

Randall C. Budge (ISB No. 1949)
Thomas J. Budge (ISB No. 7465)
RACINE OLSON, PLLP
201 E. Center St. / P. O. Box 1391
Pocatello, Idaho 83204-1391
(208) 232-6101 – phone
(208) 232-6109 – fax
randy@racineolson.com
tj@racineolson.com

Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

RECEIVED

NOV 18 2019

DEPARTMENT OF
WATER RESOURCES

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF DESIGNATING THE
EASTERN SNAKE PLAIN AQUIFER
GROUND WATER MANAGEMENT AREA

Docket No. AA-GWAMA-2016-001

**IGWA's Response to Motions for
Summary Judgment**

Pursuant to the *Scheduling Order for Motion Practice on Legal Issues* entered September 25, 2019, Idaho Ground Water Appropriators, Inc. ("IGWA") submits this response to *Fremont-Madison Irrigation District, Madison Ground Water District, and Idaho Irrigation District's Memorandum & Written Argument as to Remaining Issues Requiring Legal Argument* ("Upper Valley Motion"), *Basin 33 Water Users' Motion for Summary Judgment and Memorandum in Support* ("Basin 33 Motion"), and *Surface Water Coalition's Motion for Summary Judgment and Supporting Points / Authorities Re: Legal Issues* ("SWC Motion") filed October 21, 2019.

INTRODUCTION

IGWA is compelled to respond to the motions because certain arguments suggest that the Eastern Snake Plain Aquifer ("ESPA") Ground Water Management Area ("GWMA") may be deployed as a substitute for conjunctive management of downstream surface rights, which is inconsistent with both the language and intent of Idaho Code section 42-233b. In addition, IGWA is persuaded by arguments made by the Upper Valley Users and the Basin 33 Users that the Idaho Administrative Procedure Act ("APA") as well as the constitutional right of due process require the director of the Idaho Department of Water Resources ("Department" or "IDWR") to hold a contested case hearing before designating a GWMA. IGWA also agrees that the Conjunctive Management Rules restrict GWMA's to unadjudicated basins.

ARGUMENT

1. A GWMA is not a substitute for conjunctive management of downstream surface water rights.

Arguments advanced in the Basin 33 Motion reflect a common misconception that the ESPA GWMA may be deployed as a substitute for conjunctive management of downstream surface water rights. They state that implementation of the ESPA GWMA “will fundamentally change ground water right administration in the ESPA from a priority-based system to one where ground water right holders will be subject to curtailment ... irrespective of the amount of water needed to avoid injury to senior surface right holders,” (Basin 33 Mot., p. 9); that “a GWMA will focus on ESPA water levels alone, regardless of senior needs and actual beneficial use,” *Id.* at 5; and that “it is therefore possible, and likely, that a situation presents itself where the senior surface users could experience a full supply under [the Methodology Order] and yet ground water users would still be curtailed or remain curtailed under a GWMA management regime,” *Id.*

This misconception is due to the frequent mention of both conjunctive management and a GWMA in discussions involving water right administration within the ESPA, the desire by some ground water users to use a GWMA as a shield against delivery calls by holders of downstream surface water rights, and ambiguity within Idaho Code section 42-233b.

As explained below, the purpose of a GWMA is to manage an aquifer for the benefit of the ground water rights that divert therefrom. It is not a substitute for conjunctive management of downstream surface water rights.

1.1 The purpose of a GWMA is to maximize beneficial use of the aquifer for the benefit of ground water rights that divert therefrom.

The Basin 33 Users are correct that priority administration within a GWMA is dependent on ground water levels. This is not in disregard of injury to senior rights, however. Administration based on ground water levels protects senior ground water rights against injury while maximizing beneficial use of the aquifer.

In 1951 the Idaho legislature adopted a new section of state code—the Ground Water Act—dedicated specifically to ground water administration. Idaho Code § 42-226 *et. seq.* The Act recognizes that aquifers are hydrologically much different than surface water sources, and that priority administration must adapt. In surface water sources the priority system functions by opening and closing headgates to shepherd water from junior users to senior users through rivers, canals, and ditches. Application of the prior appropriation doctrine in this manner maximizes beneficial use of the surface water resource.

Ground water cannot be distributed in the same manner. It is impossible to shut off a junior well and direct water underground to a senior well. Shutting off a junior well simply raises the elevation of the water table slightly, providing little if any measurable benefit to a senior well located miles away. Blind application of priority curtailment within aquifers would *minimize*

beneficial use of the resource by allowing a single senior user with a shallow well to control the entire aquifer, even though only a tiny fraction of the available ground water supply may be needed to accomplish the senior's beneficial use.

