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DEPARTMENT OF
WATER RESOURCES

Norman M. Semanko, ISB No. 4761
PARSONS BEHLE & LATIMER
800 West Main Street, Suite 1300
Boise, ID 83702
Telephone: 208.562.4900
Facsimile: 208.562.4901
NSemanko@parsonsbehle.com

Attorneys for Eagle Creek Irrigation 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

EAGLE CREEK IRRIGATION
COMPANY'S POST-HEARING BRIEF

Eagle Creek Irrigation Company ("ECIC"), by and through Norman M. Semanko of the firm Parsons Behle & Latimer, filed its *Notice of Intent to Participate* in this matter on May 12, 2021, based upon the statement contained in the notice from IDWR that: "The administrative proceeding may affect surface and ground water rights beyond the Little Wood-Silver Creek drainage and Bellevue areas." *Notice of Administrative Proceeding Cover Letter* (May 4, 2021).

The Director clarified at the May 24, 2021 prehearing conference that the focus of this proceeding is ground water rights in the Bellevue Triangle area, not areas outside of the Triangle. See *Prehearing Order; Scheduling Order* (May 25, 2021) ("this proceeding is focused on ground water users in the Bellevue Triangle"). Accordingly, the hearing held from June 7 to 12 focused

primarily, if not exclusively, on ground water pumping and potential curtailment in the Bellevue Triangle area.

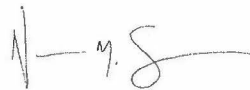
As a result, ECIC hereby submits that its water rights – which are surface water rights on Eagle Creek, located north of the Bellevue Triangle – are not subject to curtailment in this proceeding. There are at least three reasons for this conclusion.

First, as discussed above, Eagle Creek falls well outside the defined scope of this proceeding, as a source of surface water rights outside of the Bellevue Triangle area. Second, Eagle Creek has been decreed as a separate stream in the Snake River Basin Adjudication and ECIC's water rights are administered separately from all other water rights in Basin 37. *Snow River Basin Adjudication Final Unified Decree, Attachment 3 - General Provisions (Basin 37)*. Third, the statute upon which the Director relies for the current administrative proceeding, I.C. § 42-237a.g, provides authority to manage ground water; it does not extend to surface water or surface water rights.

Therefore, ECIC further submits that any order issued by the Director should be limited in scope so as not to include Eagle Creek or ECIC's water rights.

DATED this 17th day of June, 2021.

PARSONS BEHLE & LATIMER



By _____
Norman M. Semanko
Attorneys for Eagle Creek Irrigation Company

CERTIFICATE OF SERVICE

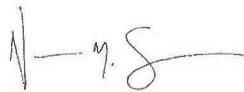
I hereby certify that on this 17th day of June, 2021, I served a true and correct copy of the foregoing document on the parties listed below by their designated method of service.

James R. Laski Heather E. O'Leary Lawson Laski Clark, PLLC 675 Sun Valley Rd., Ste. A PO Box 3310 Ketchum, Idaho 83340 jrl@lawsonlaski.com heof@lawsonlaski.com efiling@lawsonlaski.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Matthew A. Johnson Brian T. O'Bannon White, Peterson, Gigray & Nichols, P.A. 5700 East Franklin Road, Suite 200 Nampa, Idaho 83687-7901 miohnsn@whitepeterson.com bobannon@whitepeterson.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Laird B. Stone Stephan, Kvanvig, Stone, & Trainor PO Box 83 Twin Falls, Idaho 83303-0083 skst@idaho-law.com cynthia@idaho-law.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Jerry R. Rigby Rigby, Andrus & Rigby, Chartered 25 North Second East Rexburg, Idaho 83440 jrigby@rex-law.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Joseph F. James James Law Office, PLLC 125 5th Ave. West Gooding, Idaho 83330 joe@jamesmylaw.com	<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Robert L. Harris Holden, Kidwell, Hahn & Crapo, P.L.L.C. PO Box 50130 1000 Riverwalk Drive, Suite 200 Idaho Falls, Idaho 83405 rharris@holdenlegal.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email

Rusty Kramer, Secretary PO Box 507 Fairfield, Idaho 83327 waterdistrict37b@outlook.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Brendan L. Ash James Law Office, PLLC 125 5th Ave. West Gooding, Idaho 83330 efile@jamesmylaw.com	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Richard T. Roats Lincoln County Prosecuting Attorney PO Box 860 Shoshone, Idaho 83352 rtr@roatslaw.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Paul Bennett 114 Calypso Lane Bellevue, Idaho 83313 info@swiftsureranch.org	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
J. Evan Robertson Robertson & Slette, PLLC PO Box 1906 Twin Falls, Idaho 83303-1906 erobertson@rsidaholaw.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Ann Y. Vonde Owen Moroney PO Box 83720 Boise, Idaho 83720-0010 ann.vonde@ag.idaho.gov owen.moroney@ag.idaho.gov	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
James P. Speck Speck & Aanestad PO Box 987 Ketchum, Idaho 83340 jim@speckandaanestad.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
John K. Simpson Barker Rosholt & Simpson LLP 1010 Jefferson St, Ste. 102 PO Box 2139 Boise Idaho 83701-2139 jks@idahowaters.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email

Lawrence Schoen Napuisunaih 18351 U.S. Highway 20 Bellevue, Idaho 83313 lschoen@naramail.net	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Idaho Ranch Hands Property Management 218 Meadowbrook Hailey, Idaho 83333 idahoranchhands@gmail.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Southern Comfort Homeowner's Association PO Box 2739 Ketchum, Idaho 83340	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
W. Kent Fletcher Fletcher Law Office PO Box 248 Burley, Idaho 83318 wkf@pmt.org	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Albert P. Barker Travis L. Thompson Barker Rosholt & Simpson LLP 1010 W. Jefferson St., Ste. 102 PO Box 2139 Boise, Idaho 83701-2139 apb@idahowaters.com tlr@idahowaters.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Candice McHugh McHugh Bromley, PLLC 380 S. 4th St, Ste. 103 Boise, Idaho 83702 cmchugh@mchughbromley.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Chris M. Bromley McHugh Bromley, PLLC 380 S. 4th St, Ste. 103 Boise, Idaho 83702 cmbromley@mchughbromley.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email
Norman M. Semanko Parsons Behle & Latimer 800 West Main Street, Ste 1300 Boise, Idaho 83702 nsemanko@parsonsbehle.com	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U.S. Mail, postage prepaid Hand Delivery Overnight Mail Facsimile Email

Sarah A. Klahn Somach Simmons & Dunn 2033 11th St., Suite 5 Boulder, CO 80302 sklahn@somachlaw.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Randall C. Budge Thomas J. Brudge Racine Olson, PLLP 201 E. Center St. PO Box 1391 Pocatello, Idaho 83204 randy@racineolson.com tj@racineolson.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Michael C. Creamer Michael P. Lawrence Charlie S. Baser Givens Pursley LLP 601 W. Bannock St. PO Box 2720 Boise, Idaho 83701-2720 mpl@givenspursley.com mcc@givenspursley.com csb@givenspursley.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Gardy D. Slette Robertson & Slette PLLC PO Box 1906 Twin Falls, Idaho 83303 gslette@rsidaholaw.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email



NORMAN M. SEMANKO