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DEPARTMENT OF  
WATER RESOURCES

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**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

**MOTION TO DISMISS**

COMES NOW the Sun Valley Company (“SVC”) by and through its attorney of record, Chris M. Bromley, and pursuant to IDAPA 37.01.01.260 moves the Idaho Department of Water Resources (“IDWR” or “Department”) for dismissal of the above-captioned contested case proceeding on the grounds that the Director, who initiated this matter, has failed to follow the procedures outlined in Idaho’s Ground Water Act and the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources, thereby violating SVC’s rights to due process. SVC respectfully moves the Department to shorten time pursuant to IDAPA 37.01.01.270.02 and IDAPA 37.01.01.565, and requests oral argument pursuant to IDAPA 37.01.01.260.03.

**I. INTRODUCTION**

SVC owns ground water and surface water rights within Basin 37 that may be subject to administration in the proceeding noticed by the Director. Here, and in the absence of a call for

delivery of water, the Director has failed to follow the procedural requirements of Idaho's Ground Water Act, I.C. §§ 42-226 through 42-239, and the Department's Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.01.11 *et seq.* SVC has a direct and substantial interest in the process used by the Director to administer water rights in Basin 37 to insure a just, fair proceeding the provides both substantive and procedural due process. By failing to follow the requirements of law, and unilaterally setting a hearing schedule that will complete itself in approximately thirty days, the Director has violated SVC's rights to due process; as such, the administrative proceeding must be dismissed.

## II. ARGUMENT

### A. Idaho Code § 42-237a.g Requires A "Call" For Administration Of Water Rights, Yet No "Call" For Water Has Been Made

In the Notice, the Director cites I.C. § 42-237a.g. as the legal basis for administration of junior ground water rights and the reason for the hearing. According to the language of the Notice: "Pursuant to Idaho Code § 42.237a.g., 'water in a well shall not be deemed available to fill a water right therein if withdrawal therefrom of the amount called for by such right would affect . . . the present or future use of any prior surface or ground water right.'" *Notice* at 1 (emphasis added). No "call" for water was referenced in the Notice and no "call" for water has been published on the "Basin 37 Administrative Proceeding" page of IDWR's website.<sup>1</sup> Without a "call" there is no basis for the Director to proceed and this administrative proceeding must be dismissed.

The requirement of a "call" is not a mere technicality under the statute; for it is the call by a senior water right that defines the demand placed upon a junior. For example, in *Clear Springs Trout Co., Inc. v. Clear Springs Foods, Inc.*, a "call" was made by Clear Springs to "curtail"

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<sup>1</sup> [Basin 37 Administrative Proceeding \(idaho.gov\)](#) (last visited May 13, 2021).

Clear Lakes “water rights.” 141 Idaho 117, 119, 106 P.3d 443, 445 (2005). It was the “call” that allowed Clear Lakes to understand the demand placed on it by Clear Springs. *See also* I.C. I.C. § 42-237b; IDAPA 37.03.11.010.04; IDAPA 37.03.11.030.01 (statutes and rules requiring calls be made by senior water users against juniors). In addition, I.C. § 42-234a.g., as cited in the Notice, specifically states that administration is to determine if the use of water from any well is impacting a “present or future use of any prior surface or ground water right.” Without knowledge of the call, it is impossible for SVC to understand the amount of water demanded for, from where the demand for water is coming, which water rights stand to benefit from the demand, how to mount a defense against the call, and how to provide mitigation in response to a finding of injury.

Perhaps the Director has no call at all and instead intends to compel “administration and enforcement of [the Ground Water] act,” I.C. § 42-237a., by establishing a “reasonable pumping level or levels[,]” I.C. § 42-237a.g.(2), in a way that will “not block the full economic development of underground water resources[,]” I.C. § 42-226? If the Director does intend to proceed under the Ground Water Act, the declared purpose of the Act must be followed: “The traditional policy of the state of Idaho, requiring the water resources of the state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to ground water resources of this state as said term is hereinafter defined and, while the doctrine of ‘first in time is first in right’ is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources.” I.C. § 42-226. However, this is not what the Notice says, so if the Director intends to proceed in this direction, then the administrative proceeding as currently contained in the Notice is defective.

