

March 5, 2022

Tim Luke
Chief, Water Compliance Bureau
Idaho Department of Water Resources
tim.luke@idwr.idaho.gov

Re: Big Wood Ground Water Management Area Management Plan and draft Petition for Water Rights Moratorium

Dear Tim,

These comments are provided on behalf of the City of Bellevue, the City of Hailey and Sun Valley Company ("Cities and SVC") regarding the latest February 2022 draft of the Big Wood Ground Water Management Area ("BWRGWMA") Management Plan ("BWGWMA Draft Plan") and draft "Petition for Water Rights Moratorium" circulated earlier this week.

First, given the Director's authority to issue a moratorium order under Idaho Code § 42-1805(7) and IDAPA 37.03.08.055, there is no need for a petition. Second, while language regarding the moratorium was included in prior versions of the BWGWMA Term Sheet, it used to simply read as if the informal moratorium provisions set forth in the June 28, 1991 Management Policy for the BWRGWMA would continue, not that the parties needed to advocate for a different or more formal moratorium on surface and groundwater appropriations.

The settlement agreed upon in the Cities and SVC's Term Sheet and the BWGWMA Term Sheet is for a three year period. The Cities and SVC, therefore, request that language be included in the BWGWMA Plan that simply extends the current moratorium policy for a period of three years and that the policy be consistent with the policy of IDWR that has been in place in the BWRGWMA, namely that:

- the moratorium does not apply to non-consumptive uses;
- the moratorium does not apply to applications that will have no effect on prior water rights because of their locations, insignificant consumption of water, or mitigation provided by the applicant to offset injury to other water rights;
- the moratorium does not apply to applications which, as determined by the Director, require consideration and approval to protect and advance the public interest irrespective of the general moratorium;
- the moratorium does not apply to domestic and stockwater rights that meet the definition of "domestic purposes" set forth in Idaho Code § 42-111;. and,
- municipalities, multiple ownership subdivisions, and mobile home parks are treated as they have been in the past.

The Cities and SVC will not sign a petition for a moratorium order at this time as doing so would be inconsistent with the Cities' and SVC's Term Sheet and would also contradict the settlement that the Cities and SVC reached with the Idaho Water Resource Board as to applications for permit nos. 37-23110 and 37-23111, which contemplates that the Cities and SVC will seek new appropriations. While the Cities and SVC will not sign a petition for a moratorium order, they will not oppose it so long as it or any resulting moratorium order is consistent with the terms above. The Cities and SVC reserve all rights to

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challenge any moratorium order broader than the existing management policy and/or that adversely affects their constitutional right to divert and beneficially use the state's public waters.

Sincerely,

Candice M. McHugh

Michael P. Lawrence

Chris M. Bromley



Attorney for City of Bellevue

Attorney for City of Hailey

Attorney for Sun Valley Co.