

Albert P. Barker, ISB No. 2867
Travis L. Thompson, ISB No. 616
Michael A. Short, ISB No. 10554
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Ste. 102
PO Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-07000
Facsimile: (208) 344-6034
apb@idahowaters.com
tlr@idahowaters.com
mas@idahowaters.com

RECEIVED

JUN 29 2021

DEPARTMENT OF
WATER RESOURCES

James R. Laski, ISB No. 5429
Heather E. O'Leary, ISB No. 8693
LAWSON LASKI CLARK, PLLC
675 Sun Valley Road, Suite A
Post Office Box 3310
Ketchum, Idaho 83340
Telephone 208.725.0055
Facsimile 208.725.0076
jrl@lawsonlaski.com
heo@lawsonlaski.com
efiling@lawsonlaski.com

Attorneys for South Valley Ground Water District and Galena Ground Water District

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF BASIN 37
ADMINISTRATIVE PROCEEDING

**REPLY IN SUPPORT OF
OBJECTION AND
MOTION TO STRIKE
MISCHARACTERIZATION
OF EVIDENCE**

On June 24, 2021, South Valley Ground Water District and Galena Ground Water District (collectively, "Districts") submitted its *Objection and Motion to Strike Mischaracterization of Evidence* ("Motion to Strike") requesting the Director strike portions of Big Wood and Little Wood Water Users Association ("Association") and Big Wood Canal Company's ("BWCC")

(collectively, "Association") Post-hearing Brief. On June 25, 2021, the Association submitted its *Response to SVGWD and GGWD's Objection and Motion to Strike Mischaracterization of Evidence* ("Response"). This reply is in response to the Association's Response.

In order to respond to the Motion to Strike, it was necessary for the Association to also mischaracterize the Motion to Strike. The Association contends that the Districts claimed that Mr. Beck did not differentiate the source of water in the gravel pits. The Districts made no such claim. For purposes of the Motion to Strike, the source of water ending up in the gravel pits is irrelevant.

The Association asserted in their Post-hearing Brief that Mr. Beck testified that **reduction in pumping** led to a 10-14 day observed response in Silver Creek. Nothing in the Association's Response, including a further review of Mr. Beck's testimony, changes the fact that Mr. Beck did not testify about observed responses from reductions in pumping. Instead, as Association admits in its Response, Mr. Beck testified as to the response on Silver Creek when **water was directly added** to the gravel pits.

The Association's post-hearing brief states that:

- 1) Mr. Beck also testified that he personally observed increases in flows in Silver Creek within 10-14 days of reducing ground water diversions on the Hillsdale farm." *Association Post-hearing Brief*, at 24.
- 2) "Gary Beck, a ground water witness, testified that he observed a response in Silver Creek within 10-14 days of the cessation of ground water diversions." *Association Post-hearing Brief*, at 40.

The Association mischaracterized Mr. Beck's testimony as evidence that **cessation** in pumping led to responses on the Silver Creek in 10-14 days. Mr. Beck's testimony however, can only support the statement that direct recharge into the gravel pits leads to an observed response in Silver Creek. Mr. Beck did not trace any timing of responses from **cessation** in pumping to Silver Creek. The quoted part of Mr. Beck's testimony in the Association's Response relates to

general reduction in ground water use on Hillside Farm, not immediate response times from shutting down pumps as the Association argues. Nothing in the Response changes that fact, and the sections of the Post-hearing Brief asserting that Mr. Beck testified that reduced pumping led to responses on Silver Creek in 10-14 days, should be struck.

Dated this 25th day of June, 2021.

BARKER RSHOLT & SIMPSON LLP

/s/ ALBERT P. BARKER
Albert P. Barker

*Attorneys for South Valley Ground Water
District*

LAWSON LASKI CLARK, PLLC

/s/ HEATHER E. O'LEARY
Heather E. O'Leary

Attorneys for Galena Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of June, 2021, the foregoing was filed, served, and copied as shown below.

IDAHO DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ E-mail

Gary L. Spackman
Director
IDAHO DEPARTMENT OF WATER RESOURCES
PO Box 83720
Boise, ID 83720-0098

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☒ E-mail

Sarah A. Klahn
SOMACH SIMMONS & DUNN
2033 11th St., #5
Boulder, CO 80302

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Candice McHugh
Chris Bromley
MCHUGH BROMLEY, PLLC
Attorneys at Law
380 S. 4th St., Ste. 103
Boise, ID 83702

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Heather O'Leary
LAWSON LASKI CLARK PLLC
PO Box 3310
Ketchum, ID 83340

☐ U. S. Mail
☐ Overnight Mail
☐ Fax
☒ E-mail

Matthew A. Johnson
Brian T. O'Bannon
WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
5700 East Franklin Road, Suite 200
Nampa, ID 83687-7901

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

W. Kent Fletcher
FLETCHER LAW OFFICE
P.O. Box 248
Burley, ID 83318

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Laird B. Stone
Stephan, Kvanvig, Stone & Trainor
P.O. Box 83
Twin Falls, ID 83303-0083

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Norman M. Semanko
PARSONS BEHLE & LATIMER
800 West Main Street, Suite 1300
Boise, ID 83702

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Randall C. Budge
Thomas J. Budge
RACINE OLSON, PLLP
P.O. Box 1391
Pocatello, ID 83204

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Rusty Kramer
Water District 37B Groundwater Association
P.O. Box 507
Fairfield, ID 83327

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Jerry R. Rigby
RIGBY, ANDRUS & RIGBY
25 North Second East
Rexburg, ID 83440

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Joseph F. James
Brendan L. Ash
James Law Office, PLLC
125 5th Ave. West
Gooding, ID 83330

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO PLLC
P.O. Box 50130
Idaho Falls, ID 83405

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Richard T. Roats
Lincoln County Prosecuting Attorney
P.O. Box 860
Shoshone, ID 83352

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Paul Bennett
114 Calypso Lane
Bellevue, ID 83313

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

J. Evan Robertson
Gary D. Slette
Robertson & Slette, PLLC
P.O. Box 1906
Twin Falls, ID 83303-1906

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Ann Y. Vonde
P.O. Box 83720
Boise, ID 83720-0010

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

John K. Simpson
Barker Rosholt & Simpson LLP
P.O. Box 2139
Boise, ID 83701-2139

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Lawrence Schoen
Napuisunaih
18351 U.S. Highway 20
Bellevue, ID 83313

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

Idaho Ranch Hands Property Management
218 Meadowbrook
Hailey, ID 83333

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

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

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail

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

☐ U. S. Mail
☐ Overnight Mail
☒ E-mail

/s/ Albert P. Barker

Albert P. Barker