Under any scenario, SVC's water rights, which are real property rights, cannot be affected by administration without due process. *In re Idaho Dept. of Water Res. Amended Final Order Creating Water District No. 170*, 148 Idaho 200, 213, 220 P.3d 318, 331 (2009) ("Idaho law has recognized that a water right is a property interest for purposes of the Fourteenth Amendment and therefore, due process of law must be provided before the state deprives a citizen of a water right. *Nettleton v. Higginson*, 98 Idaho 87, 90, 558 P.2d 1048, 1051 (1977).") (emphasis added); *Sanderson v. Salmon River Canal Co., Ltd.*, 34 Idaho 145, 160, 199 P. 999, 1003 (1921) ("It is fundamental that no executive officer or board has the power to deprive a party of a vested right to the use of water. To permit this would clearly be depriving him of his property without due process of law.") (internal citation omitted) (emphasis added).

Here, and without a call, SVC is deprived of a full and fair opportunity to defend its water rights against any claimed shortages and is deprived of any opportunity to fashion mitigation that could address shortages, if any, to a prior right. Thus, SVC is faced with curtailment and loss of its real property rights without due process; hence, the contested case proceeding should be dismissed.

**B. Without A Call The Director Has Taken On The Burden Of The Senior And Violated SVC's Rights To Due Process**

In the Notice, and without a call, the Director has taken on the burden of the senior water user by: (1) establishing an area within which curtailment may occur, as seen in the map attached to the Notice; and (2) determining which juniors are subject to curtailment, as seen in the two certificates of service associated with the Notice. The district court's *Memorandum Decision and Order* in Case No. CV-WA-2015-14500 (Fifth Jud. Dist. April 22, 2016) (hereinafter "Memorandum Decision") illustrates the due process problems associated with the Director's actions.

There, the Court was responding to a Motion to Dismiss filed by SVC as it related to a 2015 delivery call filed by some Basin 37 surface water users that was not filed pursuant to the CM Rules, but that the Director unilaterally treated as a request for conjunctive administration. While the Memorandum Decision was certainly premised on actions taken by the Director under the CM Rules, concerns expressed by the Court there are applicable in the matter today:

More troubling, however, is the fact that the letters were not served by the seniors on the juniors they seek to curtail. . . . The Director attempted to address the notice and service concerns by taking it upon himself to provide notice of the calls to juniors. . . . At the time, no explanation was given as to how the Director determined whom to serve, or as to what areas of the State may be affected by the calls. . . . However, the exercise by the Director leads Sun Valley and other juniors to assert that he has already prejudged the area of common ground water supply relative to the Big Wood and Little Wood Rivers to be the boundaries of water district 37 and 37B. . . . The Director denies these allegations, but the Court understands the concerns of the juniors.

*Memorandum Decision* at 13 (emphasis added).

Here, and without any delivery call – which is required by I.C. § 42-237a.g. much as a delivery call is required under the CM Rules – the Director has taken on the burden of the seniors by appearing to establish an area of common ground water supply by way of the map attached to the Notice that wraps junior rights into a proceeding that has no identified senior water rights and no identified senior demand. Based on a May 11, 2021 request from the Director for a staff memorandum, it appears the boundary may have changed since the Notice was issued. The May 11, 2021 *Request for Staff Memorandum* has no certificate of service and was not provided to SVC. SVC is aware of the document because counsel visited IDWR’s website on May 12, 2021 and saw the posting. In the document, the Director asks “Department staff [to] prepare memoranda addressing the following subjects: . . . (1) Describe the hydrology and hydrogeology of the Big Wood River, Little Wood River, Silver Creek, and Camas Creek Basins . . . (7) Evaluate the simulated curtailments to determine the total benefits of curtailment to the Big

Wood River, including Magic Reservoir; Silver Creek; and the Little Wood River . . . .” *Request for Staff Memorandum* at 1-2 (emphasis added). Comparing the map attached to the Notice with the Request for Staff Memorandum shows Camas Creek and Magic Reservoir were not designated to be included within the scope of Notice. This moving boundary and lack of any notice of the Request for Staff Memorandum highlights the due process concerns articulated by SVC.

