

Jerry R. Rigby (ISBN 2470)  
Chase Hendricks (ISBN 8604)  
of RIGBY, ANDRUS  
& RIGBY LAW, PLLC  
Attorneys at Law  
25 North Second East  
Rexburg, ID 83440  
Telephone: (208) 356-3633  
Facsimile: (208) 356-0768  
[jrigby@rex-law.com](mailto:jrigby@rex-law.com)

Joseph F. James  
James Law Office, PLLC  
125 5<sup>th</sup> Ave. West  
Gooding, ID 83330  
Telephone: (208) 934-4429  
[joe@jamesmvlaw.com](mailto:joe@jamesmvlaw.com)

W. Kent Fletcher (ISBN 2248)  
Fletcher Law Office  
PO Box 248  
Burley, ID 83318  
[wkf@pmt.org](mailto:wkf@pmt.org)

Attorneys for Big Wood Water Users Association and Big Wood Canal Company

**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  
**BIG WOOD & LITTLE WOOD WATER  
USERS ASSOCIATION & BIG WOOD  
CANAL COMPANY MOTION IN LIMINE**

The Big & Little Wood Water Users Association, as the representative of its individual parties to the above entitled matter (“BLWWUA”) and the Big Wood Canal Company (“BWCC”), collectively “Movants”, move the court, pursuant to IDAPA 37.01.01.260 and other applicable law, to enter an Order *In Limine*, prohibiting parties who are not at risk of curtailment from calling expert witnesses and fact witnesses in the administrative proceeding that is currently pending in the above entitled matter.

#### FACTS IN SUPPORT OF MOTION

In this action the Director issued a *Notice of Administrative Proceeding, Pre-Hearing Conference, and Hearing* dated May 4, 2021 (“Notice”), that was subsequently amended. The Notice limited the proceeding to “ground water wells in the Wood River Valley south of Bellevue (commonly referred to as the Bellevue Triangle)” and limits the senior surface water rights involved in the proceeding to “senior surface water rights on Silver Creek and its tributaries”. A “potential area of curtailment” described in the Notice was reduced in the *Director’s Prehearing Order; Scheduling Order* dated May 21, 2021 (“Order”).

Various ground water users with no ground water diversions in the Bellevue Triangle, as defined by the Director’s Order, and no risk of curtailment, have filed Disclosures that they intend on calling expert and fact witnesses. For example, Sun Valley Company and the Cities of Bellevue and Hailey have disclosed that they intend on calling Greg Sullivan of Spronk Engineering as an expert. Sun Valley Company has disclosed that it may call Gary Allen, the City of Hailey Brian Yeager and the City of Bellevue Chris Johnson, all of whom would testify as to each entity’s use of water. South Valley Ground Water District and Galena Ground Water District filed a joint

disclosure of fact witnesses, and it is unknown how many of those do not divert groundwater within the Bellevue Triangle. There may be others with no risk of curtailment who have disclosed expert or fact witnesses.

#### ARGUMENT

The Director's Notice and Order effectively removed from this proceeding multiple senior surface water users located in the Wood River basin who are being injured by ground water pumping. By limiting the geographical area to be considered at the hearing, many Basin 37 senior surface water users who cannot establish that ground water diversions on the Bellevue Triangle are diminishing their water supply do not have standing because of the limitations imposed by the Notice and Order.

By the same token, ground water users who are not diverting from the Bellevue Triangle and therefore have no risk of curtailment are being allowed to challenge the case of senior surface water users who are being injured by ground water diversions from the Bellevue Triangle. At the Pre-hearing in this matter, when asked about the participation of those diverting outside the Bellevue Triangle, the Director made a comment stating that at some point the proceeding may be expanded to include others in Basin 37. If that happens, those diverting outside the Bellevue Triangle will be afforded an opportunity to present their case and put on witnesses. The possibility of expansion of the proceeding in the future should not be grounds to allow witnesses by those parties at this limited proceeding.


Testimony of fact witnesses on how they use water outside the Bellevue Triangle is not relevant or material to this proceeding, at least to the extent the scope of the proceeding has been

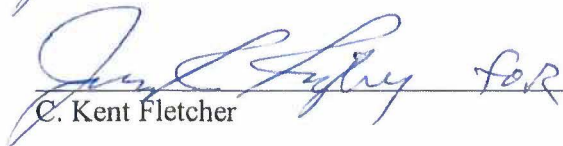
defined by the Director. There is no reason to allow those diverting exclusively outside the Bellevue Triangle to call expert witnesses, especially considering that South Valley Ground Water District has listed three experts. Allowing those who are not diverting within the Bellevue Triangle to call expert and fact witnesses will only prolong the hearing, perhaps by as much as two or three days and will allow ground water diverters outside the Bellevue Triangle to unfairly contest this matter while seniors located in other areas of the Wood River Basin have no remedy this year.

