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DEPARTMENT OF  
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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

**RESPONSE TO SVGWD AND  
GGWD'S OBJECTION AND  
MOTION TO STRIKE  
MISCHARACTERIZATION OF  
EVIDENCE**

COMES NOW, the BIG WOOD & LITTLE WOOD WATER USERS ASSOCIATION,  
as the representative of its individual parties to the above-entitled matter, and the BIG WOOD  
CANAL COMPANY ("BWLWWU" and "BWCC"), collectively, by and through its attorneys  
of record, RIGBY, ANDRUS & RIGBY LAW, PLLC, JAMES LAW OFFICE, PLLC, and

**RESPONSE TO SVGWD AND GGWD'S OBJECTION AND MOTION TO STRIKE  
MISCHARACTERIZATION OF EVIDENCE - 1**

FLETCHER LAW OFFICE, hereby respond to the Objection and Motion to Strike Mischaracterization of Evidence filed by South Valley Ground Water District and Galena Ground Water District (collectively "Ground Water Districts").

In an attempt to alter the testimony of Gary Beck, the Ground Water Districts have filed an Objection and Motion to Strike Mischaracterization of Evidence. They do so without quoting all of Mr. Beck's testimony.

Mr. Beck spent a significant portion of his testimony discussing water savings resulting from the use of pivots and improving pivots. For example, when asked if he had calculated water savings from improvements to those pivots he stated:

1125

- 2 A. No. But we can figure that out if we  
3 wanted to real quick. If we take 44 pivots, you shut  
4 off the end-gun on 44 pivots, and you're saving --  
5 let's see, and your saving 144,000 gallons a day on 44  
6 pivots. Excuse me, let me do the math right now. And  
7 this is just for Hillside Ranch as of this year.  
8 44 pivots, times 144,000 gallons a day.  
9 This is a day. We are at 6,333,000 gallons a day. You  
10 want to times that by 60 days a year. Let's just go  
11 60. That's 380,000 gallons of water saved just by  
12 end-guns.  
13 Q. So 380 million?  
14 A. 380 million, yes. Let me write that down

15 so I don't forget. 380 million gallons a day -- a  
16 year.

17 Now, that didn't -- you know, that  
18 didn't -- that's not with us shutting our pivots off  
19 now up to three days a week, sometimes four days a  
20 week, because we realized -- back then we used to bale  
21 all of our straw off the fields. Every piece of straw  
22 was baled off.

23 Now every other year we put the straw back  
24 in the ground, build up our organic matter, and now our  
25 soil is able to hold more moisture and keep it in

1126

1 longer. So now we're off to about three days a week on  
2 pivots.

3 So again, we're talking close to, for the  
4 year, we're saving over a billion gallons of water a  
5 year. Now, where does that water go? If we're saving  
6 it, we're not using it, and we're at the end of the  
7 line, it dumps into all of our gravel pits. And every  
8 one of those gravel pits lead to Silver Creek.

9 And it's been -- it's been great to see  
10 what -- with the help of Nature Conservancy and Coors  
11 what can be accomplished in -- you know, I think five  
12 years is a pretty short period of time what we were

13 able to do.  
Transcript Vol V, pp 1125 – 1126 (emphasis added)

Contrary to the assertions of the Ground Water Districts, Mr. Beck did not differentiate between the source of the water going into the gravel pits. According to his testimony “if we are saving it, we are not using it, and we are at the end of the line, it dumps into all of our gravel pits. And every one of those gravel pits leads to Silver Creek.”

This testimony was reenforced when Mr. Beck was cross-examined:

1139

21 Q. Based upon your testimony, as I understood  
22 it, you were saying that as you reduced pumping -- or I  
23 shouldn't -- I think your testimony was as you reduced  
24 the amount of water you used to irrigate, you noticed  
25 an increase in the flows at Silver Creek; is that

1140

1 correct?

2 A. We have -- I haven't necessarily seen the  
3 increase. But TNC, they made that comparison.

4 Q. Okay. So as your groundwater pumping  
5 decreased and your other irrigation decreased, Silver  
6 Creek responded to that; correct?

7 A. Yes.

8 Q. According to the study you've cited here  
9 today?

10 A. Yes.

11 Q. Did they give you any idea of how quickly

12 it responded?

13 A. Typically, when we start putting water into  
14 the gravel pits, up on Pero Road, let's say, or up on  
15 Baseline, we typically see a 10 to a 14 day before we  
16 see the water coming up in the creeks on Patton Creek  
17 and Buhler Drain. That's typically what I have seen in  
18 the past.

19 Q. And those drains, where do they flow?

20 A. Buhler Drain dumps into Stalker Creek. And  
21 Patton Creek dumps into Stalker Creek, which dumps into  
22 Silver Creek.

23 Q. So they're tributaries to Silver Creek?

24 A. Yes.

Transcript *Vol V*, pp. 1139 – 1140 (emphasis added)

Mr. Beck admits that as the ground water pumping decreased and as other irrigation decreased, Silver Creek responded. He went on to state that typically he sees that response in 10 to 14 days stating “that’s typically what I have seen in the past.” He then went on to state that the drains he was discussing dumped into creeks all of which were tributaries to Silver Creek.

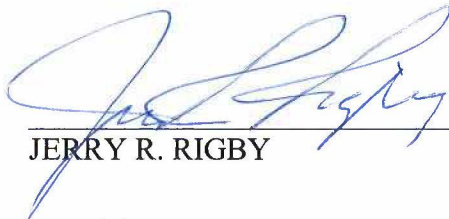
The Ground Water Districts have mischaracterized Mr. Beck’s testimony by leaving out significant portions of his testimony that were foundational to the questions on cross-examine and are foundational to the characterizations of the testimony set forth in the Brief of the Association and BWCC.

The Director is free to read the testimony of Mr. Beck and make his own conclusions. However, a close reading of Mr. Beck's testimony demonstrates that Mr. Beck did not differentiate between the sources of water flowing into the gravel pits and included the ground water diversion savings in his calculations of water savings when he was discussing that issue.

It is improper for the Ground Water Districts to attempt to have parts of the Association and BWCC's Brief stricken without citing all of Mr. Beck's testimony. The only mischaracterization of Mr. Beck's testimony is that mischaracterization existing in the Objection and Motion to Strike.

The Objection and Motion to Strike Mischaracterization of Evidence filed by the Ground Water Districts should be denied.

Dated this 25th day of June, 2021.



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/s/  
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/s/  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of June, 2021, the above and foregoing was served on the following by the method(s) indicated below:

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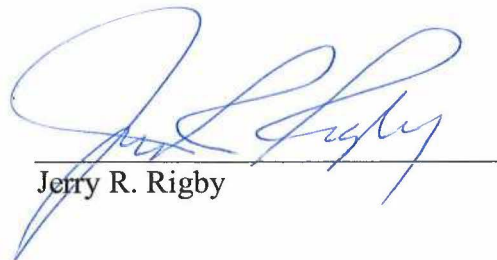
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