Also included in documentation on the Basin 37 Administrative Proceeding page of the IDWR website is a “Complete Certificate of Service” dated May 4, 2021 and a “Complete Certificate of Service” dated May 7, 2021. The Certificates are each 40 pages in length with no explanation given to the differences between the Certificates, and with no explanation given as to whether the rights in the Certificates are owned by juniors, seniors, or both. Moreover, the Notice does not state if the list of names in the Certificates are all located within the boundaries of the map, elsewhere in Basin 37, or lists water users outside Basin 37 entirely. Even more particularly, the Notice provides no explanation if all water users within organized water districts in Basin 37 were served. In the Memorandum Decision, the Court took specific issue with the Department’s lack of explanation of who was going to be involved in the proceeding: “Nor was an explanation given as to why junior water users in other organized water districts within IDWR Basin 37 (i.e., water district 37N, 37O, and 37U) were not served.” *Memorandum Decision* at 13 (emphasis added). By not stating if water users in water district nos. 37N, 37O, and 37U were served, the Notice runs counter to the Memorandum Decision.

Ignoring the guidance in the Court’s Memorandum Decision, and without a call, the Director has again taken on the burden of senior water users, thereby violating SVC’s rights to due process, rights that are guaranteed. *In re Idaho Dept. of Water Res. Amended Final Order*

*Creating Water District No. 170* at 213, 220 P.3d at 331; *Nettleton* at 90, 558 P.2d at 1051; *Sanderson* at 160, 199 P. at 1003. Thus, the contested case proceeding should be dismissed.

**C. The Administrative Proceeding Initiated By The Director Fails To Comply With The Requirements Of Idaho's Ground Water Act**

The Notice is premised on I.C. § 42-237a.g. Idaho Code § 42-237a.g. is part of Idaho's "Ground Water Act," *Baker v. Ore-Ida Foods, Inc.*, 95 Idaho 575, 582-83, 513 P.2d 627, 634-35 (1973), and may allow the Director to commence an administrative proceeding to curtail junior ground water rights for the benefit of senior water rights, albeit under specific scenarios. In addition to preventing an understanding of the demand made upon SVC, the Director has failed to follow the procedural requirements of the Ground Water Act ("GWA") itself.

The GWA was enacted in 1951 and is found in I.C. §§ 42-226 through 42-239. *A&B Irr. Dist. v. Idaho Dept. of Water Res.*, 153 Idaho 500, 506, 284 P.3d 225, 231 (2012). By citing I.C. § 42-237a.g. in the Notice, the Director has invoked the GWA, requiring all provisions of the GWA to be construed together. *Peavy v. McCombs*, 26 Idaho 143, 149, 140 P. 965, 967 (1914) ("The rule that statutes *in pari materia* should be construed together applies with peculiar force to statutes passed at the same session of the Legislature.") (emphasis added)); *see also In re Order Certifying Question to Idaho Supreme Court*, 469 P.3d 608, 611 (Idaho 2020) ("Statutes are *in pari materia* when they relate to the same subject. Such statutes are taken together and construed as one system.") (emphasis in original) (internal citations and quotations removed). Therefore, with the administrative proceeding commenced under the GWA, the Director cannot pluck only the provision he wishes, he must follow all laws therein.

First, the GWA requires an "adverse claim" – or put another way a "call" – to initiate the proceeding. I.C. § 42-237b. The adverse claim "shall include" four specific substantive requirements: "(1) The name and post-office address of the claimant. (2) A description of the

water right claimed by the claimant, with amount of water, date of priority, mode of acquisition, and place of use of said right . . . . (3) A similar description of respondent’s water rights so far as is known to the claimant. (4) A detailed statement in concise language of the facts upon which the claimant founds his belief that the use of his right is being adversely affected.” *Id. Compare* I.C. § 42-237b(1)-(4) *with* CM Rule 30.01 (demonstrating the importance of a well-founded call). “Upon receipt of such statement . . . if the director . . . deems such statement sufficient and meet the above requirements, the director . . . shall issue a notice setting the matter for hearing before a local ground water board . . . .” I.C. § 42-237b. Here, no “adverse claim” has been filed, so the Director cannot set a hearing.

Second, assuming an adverse claim was filed that meets the requirements of I.C. § 42-237b, a “hearing shall be conducted before . . . such local ground water board . . . under reasonable rules and regulations of procedure prescribed by the director of the department of water resources.” I.C. § 42-237c. Here, no “local ground water board” has been appointed pursuant to the requirements of I.C. § 42-237d, and no “reasonable rules and regulations” have been prescribed by the Director.

Third, the “local ground water board,” of which the Director is a member, must be created by specific process and procedure, including appointment of a “qualified engineer or geologist, appointed by the district judge of the judicial district which includes the county in which the well of the respondent . . . is located . . . .” I.C. § 42-237d (emphasis added). Here, SVC’s water rights are located in the Fifth Judicial District. To the best of SVC’s knowledge, no proceeding has been commenced in the Fifth Judicial District for appointment of an engineer or geologist to serve on the board. Therefore, the requirements of I.C. § 42-237d have not been met.



SVC acknowledges the procedural requirements in I.C. §§ 42-237b, 42-237c, and 42-237d were repealed by the Idaho legislature through House Bill 43 (“HB 43”) during the 2021 legislative session, yet the legislation repealing those sections of the GWA will not be effective until at least July 1, 2021; meaning this matter cannot proceed until at least then. According to I.C. § 67-510, “No act shall take effect until July 1 of the year of the regular session or sixty (60) days from the end of the session at which the same shall have been passed, whichever date occurs last, except in case of emergency, which emergency shall be declared in the preamble or body of the law.” Emphasis added.

Here, no emergency was declared or contained in the repeal, as evidenced in HB 43. According to an article in the *Idaho Press*, in the late night hours of May 12, 2021, “the Idaho Senate voted, 25-2, to adjourn *sine die* . . . . But the House had other plans. About 30 minutes after the Senate adjourned, the House voted, 53-0, to recess, meaning Speaker Scott Bedke, R-Oakley, could call the House back into session sometime this year.”<sup>2</sup> Without both chambers concluding the 2021 legislative session *sine die*, it is entirely unclear when repeal of I.C. §§ 42-237b, 42-237c, and 42-237d will be effective. See *In re Verified Petition for Writ of Mandamus*, 161 Idaho 508, 522, 387 P.3d 775, 761 (2015) (calculating effective date of legislation based on *sine die*). If both the Senate and the House adjourned *sine die* on May 12, 2021, the effective date of the repeal of I.C. §§ 42-237b, 42-237c, and 42-237d would be July 11, 2021.

In light of the foregoing, and by invoking I.C. § 42-237a.g., the Director must follow the requirements contained in I.C. §§ 42-237b, 42-237c, and 42-237d if he is to proceed under the GWA until the repeal of those statutes is effective, which at the absolute earliest is July 1, 2021.

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<sup>2</sup> [Senate adjourns sine die, House recesses | Eye on Boise | idahopress.com](#) (last visited May 13, 2021).

Until the repeals are effective, and because the authorities in in I.C. §§ 42-237b, 42-237c, and 42-237d have not been followed, the administrative proceeding must be dismissed.

**D. If The Administrative Proceeding Is To Move Forward Outside The GWA, CM Rules 30 And 31 Must Be Followed**

According to the Statement of Purpose for HB 43, I.C. §§ 42-237b, 42-237c, and 42-237d were repealed because calls for delivery of water must proceed under the CM Rules, not the Ground Water Act: “The legislation eliminates outdated and obsolete sections of Idaho Code related to water delivery calls. The procedures outline in these sections are obsolete since the adoption of the Rules for Conjunctive Management of Surface and Ground Water Resources (IDAPA 37.03.11).” *Statement of Purpose RS28076/H0043* (emphasis added). Therefore, once repeal of I.C. §§ 42-237b, 42-237c, and 42-237d is effective, any call for delivery of water must proceed under the CM Rules.

That conjunctive administration is the method for determining shortages in Basin 37 is fully consistent with the Court’s Memorandum Decision. According to the Court’s Memorandum Decision, if a delivery call is to proceed in Basin 37, it must move forward under the CM Rules, specifically CM Rules 30 and 31. A review of that decision, which was initiated by SVC, is dispositive in this matter.

There, two letters were filed with the Director by a group of downstream senior surface water users asserting water shortages in 2015. “The Director informed the seniors he would treat the requests for administration as delivery calls under the CM Rules and proceeded to initiate two contested case proceedings.” *Memorandum Decision* at 3. As explained by the Court:

On June 25, 2015, Sun Valley moved the Director to dismiss the calls for their failure to comply with the applicable filing requirements. *Id.* at 382-402. Among other things, it argued that Rule 30 of the CM Rules governs the calls and that the seniors did not satisfy the filing requirements of that Rule. *Id.* In his *Final Order*, the Director denied Sun Valley’s *Motion*. *Id.* at 888-898. He held the calls are

governed by Rule 40 of the CM Rules and that the seniors' letters meet the filing requirements of that Rule. *Id.* Sun Valley subsequently filed a *Motion* asking the Director to review and revise his *Final Order*. *Id.* at 963-977. The Director denied the *Motion* on October 16, 2015. Supp. R., pp. 84-88.

*Id.* at 4 (emphasis added).

On review, the Court reversed the Director's denial of SVC's Motion to Dismiss. First, the Court stated the calls could not proceed under CM Rule 40 because no "area of common ground water supply" had been designated to provide juniors an "opportunity to be heard and present evidence in opposition to the petitioner's allegations." *Id.* at 10.

Second, without a designated area of common ground water supply, the Court explained its rationale as to why the calls must proceed under CM Rules 30 and 31:

All parties agree that an area of common ground water supply applicable to the Big Wood and Little Wood Rivers must be determined. . . . Determining an area of common ground water supply is critical in a surface to ground water call. . . . In the Court's estimation, determining the applicable area of common ground water supply is the single most important factor relevant to the proper and orderly processing of a call involving the conjunctive management of surface and ground water. . . . Therefore, to process the Association's calls, a determination must be made identifying an area of the state that has a common ground water supply relative to the Big Wood and Little Wood Rivers and the junior ground water users located therein. . . . These safeguards provide juniors proper notice of the alleged area of common ground water supply as well as the opportunity to be heard and present evidence in opposition to the petitioner's allegations.

*Id.* at 8-10 (emphasis added).

"Therefore, the Court finds that it is Rule 30 that provides the Director the authority to determine an area of common ground water supply. It follows the procedures set forth in Rule 30 must be applied to govern the calls." *Id.* at 11 (emphasis added).

If the administrative proceeding moves forward after repeal of I.C. §§ 42-237b, 42-237c, and 42-237d becomes effective, and consistent with the *Statement of Purpose* for HB 43 and the Memorandum Decision, administration in Basin 37 must be advanced in accordance with CM

Rules 30 and 31. Proceeding under CM Rules 30 and 31 is required by the Court and will provide juniors the legally required notice and opportunity to be heard they are so entitled.

**E. The Hearing Schedule Violates SVC's Rights To Due Process**

The hearing schedule established in the Notice is replete with due process concerns. As stated previously, SVC has water rights within Basin 37. Water rights are real property rights that come with entitlements to due process before they are administered, curtailed, or taken. *In re Idaho Dept. of Water Res. Amended Final Order Creating Water District No. 170* at 213, 220 P.3d at 331; *Nettleton* at 90, 558 P.2d at 1051; *Sanderson* at 160, 199 P. at 1003.

Here, the Notice was purportedly mailed on May 4, 2021. On May 7, 2021, and due to problems with service, the Department remailed the Notice. According to the schedule associated with the Notice, parties are to state their intent to participate in the matter on May 19, 2021. Five days later, on May 24, 2021, a prehearing conference will take place. Fourteen days after that (over Memorial Day weekend), on June 7, 2021, the hearing will commence. Noticing a schedule of this nature, with thirty days to prepare, is wholly inadequate. “Procedural due process is an essential requirement of the administrative process, and notice is a critical aspect of that due process.” *City of Boise v. Industrial Com'n*, 129 Idaho 906, 910, 935 P.2d 169, 173 (1997) (emphasis added).

Pursuant to IDAPA 37.01.01.521, discovery cannot take place until authorized by the Director. In the Notice, discovery was not authorized; presumably, because discovery can only be allowed on “parties.” I.R.C.P. 26. Parties will not be known until the prehearing conference. If discovery is authorized at the prehearing conference, SVC will have a mere fourteen days to serve discovery and receive answers (over the Memorial Day weekend) in order to prepare for an extremely complex water delivery case.