#### REQUESTED REMEDY

For the foregoing reasons, Movants request that the Director enter an order prohibiting ground water users who have no diversions located within the Bellevue Triangle from calling any witnesses, either expert or factual, at the hearing in this action. Since the hearing in the matter is scheduled to start June 7, 2021, leaving four business days for discovery before the start of the hearing, Movants request that the Director issue an order on this motion as expeditiously as possible.

DATED This 31<sup>st</sup> day of May, 2021

  
Jerry R. Rigby

  
C. Kent Fletcher

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of June, 2021, the above and foregoing was served on the following by the method(s) indicated below:

Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098  
Megan.Jenkins@idwr.idaho.gov

Mail  
 Hand Delivery  
 E-mail

Gary L. Spackman, Director  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098  
gary.spackman@idwr.idaho.gov

Mail  
 Hand Delivery  
 E-mail

James R. Laski  
Heather E. O' Leary.  
Lawson Laski Clark, PLLC  
P.O. Box 3310  
Ketchum, ID 83340  
jrl@lawsonlaski.com  
heo@lawsonlaski.com  
efiling@lawsonlaski.com

Mail  
 Hand Delivery  
 E-mail

Matthew A. Johnson  
Brian T. O'Bannon  
White, Peterson, Gigray & Nichols, P.A.  
5700 East Franklin Road, Suite 200  
Nampa, ID 83687  
mjohnson@whitepeterson.com  
bobannon@whitepeterson.com

Mail  
 Hand Delivery  
 E-mail

Laird B. Stone  
Stephan, Kvanvig, Stone & Trainor  
P.O. Box 83  
Twin Falls, ID 83303-0083  
sks&t@idaho-law.com

Mail  
 Hand Delivery  
 E-mail

Jerry R. Rigby  
Rigby, Andrus & Rigby, Chartered  
25 North Second East  
Rexburg, ID 83440  
jrigby@rex-law.com

Mail  
 Hand Delivery  
 E-mail

Joseph F. James  
James Law Office, PLLC  
125 5<sup>th</sup> Ave. West  
Gooding, ID 83330  
[joe@jamesmvlaw.com](mailto:joe@jamesmvlaw.com)

Mail  
 Hand Delivery  
 E-mail

Robert L. Harris  
Holden, Kidwell, Hahn & Crapo, P.L.L.C.  
P.O. Box 50130  
Idaho Falls, ID 83405  
[rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

Mail  
 Hand Delivery  
 E-mail

Rusty Kramer, Secretary  
P.O. Box 507  
Fairfield, ID 83327  
[waterdistrict37b@outlook.com](mailto:waterdistrict37b@outlook.com)

Mail  
 Hand Delivery  
 E-mail

Brendan L. Ash  
James Law Office, PLLC  
125 5<sup>th</sup> Ave. West  
Gooding, ID 83330  
[efile@jamesmvlaw.com](mailto:efile@jamesmvlaw.com)

Mail  
 Hand Delivery  
 E-mail

Alton Huyser  
72 North, Hwy 75  
Shoshone, ID 83352  
[bigwoodfarmllc@gmail.com](mailto:bigwoodfarmllc@gmail.com)  
[cooper.brossy@gmail.com](mailto:cooper.brossy@gmail.com)

Mail  
 Hand Delivery  
 E-mail

Richard T. Roats  
Lincoln County Prosecuting Attorney  
P.O. Box 860  
Shoshone, ID 83352  
[rtr@roatslaw.com](mailto:rtr@roatslaw.com)

Mail  
 Hand Delivery  
 E-mail

Paul Bennett  
114 Calypso Lane  
Bellevue, ID 83313  
[info@swiftsureranch.org](mailto:info@swiftsureranch.org)

Mail  
 Hand Delivery  
 E-mail

J. Evan Robertson  
Robertson & Slette, PLLC  
P.O. Box 1906  
Twin Falls, ID 83303-1906  
**erobertson@rsidaholaw.com**

Mail  
 Hand Delivery  
 E-mail

Ann Y. Vonde  
P.O. Box 83720  
Boise, ID 83720-0010  
**ann.vonde@ag.idaho.gov**

Mail  
 Hand Delivery  
 E-mail

James P. Speck  
Speck & Aanestad  
P.O. Box 987  
Ketchum, ID 83340  
**jim@speckandaanestad.com**

