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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

**SOUTH VALLEY GROUND
WATER DISTRICT AND GALENA
GROUND WATER DISTRICT’S
REVISED AND AMENDED
PROPOSED MITIGATION PLAN**

COMES NOW, the SOUTH VALLEY GROUND WATER DISTRICT and GALENA
GROUND WATER DISTRICT (“Ground Water Districts”) by and through their attorneys of

record and hereby submit to the Director a Revised and Amended Proposed Mitigation Plan under IDAPA 37.03.11.043 and under the Director's June 29, 2021 *Final Order Denying Mitigation Plan*. This Revised and Amended Plan is based on a settlement agreement entered into by and between the Big Wood and Little Wood Water Users Association, the Big Wood Canal Company ("Surface Water Users"), and the Ground Water Districts as documented in a Term Sheet dated July 7, 2021. The agreement has three principal components: (1) maintaining the delivery of 23 cfs flow to Station 10 on the Little Wood; (2) acquisition of 2500 AF of storage water rights for delivery through the Milner-Gooding Canal; and (3) a reduction in the irrigation season.

On June 28, 2021, the Director issued a *Final Order* curtailing ground water rights in the Bellevue Triangle during the 2021 irrigation season, effective July 1, 2021 ("*Curtailment Order*"). The Groundwater Districts request that the Director approve this Mitigation Plan and lift the *Curtailment Order*. The *Curtailment Order* relied upon a calculation of predicted responses to a July 1, 2021 curtailment of groundwater wells in Silver Creek prepared by Jennifer Sukow. The model run predicted a total of 4,752 AF of water would accrue to Silver Creek and she also calculated seepage losses of 33% in July and 20% in August between Sportsman's Access on Silver Creek and Station 10 on the Little Wood. See IDWR Ex. 4 (Sukow Memo Table 2 and Table 3).

To carry out part one of the Revised Mitigation Plan, the Ground Water Districts propose several temporary transfers, which rely on the drought declarations for Blaine and Lincoln counties, and one water bank rental. These transfers and the water bank rental were submitted to the Department on July 6, 2021.

The Revised Mitigation Plan is based on the prediction of the Basin 37 water master, Kevin Lakey, that 1883 rights would remain in priority, in whole or part, in the event of curtailment, but

that 1884 rights were not expected to come back into priority. The *Final Order Denying Mitigation Plan* required that Groundwater Users' Mitigation Plan take into account those surface water users who would benefit from curtailment. *Order*, p. 2.

The three water rights with April 1883 priorities are: Water Right No. 37-344A (4.0 cfs) belonging to Barbara Farms LLC, Water Right No. 37-344A (4.0 cfs), and Water Right Nos. 37-423 (0.3 cfs) and 37-49 (4.2 cfs) owned or operated by Don Taber (and on behalf of Jim Ritter). Each of these rights are covered by either a temporary transfer or a water bank rental on file with the Department. The transfers and rental all provide a greater supply of water to cover conveyance losses from Silver Creek to Station 10 than would ever be realized by the total ground water curtailment order in the Bellevue Triangle.

The Groundwater Districts propose a third general transfer, to pump an additional 18 cfs from the same array of wells and pumps in the vicinity of Picabo into Silver Creek. These pumps will be supplied by water transferred from lands that are not being irrigated in the Bellevue Triangle during the 2021 irrigation season. This third transfer proposes that the POU will consist of a Permissible Place of Use to provide delivery of water to the rights junior to April 6, 1883 on Silver Creek and the Little Wood.

To account for mitigation uses, the Groundwater Districts propose a fourth transfer to supply mitigation water in the Little Wood River. This transfer also relies on water transferred from lands that are not being irrigated in the Bellevue Triangle during the 2021 irrigation season and pumping from the same array of wells and pumps in the vicinity of Picabo into Silver Creek.

Transferring the water rights to nine different wells and pumps will provide flexibility to allow the Ground Water Districts to maximize the water that can be pumped at any one time based

on the pump capacity, water availability, and the ability to provide positive flow benefits to Silver Creek.

Under this Revised Mitigation Plan, more than 1,600 acres of land traditionally irrigated by ground water in the Bellevue Triangle are not being irrigated in the Bellevue Triangle during the 2021 irrigation season and will not be irrigated for the duration of the 2021 irrigation season.

The second part of the mitigation plan, as set forth in the Term Sheet Agreement, involves obtaining storage water for delivery to lands below the Milner-Gooding Canal. The Ground Water Districts agree to reimburse the Association for the cost of renting 1000 acre-feet of water actually rented from Mitigation, Inc. The Ground Water Districts have also secured an additional rental of 1000 acre-feet from Twin Falls Canal Company for delivery to senior water users below the Milner-Gooding Canal. The third component of the rental provisions of the Ground Water Districts' Revised and Amended Mitigation Plan involves rental of 500 AF of storage water from Henry's Lake Reservoir District. This rental is the subject of an Option Agreement that the Groundwater Districts can exercise within 30 days. The Ground Water Districts will also pay AFRD2 conveyance charges for the water delivered through the Milner-Gooding Canal.

Under the third part of the Revised Mitigation Plan, the Ground Water Districts will curtail all irrigation pumping by August 15, 2021 except for seed potatoes. Some land growing grains will begin reduction of pumping sooner. This non-use will be in addition to the benefit provided by the temporary transfers identified above. Pumping from the wells under the transfers will continue through September 1 as necessary to maintain the required flows at Station 10.

This Revised and Amended Mitigation Plan exceeds the benefits expected to accrue from the *Curtailment Order*. It is also the result of a negotiated agreement with the Surface Water Users. Approval of this Plan by the Director is in the public interest and will reduce severe economic

impacts to the producers in the Bellevue Triangle that would result from continuing the *Curtailment Order* already in effect.

Dated this 7th day of July, 2021.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of July, 2021, the foregoing was filed, served, and copied as shown below.

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