given that the Court cannot, through the Bingham's petition for review, award damages for unlawful agency action but instead can grant only prospective relief. *See* Idaho Code § 67–5279(3). *See generally* *Idaho v. Coeur d'Alene Tribe*, 794 F.3d 1039, 1046 (9th Cir. 2015) (economic harm is irreparable when monetary damages are not available).

3. The equities and public interest favor a stay

The relative equities and the public interest favor the granting of a stay of the Department's curtailment order, as applied to the Bingham's.⁶

First, as the preceding section demonstrates, failing to stay the order will result in irreparable, and possibly catastrophic, financial harm to the Bingham's. But a stay would result in no injury to the Department. Certainly, there would be no direct harm, because the right to use the water at issue does not belong to the Department but instead to the Bingham's and other water users. Moreover, the small amount of water that the Bingham's would be pumping, as compared to the total volume of water within the aquifer and subject to the Department's control, means that the Department's inability to curtail the Bingham's would have essentially no impact on any of its regulatory goals or policies. *See* Davis Decl. ¶¶ 2.b–d, 14–20 (proposed late-season pumping by the Bingham's would result in a 39-cfs depletion in the Snake River's overall September-October anticipated flow of 2,600 cfs, amounting to a mere 0.015% reduction). A similar lack of impact is to be expected with respect to other water users. Conservatively, the Bingham's late-season pumping would amount to a

⁶ As noted above, Idaho law does not specify the precise factors to be considered in determining whether to stay an agency's order. Although analogies to preliminary injunctions are helpful, the “balance of the equities” and the “public interest” are not expressly included within Idaho Rule of Civil Procedure 65(e), governing preliminary injunctions. *See Moon v. North Idaho Farmers Ass'n*, No. CV-2002-3890, 2002 WL 32129530, at *10 (Idaho 1st Dist. Ct. Nov. 30, 2002) (unpublished opinion). Nevertheless, the Bingham's address these factors here because they, too, support the granting of a stay.

consumptive use of 220 acre-feet of water. Davis Decl. ¶¶ 2.a, 9–10. This in turn would result in an approximately 39-cfs depletion of the anticipated Snake River flow. *Id.* ¶¶ 2.b, 17–18. But as explained above, such a depletion would produce a trivial reduction in river flow. *Id.* ¶¶ 2.d–e, 15–20. It would therefore amount to a tiny reduction of available surface supplies for the senior surface water users, the insignificance of which is increased by the fact that the senior surface water users’ greatest need for water is earlier in the season. Davis Decl. ¶¶ 24–26. And given this absence of injury to the senior surface water users, the Bingham’s anticipated late-season pumping would leave users junior to the Bingham’s similarly unaffected, for they would not be called upon to make up for any shortfall. Hence, the balance of the equities tips strongly in the Bingham’s favor.

Second, ensuring that administrative agencies follow the law furthers the public interest. *See generally Env’tl. Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 992 (9th Cir. 2020) (“The public interest is served by requiring the [agency] to comply with the law.”). That is especially so here, given the central importance of the principle of “first in time, first in right” to Idaho water law. *See A&B Irrig. Dist.*, 155 Idaho at 650, 315 P.3d at 838.

Conclusion

For the foregoing reasons, the Court should stay the Department’s curtailment order, as applied to the Bingham’s pre-1955 water rights, pending final resolution of the petition for review.

DATED: September 15, 2026.

Respectfully submitted,

Reed W. Larsen
Bradley R. Cahoon
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/s/ Reed W. Larsen
Reed W. Larsen

Counsel for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of September, 2026, I caused a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION TO STAY ENFORCEMENT OF RESPONDENT'S FINAL ORDER PENDING JUDICIAL REVIEW to be served upon the following individuals by the designated method:

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