In light of this, the Act protects senior ground water users "in the maintenance of reasonable pumping levels." Idaho Code § 42-226. In other words, senior pumpers are not entitled to insist that the ground water table be kept at peak levels. They may be required to deepen their wells to a "reasonable pumping level" in order to achieve "full economic development of underground water resources." *Id.*

This does not mean that priority has no place in ground water administration. Just the opposite. Priority determines which ground water rights get shut off in order to keep the ground water table at an elevation that will protect senior rights.

The original 1951 Act provided for the designation of critical ground water areas ("CGWA") as a means of managing aquifers as described above. A CGWA is a "ground water basin" that does not have "sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin." Idaho Code § 42-233a. Designation of a CGWA enables the director, "upon determination that the ground water supply is insufficient to meet the demands of water rights within all or portions of a water management area," to "order those water right holders on a time priority basis, within the area determined by the director, to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water." Idaho Code § 42-233a.

In 1982, the legislature added the GWMA statute, Idaho Code section 42-233b, as an intermediate step for a ground water basin that is "approaching the conditions of a critical ground water area." The GWMA also authorizes the director to order priority administration to maintain sufficient ground water for uses within the basin. Idaho Code § 42-233b.

1.2 Material injury to downstream surface rights is of no consideration in forming or implementing a GWMA.

The scope of administration under the ESPA GWMA is circumscribed by the director's statutory authority to form the GWMA in the first place. As explained above, a GWMA is, by definition, a "ground water basin" that is approaching the condition of not having sufficient "ground water" to supply uses "in the basin." Idaho Code § 42-233b. The sufficiency of the water supply of downstream surface water rights is of no consideration in forming a GWMA.

Nor are the water needs of downstream surface rights considered in implementing priority administration under a GWMA. Section 42-233b authorizes priority administration "upon determination that the *ground water supply* is insufficient to meet the demands of water rights *within* all or portions of a water management area." (Emphasis added). Since a GWMA is by definition a "ground water basin," only the demands of ground water rights "within" the basin may be considered in determining whether priority administration is warranted.

1.3 The phrase “other hydraulically connected sources” refers to tributary sources, not downstream surface sources.

Once a GWMA is formed, section 42-233b provides for the implementation of a management plan “for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water.” The reference to “other hydraulically connected sources” has contributed to the misconception that a GWMA can be utilized as a substitute for conjunctive management of downstream surface rights. However, this phrase must be construed in context of the purpose of a GWMA to manage the aquifer for the benefit of the ground water rights that divert therefrom.

The meaning of “other hydraulically connected sources” must be “derived from a reading of the whole act at issue.” *St. Luke's Reg'l Med. Ctr., Ltd. v. Bd. of Comm'rs of Ada Cty.*, 146 Idaho 753, 755 (2009). Since section 42-233b authorizes formation of a GWMA only if the “ground water basin” does not have sufficient “ground water” to sustain existing uses “in the basin,” the term “other hydraulically connected sources” is implicitly confined to sources of water that affect the supply of ground water within the basin. To read that phrase more broadly to encompass water demands *outside* the basin exceeds the parameters for which the GWMA may legally be created. Since downstream surface rights have no effect on the sufficiency of ground water within the basin, they necessarily fall outside the scope of “other hydraulically connected sources” as that phrase is used in section 42-233b.

Moreover, the statement in section 42-233b that the management plan “shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water” is ambiguous. (Emphasis added). The word “on” can be interpreted synonymously with either “upon” or “from.” Applying the former interpretation would require the management plan to manage the effects that ground water pumping has *upon* the aquifer and *upon* other sources. Applying the latter interpretation would require the management plan to manage the effects of pumping *from* the aquifer and *from* other hydraulically connected sources. This latter use of the word “on” is congruent with its common use in financial contexts as to “draw on an account,” meaning to take from the account.

Since section 42-233b can be read either way, it is ambiguous. *Inama v. Boise County ex rel. Bd. of Comm'rs*, 138 Idaho 324, 329 (2003) (“A statute is ambiguous where the language is capable of more than one reasonable construction.”) “If the statute is ambiguous, then it must be construed to mean what the legislature intended for it to mean.” *Miller v. State*, 110 Idaho 298, 299 (1986). “To determine that intent, we examine not only the literal words of the statute, but also the reasonableness of proposed constructions, the public policy behind the statute, and its legislative history.” *Lopez v. State, Indus. Special Indem. Fund*, 136 Idaho 174, 178 (2001).

