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DEPARTMENT OF
WATER RESOURCES

Attorneys for South Valley Ground Water District

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF BASIN 37
ADMINISTRATIVE PROCEEDING

Docket No. AA-WRA-2021-001

**SOUTH VALLEY GROUND
WATER DISTRICT'S
MOTION FOR
CONTINUANCE OF HEARING**

COMES NOW, the SOUTH VALLEY GROUND WATER DISTRICT (“SVGWD”), by and through its attorneys of record, BARKER ROSHOLT & SIMPSON LLP, and pursuant to Rules 260 and 561 of the Department’s Rules of Procedure (IDAPA 37.01.01.260 and IDAPA 37.01.01.561), hereby moves for continuance of the hearing scheduled for June 7-11, 2021, in the above-captioned matter. SVGWD has simultaneously filed a Motion to Dismiss. The present motion, as well as the contemporaneously filed Motion for Order Authorizing Discovery, and the Motion to Appoint Independent Hearing Officer are made in the alternative to the Motion to Dismiss and should be considered moot if dismissal is granted.

On May 4, 2021 the Director issued a *Notice of Administrative Proceeding, Pre-Hearing Conference, and Hearing* (“*Notice*”). The Director stated that he “believes that the withdrawal of water from ground water wells in the Wood River Valley south of Bellevue (commonly referred to as the Bellevue Triangle) would affect the use of senior surface water rights on Silver Creek and its tributaries during the 2021 irrigation season.” *Notice* at 1. The *Notice* was accompanied by cover letter stating the following:

A drought is predicted for the 2021 irrigation season and the water supply in the Little Wood River-Silver Creek drainage may be inadequate to meet the needs of surface water users in that area. Therefore, the Director of the Department has initiated an administrative proceeding to determine if the surface water rights in the Little Wood-Silver Creek drainage will be injured in the 2021 irrigation season by pumping from junior-priority ground water rights in the Wood River Valley south of Bellevue. The administrative proceeding could result in curtailment of junior-priority ground water rights south of Bellevue this irrigation season.

Director May 4, 2021 Letter to “Water Right Holder” (emphasis added).¹ On May 11, 2021, the Director issued a *Request for Staff Memorandum* (“*Request*”). The *Request* asks for technical acquired by IDWR staff related to the technical and scientific basis for the possible curtailment of junior-priority rights in Basin 37.

IDWR Rule of Procedure 561 allows that, “The presiding officer may continue proceedings for further hearing.” IDAPA 37.01.01.561. SVGWD requests that this matter be continued for further hearing for the following reasons:

1. The need to resolve SVGWD’s Motion to Dismiss.
2. The need to resolve SVGWD’s Motion to Appoint an Independent Hearing Officer.

¹ The original letter and *Notice* included an address list with errors. Consequently, IDWR revised its address list and resent the letter and *Notice* on May 7, 2021. See *Tim Luke May 7, 2021 Email to BWRGWMA Advisory Committee Members*.


3. The need to resolve SVGWD's Motion to Authorize Discovery, as well as the completion of adequate discovery by the parties.
4. Evaluation of the factual issues that the Director has addressed in his *Notice* will be complex and require significantly more time than has been allotted. This is especially true given the paucity of factual information included in the *Notice*, e.g. the *Notice* does not identify which rights are affected, or by how much, the *Notice* doesn't identify the rights that are, or may be injured, and the *Notice* states that "curtailment runs" of the model have been made but does not identify those curtailment runs or the results of those runs.
5. The Director's *Request* asks for a staff memorandum by May 17, 2021—three weeks before the hearing date. Given the technical and scientific complexity of the information therein requested, three weeks is inadequate time for the parties to properly analyze and/or prepare rebuttal testimony. See *Declaration of David B. Shaw in Support of Motion for Continuance of Hearing* ("*Shaw Declaration*").
6. The prehearing conference for this matter is scheduled on May 24, 2021, and the hearing is set to commence only fourteen (14) days later, on June 7, 2021. The purpose of the prehearing conference is to discuss, among other things, discovery, witnesses, and burdens for the hearing. Given that no discovery has been done in this matter, the two weeks between prehearing and hearing is grossly inadequate to properly prepare for the complex issues involved. Additionally, compounding an already compressed schedule, a Memorial Day weekend sits between the pre-hearing and hearing date.
7. SVGWD's experts must contend with the complexity of the issues involved within a compressed schedule; but, even this assumes that those experts have scheduling availability to do so. *Shaw Declaration*.

8. Similarly, counsel in this matter have numerous prior obligations which may prejudice their ability to fully review and contest the issues in this matter. See *Declaration of Travis L. Thompson in Support of Motion for Continuance of Hearing*; and, *Declaration of Albert P. Barker in Support of Motion for Continuance of Hearing*.

The abbreviated hearing schedule leaves no time for discovery and fact finding. SVGWD therefore, moves for an order continuing the hearing scheduled for June 7-11, 2021 pending the resolution of the motions before the presiding officer, as well as the completion of adequate discovery.

Dated this 13th day of May, 2021.

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker

Attorney for South Valley Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 2021, the foregoing was filed, served, and copied as shown below.

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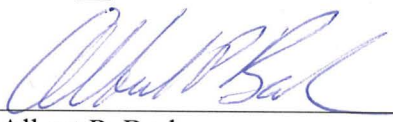
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