Mail  
 Hand Delivery  
 E-mail

John K. Simpson  
Barker Rosholt & Simpson LLP  
P.O. Box 2139  
Boise, ID 83701-2139  
**jks@idahowaters.com**

Mail  
 Hand Delivery  
 E-mail

Lawrence Schoen  
Napisunaih  
18351 U.S. Highway 20  
Bellevue, ID 83313  
**lschoen@naramail.net**

Mail  
 Hand Delivery  
 E-mail

Idaho Ranch Hands Property Management  
218 Meadowbrook  
Hailey, ID 83333  
**idahoranchhands@gmail.com**

Mail  
 Hand Delivery  
 E-mail

Southern Comfort Homeowner's Association  
P.O. Box 2739  
Ketchum, ID 83340

Mail  
 Hand Delivery  
 E-mail

W. Kent Fletcher  
Fletcher Law Office  
P.O. Box 248  
Burley, ID 83316  
**wkf@pmt.org**

Mail  
 Hand Delivery  
 E-mail

Candice McHugh  
Chris M. Bromley  
McHugh Bromley, PLLC  
380 S. 4<sup>th</sup> St., Ste. 103  
Boise, ID 83702

[cmchugh@mchughbromley.com](mailto:cmchugh@mchughbromley.com)  
[cbromley@mchughbromley.com](mailto:cbromley@mchughbromley.com)

Mail  
 Hand Delivery  
 E-mail

Norman M. Semanko  
Parsons Behle & Latimer  
800 West Main Street, Ste. 1300  
Boise, ID 83702

[nsemanko@parsonsbehle.com](mailto:nsemanko@parsonsbehle.com)

Mail  
 Hand Delivery  
 E-mail

Sarah A. Klahn  
Somach Simmons & Dunn  
2033 11<sup>th</sup> St., Ste. 5  
Boulder, CO 80302

[sklahn@somachlaw.com](mailto:sklahn@somachlaw.com)

Mail  
 Hand Delivery  
 E-mail

Randall C. Budge  
Thomas J. Budge  
Racine, Olson, Nye, Budge & Bailey, CHTD.  
P.O. Box 1391  
Pocatello, ID 83201

[randy@racineolson.com](mailto:randy@racineolson.com)  
[tj@racineolson.com](mailto:tj@racineolson.com)

Mail  
 Hand Delivery  
 E-mail

Michael C. Creamer  
Michael P. Lawrence  
Charlie S. Baser  
Givens Pursley LLP  
P.O. Box 2720  
Boise, ID 83701-2720

[mpl@givenspursley.com](mailto:mpl@givenspursley.com)  
[mcc@givenspursley.com](mailto:mcc@givenspursley.com)  
[csb@givenspursley.com](mailto:csb@givenspursley.com)

Mail  
 Hand Delivery  
 E-mail

Paul L. Arrington  
Idaho Water Users Association  
1010 W. Jefferson, Ste. 101  
Boise, ID 83702

[iwua@iwua.org](mailto:iwua@iwua.org)

Mail  
 Hand Delivery  
 E-mail



Vic Conrad  
J.R. Simplot Company  
P.O. Box 27  
Boise, ID 83707-0027  
**Vic.conrad@simplot.com**

Mail  
 Hand Delivery  
 E-mail

Tom Bassista  
Technical Assistance Program Coordinator  
Idaho Dept. of Fish and Game  
Headquarters Office  
P.O. Box 25  
Boise, ID 83707  
**Thomas.bassista@idfg.idaho.gov**

Mail  
 Hand Delivery  
 E-mail

Kaysi and Rodney Hubsmith  
**Kaysi10@live.com**

Mail  
 Hand Delivery  
 E-mail

Big Wood Farm  
C/O Alton Huyser  
72 N. Hwy 75  
Shoshone, ID 83352

Mail  
 Hand Delivery  
 E-mail

Fred Brossy  
Barbara Farms, LLC  
P.O. Box 424  
Shoshone, ID 83352

Mail  
 Hand Delivery  
 E-mail

Mark Sabala  
Sabala Farms, Inc.  
1819 E. 1550 S.  
Gooding, ID 83330


Mail  
 Hand Delivery  
 E-mail

Charles L. Honsinger  
Honsinger Law, PLLC  
P.O. Box 517  
Boise, ID 83701  
**honsingerlaw@gmail.com**

Mail  
 Hand Delivery  
 E-mail

Dylan Lawrence  
Varin Wardwell  
P.O. Box 1676  
Boise, ID 83701  
[dylanlawrence@varinwardwell.com](mailto:dylanlawrence@varinwardwell.com)

Mail  
 Hand Delivery  
 E-mail

  
Chase T Hendricks