Both reasonableness and public policy require that “other hydraulically connected sources” refer to tributary sources. Since the water needs of downstream surface rights are not taken into account in forming a GWMA, it is unreasonable to require the management plan to meet their unknown needs. This is the concern asserted by the Basin 33 Users.

By contrast, it is perfectly reasonable to consider impacts from tributary sources when undertaking to develop an aquifer management plan. No amount of management of ground water “in the basin” will sustain the aquifer if junior-priority diversions from tributary basins are intercepting all of the tributary inflow before it arrives.

For these reasons, the phrase “other hydraulically connected sources” must refer only to tributaries to the aquifer that are subject to the GWMA, not to downstream water sources that have no effect on the supply of ground water in the basin.

1.4 Compliance with a ground water management plan does not insulate ground water users from conjunctive management delivery calls made by downstream surface water rights.

The misconception that a GWMA could substitute for conjunctive management of downstream surface rights also stems from the statement in section 42-233b that “water right holders participating in an approved ground water management plan shall not be subject to administration on a time priority basis so long as they are in compliance with the ground water management plan.” As appealing as it may be for ground water users to use this as a shield against downstream delivery calls, this phrase too must be read in context with the statute as a whole. Since a GWMA is confined to a “ground water basin,” and since only the sufficiency of “ground water” to supply uses “in the basin” is considered in forming a GWMA and in implementing priority administration, it follows that compliance with a management plan only protects against curtailment that may be ordered under section 42-233b.

While the implementation of a ground water management plan may provide incidental benefits to downstream surface water rights, there can be no doubt that a senior surface right, whose water needs are not considered either in forming the GWMA or in making curtailment decisions under the GWMA, would not be foreclosed from making a delivery call simply because the users within the GWMA are complying with a management plan designed to maximize beneficial use of the aquifer.

1.5 Relationship between the ESPA GWMA and the SWC-IGWA Settlement Agreement.

Lastly, the misconception that a GWMA could substitute for conjunctive management of downstream surface rights also stems from the frequent mention of a GWMA in connection with the 2015 SWC-IGWA Settlement Agreement. This should not, however, be construed to suggest that the ESPA GWMA may function as a substitute for the Surface Water Coalition (“SWC”) delivery call.

Under the SWC-IGWA Settlement Agreement, IGWA’s members committed to reduce their use of ground water in an effort to stabilize the ESPA at a mutually agreeable level. Since IGWA’s members account for approximately 90% of all ground water withdrawals from the

ESPA, implementation of a GWMA was proposed as a means of compelling the other 10% to contribute equitably toward the recovery of the ESPA.

IGWA has never contemplated that a GWMA would replace the SWC delivery call. The SWC-IGWA Settlement Agreement was crafted to require IGWA and the SWC to work together to identify and implement adaptive measures to sustain the aquifer long-term. This may be rendered meaningless if the parties are no longer bound by the SWC delivery call but are instead in a position of lobbying the director under a GWMA. Replacing the SWC delivery call with a GWMA would set up IGWA and the SWC for battle as IGWA could advocate for relaxed mitigation requirements while the SWC could advocate for more stringent mitigation requirements. This concern is exacerbated by the fact that the Conjunctive Management Rules have been tested and refined through a series of court cases, whereas Idaho Code section 42-233b is largely untested.

After all that IGWA, the SWC, and the Department have been through to define their respective rights and obligations under the SWC delivery call, including implementation of a mutually acceptable settlement agreement to provide for long-term mitigation of material injury, the SWC call and the Methodology Order cannot be set aside and replaced with a GWMA that supersedes conjunctive administration of the SWC water rights. Rather, the GWMA must remain, as it has always been understood by IGWA, a tool to manage the ESPA for the benefit of ground water rights that divert therefrom.

2. The APA requires the director to hold a contested case hearing before designating a GWMA.

The Upper Valley Users argue that the APA requires the director to hold a contested case hearing before designating a GWMA, and that the director erred by not doing so in this case. (Upper Valley Mot., pp. 3-4, 13-16.) IGWA agrees.

