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Attorneys for Defendants the State of Idaho, the Idaho Department of Water Resources, and Gary Spackman, in his official capacity as Director of the Idaho Department of Water Resources

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

The STATE OF IDAHO; the IDAHO DEPARTMENT OF WATER RESOURCES, an agency of the State of Idaho; and GARY SPACKMAN, in his official capacity as the Director of the Idaho Department of Water Resources,

Defendants,

v.

IDAHO HOUSE OF REPRESENTATIVES; MIKE MOYLE, in his official capacity as Majority Leader of the House; IDAHO

Case No. 1:22-cv-00236-DCN

**DECLARATION OF
NICHOLAS R. MILLER**

SENATE; and CHUCK WINDER, in his official capacity as President Pro Tempore of the Senate,

Intervenor-Defendants.

1. My name is Nicholas R. Miller. I am over eighteen years of age and the following statements are based upon my personal knowledge.

2. I have been employed continuously by the Idaho Department of Water Resources (“IDWR”) since 2005. My current position at IDWR is Engineer, Manager 2 and I am the Regional Manager of IDWR’s Western Regional Office. I have held this position since 2015. Prior to that I worked in the Water Distribution Section in IDWR’s state office, and in 2011 I was promoted to manager of the Water Distribution Section. I am licensed as a Professional Engineer in the State of Idaho.

3. IDWR has divided the State of Idaho into four administrative regions or areas — Western, Southern, Eastern, and Northern (see map attached as Exhibit 1). IDWR’s Western Regional Office has a number of responsibilities. It processes statutorily required water right applications and filings in the Western Region, including applications for new water rights, applications to change existing water rights, and ownership change notices. The Western Regional Office conducts beneficial use field examinations and issues water right licenses. The Western Regional Office also assists and supports watermasters and water districts in distributing water in accordance with water rights and Idaho law, and frequently assists water users and the general public in resolving questions involving water

rights and water uses. As Manager of the Western Regional Office I oversee all of these activities and supervise regional staff.

4. In 2021 it was brought to my attention that there was a dispute over stockwater use on federal lands associated with water right no. 51-12897A. The point of diversion for this water right is not on federal lands, but the water apparently is delivered via an extensive pipeline system to places of use located on federal lands. Generally, water that is lawfully diverted pursuant to a valid water right is not considered to be available for use by anyone other than the water right holder, provided it is used for the authorized purposes and consistent with the elements of the water right.

5. I had discussions with the parties to the dispute involving water right no. 51-12897A to better understand IDWR's role in resolving the dispute, and I visited the BLM field office in Twin Falls to gather basic information about the dispute. It appeared to arise from the fact that the pipeline system also carried stockwater diverted in Nevada, and the Nevada water was commingled with the water diverted under Idaho water right no. 51-12897A, and possibly other Idaho water rights as well. All of these commingled waters were delivered to locations on federal lands in Idaho for stockwater use, and apparently a dispute arose over how much of these commingled waters each of the parties was entitled to use. My understanding was that the parties resolved the dispute on their own, at least for that season (2021). So far as I know, the dispute has not arisen again. The Western Regional Office has taken no official action with respect to the dispute.

Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATE: March 13th, 2023



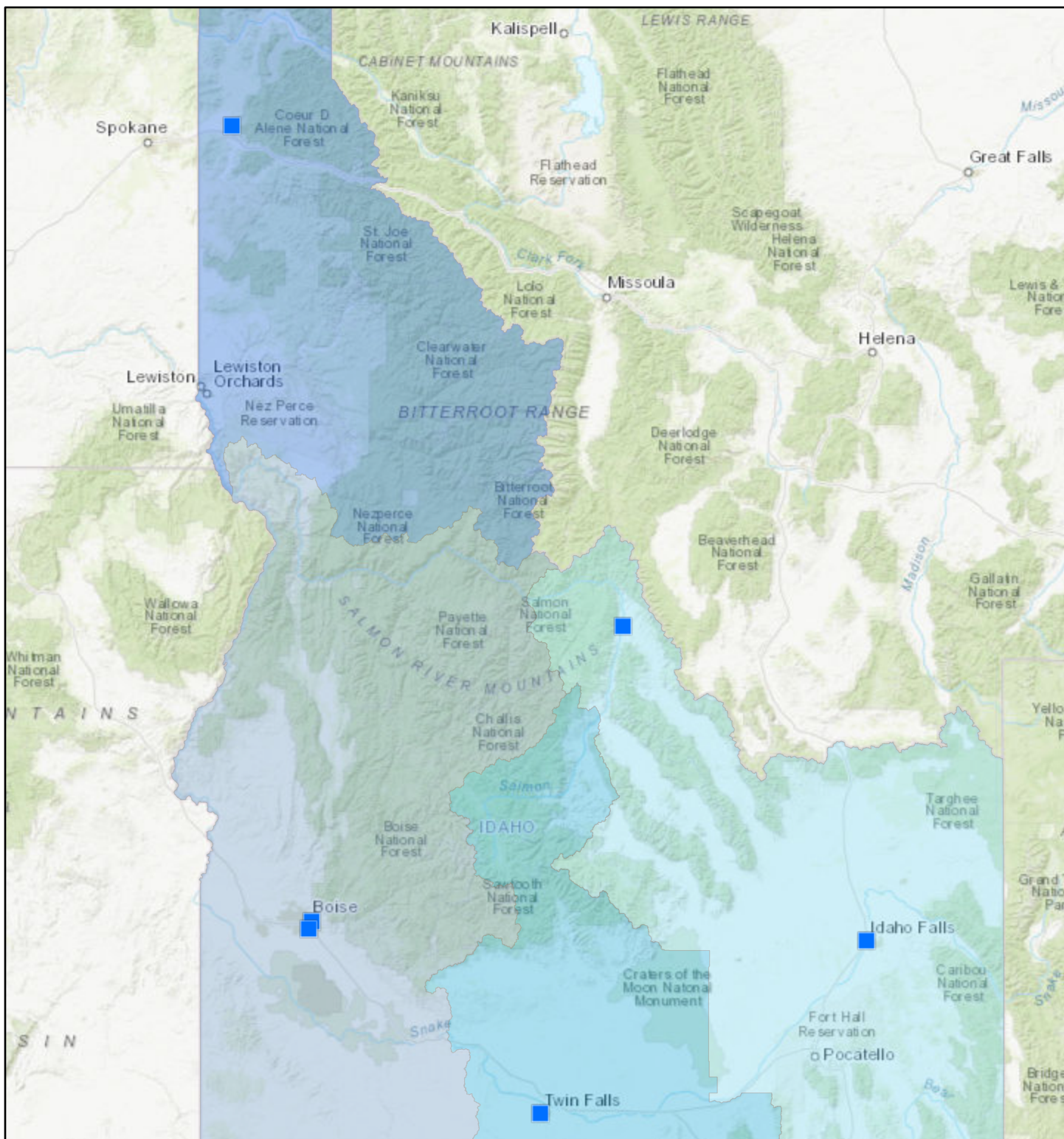
NICHOLAS R. MILLER

EXHIBIT 1

Declaration of Nicholas R. Miller

Exhibit 1

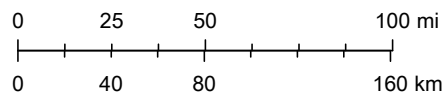
Administrative Areas



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- IDWR Offices
- Northern
- Eastern
- Western
- Southern



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS