

**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

**ORDER GRANTING PARTY STATUS  
AND CLOSING THE PROCEEDING  
TO ADDITIONAL PARTIES**

**BACKGROUND**

On May 4, 2021, the Director of the Idaho Department of Water Resources (“Department”) issued a *Notice of Administrative Proceeding, Pre-Hearing Conference, and Hearing* (“Notice of Proceeding”). The Director commenced the administrative proceeding in response to predicted drought in Basin 37 for the 2021 irrigation season and in response to ground water modeling showing that curtailment of ground water rights during the 2021 irrigation season would result in increased surface water flows for certain holders of senior surface water rights. *Notice of Proceeding* at 1. The purpose of the hearing is for the Director to decide whether “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.” *Id.* at 1; *see also id.*, Attachment A (depicting the “Potential Area of Curtailment”).

The Director, acting as presiding officer, set a prehearing conference for May 24, 2021, and set the hearing for June 7-11, 2021. *Id.* at 1-2.

The Notice of Proceeding stated that those wishing to “participate in the administrative proceeding” were to “send written notice to the Department by May 19, 2021 . . . stating your intent to participate . . .” *Id.* at 1.

The Director conducted the prehearing conference on May 24, 2021. As part of the prehearing conference, the Director identified the Parties who had filed notices of appearance. The Director also allocated time at the hearing to the Parties based on the number of Parties appearing at the prehearing conference. The Director’s directions were memorialized in the May 25, 2021 *Prehearing Order; Scheduling Order* (“Scheduling Order”).

On May 26, 2021, the Department received a *Notice of Appearance and Intent to Participate* from Silver Sage Properties, LLC (“Silver Sage”) represented by Gary Slette. The document will be referred to hereafter as the “Silver Sage Notice of Appearance.”

## PARTY STATUS

The mailing certificate for the *Notice of Proceeding* verifies that Silver Sage was served a copy of the *Notice of Proceeding* via U.S. Mail. *Revised Complete Certificate of Service* at 34.

The Director determines the *Silver Sage Notice of Appearance* was untimely filed. Allowing full party status to Silver Sage could reduce the time for presentation of evidence and cross examination by the parties at the hearing. As a result, the Director recognizes Silver Sage as a party in this proceeding, but may limit presentation of evidence and cross examination by Silver Sage if the Director determines that participation by Silver Sage will limit the other Parties' full participation in or may delay the culmination of the hearing. In the *Scheduling Order*, the Director divided the parties into separate groups. Silver Sage will be part of the second group (Bellevue Triangle Groundwater Users).

## ADDITIONAL PARTIES

The Director has repeatedly emphasized that this proceeding is meant to address the 2021 irrigation season and time is of the essence.<sup>1</sup> The deadline for identifying expert witnesses was yesterday and deposition of Department staff begins today. Allowing additional parties to participate at this juncture would unduly burden the current participants. Therefore, the Director will not allow any additional parties to participate in this proceeding.

## ORDER

IT IS HEREBY ORDERED that Silver Sage is recognized as a Party in this matter.

IT IS FURTHER ORDERED that the participation of Silver Sage may be limited by the Director if he determines that participation by Silver Sage will reduce the time allocated to the Parties identified at the prehearing conference or may prevent the completion of the hearing within the time scheduled for the hearing.

IT IS FURTHER ORDERED that no additional parties will be allowed in this proceeding.

Dated this 27<sup>th</sup> day of May, 2021.



Gary Spackman  
Director

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<sup>1</sup> *Notice of Proceeding* at 1; *Order Denying Motions to Dismiss, for Continuance or Postponement, and For Clarification or More Definite Statement* at 8; *Scheduling Order* at 3.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27<sup>th</sup> day of May, 2021, the above and foregoing was served on the following by the method(s) indicated below:

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