The APA provides a standardized procedure for state agencies to follow when issuing orders. Idaho Code §§ 67-5240 - 67-5249.¹ It governs any matter that qualifies as a “contested case,” which the APA defines as “a proceeding by an agency . . . that may result in the issuance of an order.” Idaho Code § 67-5240. An “order” is “an agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons.” Idaho Code § 67-5201(12). Courts apply a two-part test to determine whether a matter is a contested case: “(1) Has the legislature granted the agency the authority to determine the particular issue? and (2) Does the agency decision on the issue determine the legal rights, duties, privileges, immunities, or other legal interests of one or more persons?” *Lochsa Falls, L.L.C. v. State*, 147 Idaho 232, 237, 207 P.3d 963, 968 (2009).

¹ The Department’s Rules of Procedures, which derive from the APA, further define the procedure that governs contested case proceedings before the Department. In the interest of brevity, this brief does not separately call out the Department Rules of Procedure that coincide with the APA unless the Department Rules of Procedure provides specific context. Referenced in this brief to the APA should be deemed to implicitly incorporated the coincident sections of the Department’s Rules of Procedure.

If the matter qualifies as a contested case then the APA applies unless it is superseded by “other provisions of law.” Idaho Code § 67-5240. If the APA applies then the agency must provide notice and a hearing before issuing an order on the matter, except in certain emergency situations. Idaho Code §§ 67-5242, 67-5247. Emergency orders are allowed only to the extent “necessary to prevent or avoid [] immediate danger.” Idaho Code § 67-5247. Emergency orders must include “a brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to take the specific action.” *Id.*

The order designating the ESPA GWMA was issued without a prior hearing and does not contain an emergency clause. Consequently, the Upper Valley Users contend that the order does not comply with the APA. (Upper Valley Mot., p. 14.) The Upper Valley Users are correct unless the APA is trumped by “other provisions of law.” Idaho Code § 67-5240.

The SWC contends that the APA is trumped by Idaho Code section 42-233b, and that Judge Wildman has determined that the director need not hold a hearing before designating a GWMA. (SWC Mot., pp. 6-7.) After considering both arguments, IGWA is persuaded that the APA does apply, and that it requires the director to hold a hearing before designating a GWMA, as explained below.

2.1 The APA governs the designation of a GWMA.

The APA governs the designation of a GWMA for three reasons. First, Idaho Code section 42-1701A(1) provides that the APA governs every hearing held by the director: “All hearings required by law to be held before the director of the department of water resources shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code, and rules of procedure promulgated by the director.”

Second, the APA applies under the two-part test cited above: “(1) Has the legislature granted the agency the authority to determine the particular issue? and (2) Does the agency decision on the issue determine the legal rights, duties, privileges, immunities, or other legal interests of one or more persons?” *Lochsa Falls, L.L.C.*, 147 Idaho at 237. As to the first prong, the legislature has granted authority to the director under section 42-233b to designate a GWMA. As to the second prong, the designation of a GWMA determines important legal rights, duties, privilege and immunities of holders of ground water rights from the ESPA, including the sufficiency of the supply of ground water for senior rights (i.e. material injury), the right to continue diverting water from the aquifer, and the duty to participate in a ground water management plan in order to avoid curtailment.

Third, the Conjunctive Management Rules require that contested case procedures be followed when designating a GWMA. Rule 30.06 states that a petition to designate a GWMA will be considered “under the Department’s Rules of Procedure.” IDAPA 37.03.11.030.06. Since both the Conjunctive Management Rules and the Department’s Rules of Procedure derive their authority from the APA (see IDAPA 37.03.11.000 & 37.01.01.000), it is self-evident that the APA governs the designation of a GWMA. Indeed, it would be paradoxical for the Department

to on one hand claim that the APA is trumped by other provisions of law while on the other hand enacting a rule that derives its authority from the APA and requires compliance with the APA.

For each of these reasons, the designation of a GWMA qualifies as a contested case that is subject to the APA contested case procedure.

2.2 Idaho Code section 42-233b does not trump the APA.

The SWC argues that the lack of any prescribed hearing procedure in section 42-233b excuses the director from providing a hearing: “Besides the published notice, there are no other procedural requirements that must be followed with respect to designating a ground water management area.” (SWC Mot., p. 5.) In other words, the SWC contends that if a statute is silent as to procedure then the agency need not follow any procedure at all. This argument fails for three reasons.

First, the APA is a catch-all that applies to all agency proceedings unless expressly “exempted by some other provision of law.” *Westway Const., Inc. v. Idaho Transp. Dep’t*, 139 Idaho 107, 113 (2003). If a statute is silent as to procedure then the APA automatically applies.

Second, failing to apply any procedure at all would violate the due process clause of the Fourteenth Amendment. As explained below, due process requires “both notice and the opportunity to be heard,” which “must occur at a meaningful time and in a meaningful manner.” *Floyd v. Bd. of Ada Cty. Comm’rs*, 164 Idaho 659, 664 (2019). For some “other provision of law” to trump the APA it must establish an alternate procedure that satisfies due process.

Third, the SWC has cited no precedent to support the argument that state agencies are free to dispense with any process at all when taking action as significant as the designation of a GWMA. As explained above, judicial precedent establishes a two-part test for determining whether a matter qualifies as a contested case, and the designation of a GWMA satisfies the test.

In sum, since (i) section 42-233b does not prescribe a hearing procedure that affords due process, (ii) section 42-1701A(1) requires all hearings before the director to comply with the APA, and (iii) the designation of a GWMA satisfies the two-part test described above, the director must comply with the APA when designating a GWMA.

2.3 Judge Wildman did not determine that the APA procedure does not apply to the designation of a GWMA.

The SWC argues that Judge Wildman determined in *City of Pocatello v. Spackman*, Ada County Dist. Ct., Fourth Jud. Dist., CV-01-17-67, that there is no requirement that the director hold a hearing before designating a GWMA. (SWC Mot., p. 7.) However, Judge Wildman did not address that issue. In fact, he did not address the merits of any of the issues raised on appeal because he determined the court did not have jurisdiction to do so. (Order on Mot. to Determine Jurisdiction (Feb. 16, 2017)).

Judge Wildman dismissed the appeal because Pocatello had not exhausted its administrative remedies. *Id.* He explained that since the director had designated the ESPA

GWMA without a prior hearing, Pocatello was entitled to an after-the-fact hearing under Idaho Code section 42-1701A(3). *Id.* at 2-3. The statements concerning 42-1701A were not made in response to a substantive argument concerning the applicability of the APA; they were made to support the court's determination that Pocatello had failed to exhaust its administrative remedies. The court held: "Until the Director issues his written decision following hearing, no person aggrieved by the Director's designation is entitled to judicial review." *Id.*, p. 4 (Feb. 16, 2017.)

It would be a different story if Pocatello had (i) availed itself of the hearing afforded under section 42-1701A(3); (ii) argued in that hearing that the APA required the director to hold a hearing prior to designating the ESPA GWMA; (iii) obtained an adverse ruling on that issue; and then (iv) appealed that adverse ruling. In that context a decision from Judge Wildman concerning the APA would be binding. As it stands, Judge Wildman's decision is relevant only with respect to exhaustion and jurisdiction. The merits of whether the APA or due process require the director to hold a hearing prior to designating the ESPA GWMA remains open for decision in this case.

For the reasons set forth above, IGWA respectfully requests that the director determine that the designation of a GWMA is subject to the APA contested case procedure, and withdraw the order designating the ESPA GWMA for noncompliance with the APA.

3. Procedural due process requires the Department to provide notice and a hearing before designating a GWMA.

The Basin 33 Users argue that the due process clause of the Fourteenth Amendment to the U.S. Constitution also requires the director to hold a contested case hearing before designating a GWMA. (Basin 33 Mot., pp. 20-23.) IGWA agrees.

The Fourteenth Amendment provides that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const., 14th Am., § 1. Procedural due process requires "both notice and the opportunity to be heard," which "must occur at a meaningful time and in a meaningful manner." *Floyd v. Bd. of Ada Cty. Comm'rs*, 164 Idaho 659, 664 (2019). "Due process is a flexible concept that varies with the particular situation," but it "usually requires that a person receive some kind of hearing before the State deprives a person of liberty or property." *Kuna Boxing Club, Inc. v. Idaho Lottery Comm'n*, 149 Idaho 94, 101 (2009) (citing *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976))).

The designation of the ESPA GWMA does not involve exigencies that require immediate action. The order is designed to address a slow, multi-year decline in ground water levels within the ESPA—a trend that has reversed in recent years. For these reasons as well as the reasons enunciated in the Basin 33 Motion, IGWA agrees that proper deference to the Fourteenth Amendment warrants a hearing prior to designation of the ESPA GWMA.

4. The Conjunctive Management Rules preclude the designation of a GWMA in an adjudicated basin.

The Basin 33 Users and the Upper Valley Users both argue that the Conjunctive Management Rules limit GWMA's to basins that have not been adjudicated. (Basin 33 Mot, pp. 13-15; Upper Valley Mot., pp. 16-18.) This argument has precedent in the A&B Irrigation District delivery call case. There, A&B petitioned the director "to designate the Eastern Snake Plain Aquifer as a ground water management area as provided in Section 42-233b, Idaho Code." *In the Matter of the Pet. for Delivery Call of A&B Irr. Dist. for the Delivery of Ground Water and for the Creation of a Ground Water Management Area*, Pet. for Delivery Call, p. 3 (July 26, 1994). The director denied that request, concluding that "[s]ince water districts created pursuant to chapter 6, title 42, Idaho Code, are in place across all of the ESPA, no additional relief to A&B would be provided for through the creation of a ground water management area encompassing all of the ESPA." *Id.*, Order, p. 47, ¶ 41 (Jan. 29, 2008). A&B appealed this ruling to the district court, which upheld the director's decision. *A&B Irr. Dist. v. Idaho Dept. of Water Resources*, Fifth Jud. Dist., Minidoka Co. case no. 2008-000647, pp. 43-48 (May 4, 2010).

CONCLUSION

For the reasons set forth above, IGWA respectfully requests that the director (i) grant the motions for summary judgment filed by the Upper Valley Users and the Basin 33 Users; (ii) deny the motion for summary judgment filed by the SWC; (iii) confirm that the purpose of a GWMA is to manage an aquifer for the benefit of ground water rights that divert therefrom, and that it is not a substitute for conjunctive management of downstream surface rights; and (iv) withdraw the order designating the ESPA GWMA.

DATED this 18th day of November, 2019.

RACINE OLSON, PLLP

By: 

Randall C. Budge

T.J. Budge

Attorneys for IGWA

CERTIFICATE OF MAILING

I certify that on this this 18th day of November, 2019, the foregoing document was served on the following persons in the manner indicated.



Signature of person mailing form

Director Gary Spackman Idaho Department of Water Resources 322 E. Front St. / P.O. Box 83270 Boise, Idaho 83720 gary.spackman@idwr.idaho.gov kimberle.english@idwr.idaho.gov	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Chris M. Bromley Candice McHugh McHugh Bromley, PLLC 380 S. 4th Street, Ste. 103 Boise, ID 83702 cbromley@mchughbromley.com cmchugh@mchughbromley.com	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Robert E. Williams Williams, Merservy & Lothspeich, LLP 153 East Main Street P.O. Box 168 Jerome, Idaho 83338 rewilliams@wmlattys.com	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Sarah A. Klahn, ISB #7928 Somach Simmons & Dunn 2033 11th Street, Suite 5 Boulder, CO 80302 sklahn@somachlaw.com dthompson@somachlaw.com	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail

<p>Kirk Bybee City of Pocatello P.O. Box 4169 Pocatello, ID 83201 kibybee@pocatello.us</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Travis L. Thompson Barker Rosholt & Simpson, LLP 163 South Avenue West P.O. Box 63 Twin Falls, ID 83303-0063 tlt@idahowaters.com jf@idahowaters.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>W. Kent Fletcher Fletcher Law Office P.O. Box 248 Burley, ID 83318 wkf@pmt.org</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Albert P. Barker John K. Simpson Barker Rosholt & Simpson, LLP 1010 W. Jefferson, Suite 102 P.O. Box 2139 Boise, Idaho 83701-2139 apb@idahowaters.com jks@idahowaters.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Robert L. Harris Holden Kidwell P.O. Box 50130 Idaho Falls, ID 83405 rharris@holdenlegal.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Joseph F. James 125 5th Ave. West Gooding, ID 83330 joe@jamesmvlaw.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>

<p>Michael C. Creamer Givens Pursley LLP 601 West Bannock Street P.O. Box 2720 Boise, ID 83701-2720 mcc@givenspursley.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Dylan B. Lawrence J. Will Varin Varin Wardwell LLC 242 N. 81h Street, Ste. 220 P.O. Box 1676 Boise, Idaho 83701-1676 dylanlawrence@varinwardwell.com willvarin@varinwardwell.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Jerry R. Rigby Rigby, Andrus & Rigby Law, PLLC 25 North Second East P.O. Box 250 Rexburg, Idaho 83440 jrigby@rex-law.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>