

Denying Motions to Dismiss, for Continuance, or Postponement, and for Clarification or More Definite Statement (“Order”) at 8 (May 22, 2021). The Director’s *Order* also described the scope of this proceeding as follows:

The Notice is the legally operative document that establishes the potential area of curtailment for purposes of this administrative proceeding, and also the timeframe during which curtailment could potentially occur. Under the Notice, the “Potential Area of Curtailment” is limited to the area depicted in the map attached to the Notice, and the timeframe for potential curtailment of ground water rights within this area is limited to the 2021 irrigation season.

Order at 10.

The Director then clarified this statement in his May 25, 2021 *Scheduling Order*:

A question was raised at the hearing about the boundary the Director will consider for potential curtailment. The area Jennifer Sukow considered in her staff memo was smaller than the boundary in the Potential Area of Curtailment. The Director will limit the Potential Area of Curtailment to the area considered in Jennifer Sukow’s staff memo.

Scheduling Order at 4.

The City anticipates that Mr. Sullivan will testify to matters within the scope of the proceeding described by the Director, which may include, without limitation, subjects concerning:

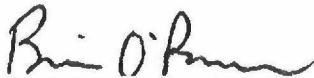
- (i) Ketchum’s water rights, water use, and interest in the proceeding;
- (ii) the hydrology and water supply of the Wood River Valley;
- (iii) the construction, application, and uncertainty of the Wood River Valley groundwater flow model (version 1.1), including results of model runs therefrom;
- (iv) the effect of withdrawal of water from ground water wells in the Wood River Valley south of Bellevue (commonly referred to as the Bellevue Triangle) on the use of senior surface water rights on Silver Creek and its tributaries during the 2021 irrigation season;
- (v) whether senior water rights are diverting and using water efficiently and without waste in a manner consistent with the goal of reasonable use;
- (vi) factors relevant to the diversion and use of senior water rights alleging injury in this proceeding including, without limitation:

- a. the amount of water available in the source from which the water right is diverted;
 - b. the effort or expense of the holder of the water right to divert water from the source;
 - c. whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right (including the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply);
 - d. if for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application;
 - e. the amount of water being diverted and used compared to the water rights;
 - f. the existence of water measuring and recording devices;
 - g. the extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices;
 - h. the extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the user's surface water right priority;
- (vii) the efficiency of water diversion and delivery systems used, and the beneficial use of water, by holders of senior priority water rights alleging injury in this proceeding;
 - (viii) the effect of climactic conditions on the water supply available to ground water and surface water users potentially affected by this proceeding; and
 - (ix) any other matters raised in the memoranda prepared for and submitted in this proceeding by IDWR staff Tim Luke, Jennifer Sukow, Sean Vincent, and Philip Blankenau (all dated May 17, 2021), along with any supporting materials submitted therewith.

Mr. Sullivan may also be made available as a lay witness to provide background and other information relevant to this proceeding. Also, the City reserves the right to expand the scope of this witness' testimony to address other issues raised in this proceeding, whether as rebuttal or otherwise, or whether expert or lay, including those raised by other parties or by the Director or IDWR staff, and to add additional experts or lay witnesses as necessary.

DATED this 26th day of May, 2021.

WHITE PETERSON

By: 

Brian T. O'Bannon
Attorney for the City of Ketchum

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th 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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