Discovery under the Department’s Rules is “governed by the Idaho Rules of Civil Procedure . . . .” IDAPA 37.01.01.520.02. Parties upon whom discovery is served have “30 days” to respond. I.R.C.P. 33(b)(2). Therefore, it is impossible for SVC to propound written discovery on anyone until they are made party to this contested case. Assuming discovery could be served on May 24, 2021, SVC would not be entitled to receive written answers to discovery until June 23, 2021, which is weeks after the June 7, 2021 hearing. SVC is entitled to discovery before the hearing with a meaningful opportunity to review the answers, conduct depositions if necessary, and prepare. *Cosgrove By and Through Winfree v. Merrell Dow Pharmaceuticals, Inc.*, 117 Idaho 470, 474, 788 P.2d 1293, 1297 (1989) (“plaintiffs are entitled to obtain discovery of all relevant evidence and of all evidence which may lead to relevant evidence”) (emphasis added).

Moreover, SVC is entitled to a reasonable amount of time to prepare for the hearing. A reasonable amount of time necessitates having responsive information before the hearing, not after the hearing. “We acknowledged that ‘the hearing officer is entitled to conduct the proceedings in an efficient manner, but the practice of requiring compliance the day before a scheduled hearing is strongly discouraged.” *Hawkins v. Idaho Trans. Dept.*, 161 Idaho 173, 176-77, 384 P.3d 420, 424 (Ct. App. 2016) (emphasis added). If compliance the “day before a scheduled hearing” is “strongly discouraged,” surely receiving discovery after a hearing violates due process.

Additionally, when burdens of proof at the hearing are unknown, *see Notice* at 2 (stating “burdens” will be discussed at the prehearing conference), and will not be known until, at best, the prehearing conference, due process rights are again violated. “[B]urdens are integral to the

constitutional protections accorded water rights . . . .” *American Falls Res. Dist. No. 2 v. Idaho Dept. of Water Res.*, 143 Idaho 862, 873, 154 P.3d 433, 444 (2007).

Lastly, since 2003, counsel has been directly involved in all of the conjunctive administration cases in Idaho. In each of those cases, meaningful discovery was allowed to take place over the course of months and years, not mere days. Hearings were generally noticed to take place prior to the irrigation season, were conducted over the course of weeks, with parties having a full, fair, and complete opportunity to present evidence to the Director for consideration. The process that has been created here runs directly counter to the prior proceedings and runs the significant risk of erroneously depriving SVC of its real property rights without a full, fair, and complete opportunity to be heard.<sup>3</sup>

### **III. MOTION TO SHORTEN TIME**

In light of the schedule, SVC moves the Director, pursuant to IDAPA 37.01.01.270.02 and IDAPA 37.01.01.565 to shorten time for responses to this motion from fourteen (14) days to five (5) business days; thus, responses would be due May 20, 2021. SVC meets the good cause standard since allowing a full fourteen days would see responses filed on May 28, 2021, with a decision not issuing until sometime right before the hearing. Counsel listened to the Big Wood Ground Water Management Area Advisory Committee meetings on behalf of SVC and concurs with South Valley Ground Water District (“SVGWD”) that the Director represented to participants that IDWR legal counsel had been researching the law and was ready to address issues. Counsel also concurs with SVGWD that, “[r]ather than forcing the parties to expend extensive time and resources on a proceeding that may be moot as a matter of law, the Director

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<sup>3</sup> Counsel is scheduled to be on an out-of-state vacation with his family the week of the hearing, a vacation that has been set for months to coincide with the end of the school year. If so required, counsel will make himself available for this hearing.

should address this motion as soon as possible.” *SVGWD Motion to Dismiss* at 28. Good cause therefore exists to shorten time for responses to this motion from fourteen (14) days to five (5) business days, or fewer if the Director desires.

**IV. REQUEST FOR ORAL ARGUMENT**

Pursuant to IDAPA 37.01.01.260.03, SVC requests oral argument on this motion.

**V. CONCLUSION**

Based on the foregoing, SVC respectfully requests the Director dismiss the above-captioned contested case on the grounds the Director failed to comply with the requirements of law, thereby violating SVC’s rights to due process.

DATED this 14<sup>th</sup> day of May, 2021.



Chris M. McHugh  
*Attorney for Sun Valley Company*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14<sup>th</sup> day of May, 2021, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

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