

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF BIG WOOD RIVER  
GROUND WATER MANAGEMENT AREA

**ORDER GRANTING PETITIONS TO  
INTERVENE AND APPOINTING  
DEPARTMENT CONTACT FOR  
INFORMAL PROCEEDINGS; NOTICE  
OF PREHEARING CONFERENCE**

**BACKGROUND**

On May 17, 2022, the Deputy Director of the Idaho Department of Water Resources (“Department”), Mat Weaver, while serving as acting director, issued an *Order Establishing Moratorium* (“Moratorium Order”) in the above captioned matter. The order established a moratorium on the processing and approval of new and pending applications for permits to appropriate water from surface and ground water sources within the Big Wood River Ground Water Management Area (“BWRGWMA”). *Moratorium Order* at 7.

On May 31, 2022, the Department received a *Motion for Clarification and Reconsideration and Request for Hearing* filed on behalf of the City of Bellevue (“Bellevue”). On June 21, 2022, the Director issued the *Order Denying Request for Clarification and Reconsideration; Order Granting Request for Hearing*, granting the City of Bellevue’s request for hearing and setting a prehearing conference for August 15, 2022, open to all interested persons.

The Department received four petitions to intervene in the above captioned matter: on July 22, 2022, the South Valley Ground Water District (“SVGWD”) timely filed *South Valley Ground Water District’s Petition to Intervene*; on July 28, 2022, the Big Wood & Little Wood Water Users Association (“BWLWWUA”) timely filed *Big Wood & Little Wood Water Users Association’s Petition to Intervene*; on August 2, 2022, the Big Wood Canal Company (“BWCC”) timely filed *Big Wood Canal Company’s Petition to Intervene*; and on August 12, 2022, the City of Hailey (“Hailey”) timely filed *City of Hailey’s Petition to Intervene* (collectively, “Petitions to Intervene” or “Petitions”). No objections were filed with the Department. During the August 15, 2022 prehearing conference, the Director asked if there were objections to any of the four Petitions to Intervene. No objections were offered, and the Director stated he intended to grant the Petitions to Intervene.

Additionally, during the August 15, 2022 prehearing conference, Bellevue requested the Director allow informal proceedings, as defined by and in accordance with Rules 100 and 101 of the Department’s Rules of Procedure (IDAPA 37.01.01). The Director asked the potential intervenors if they would object to informal proceedings, and all four potential intervenors agreed to participate in informal proceedings. Later, all interested persons in attendance agreed to scheduling a formal prehearing conference for October 17, 2022.

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CONTACT FOR INFORMAL PROCEEDINGS; NOTICE OF PREHEARING CONFERENCE—

## PETITIONS TO INTERVENE

The Department's Rule of Procedure 350 addresses who may file a petition to intervene in an administrative case: "A person who is not already a party to a contested case and who has a direct and substantial interest in the proceeding may petition for an order granting intervention as a party to the contested case." IDAPA 37.01.01.350.

A petition to intervene must comply with the Department's basic form and content rules for all pleadings and "state the direct and substantial interest of the potential intervenor in the proceeding." IDAPA 37.01.01.351. A petition must also "be filed at least fourteen days before the date set for formal hearing, or by the date of the initial prehearing conference, whichever is earlier, unless a different time is provided by order or notice." IDAPA 37.01.01.352. Once a petition to intervene is filed with the Department, an opposing party only has seven days to file an objection. IDAPA 37.01.01.354.

When considering whether to grant a petition to intervene and its implications for an intervening party, the Department's Rule of Procedure 353 states:

If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a contested case and does not unduly broaden the issues, the agency shall grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties.

....

Intervenors are bound by orders and notices entered in the contested case prior to the approval of the petition to intervene.

IDAPA 37.01.01.353.01, .353.03.

The Director concludes the Petitions to Intervene are timely and satisfy the requirements set forth in IDAPA 37.01.01.351. There are no objections to the Petitions to Intervene. Based on the Petitions to Intervene, the Director concludes that SVGWD, BWLWWUA, BWCC, and Hailey have a direct and substantial interest in this matter, will not unduly broaden the issues, and are not adequately represented by existing parties. Therefore, the Petitions to Intervene satisfy the requirements set forth in IDAPA 37.01.01.353.01 and the Director concludes he should grant all four Petitions. The Director further concludes that pursuant to IDAPA 37.01.01.353.03, SVGWD, BWLWWUA, BWCC, and Hailey are bound by all previous orders and notices entered in the BWRGWMA moratorium contested matter.

## INFORMAL PROCEEDINGS

Pursuant to IDAPA 37.01.01.100.03 and based upon Bellevue's request made during the August 15, 2022 prehearing conference and the intervenors' agreement, the Director concludes the parties should engage in informal proceedings in accordance with the Department's Rules of Procedure (IDAPA 37.01.01). The Director further concludes that a Department employee must be appointed as the point of contact for the parties to mediate the informal proceedings.

## NOTICE OF CONTINUED PREHEARING CONFERENCE

NOTICE IS HEREBY GIVEN that the Director will hold a formal prehearing conference to discuss the status of and schedule for this contested proceeding. The continued prehearing conference will be held on **October 17, 2022, at 2 PM (MST)** in Conference Rooms 602C and 602D of the Department's State Office, located at 322 E. Front Street, 6th Floor, Boise, Idaho. Parties may appear at the prehearing conference in person, by telephone, or by video conference.

To join the conference via computer or smartphone, please use the following Webex link, follow the prompts, and wait to be admitted by the meeting host:  
<https://idahogov.webex.com/idahogov/j.php?MTID=m342ecd4ba7d05f473cb9f34c11b261df>.

To join the conference via telephone, please dial 1 (415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2458 058 5055.

The prehearing conference will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/index.html>.

The conference will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the conference, please advise the Department no later than five (5) days before the conference. Inquiries for special accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815.

## ORDER

IT IS HEREBY ORDERED that the petitions to intervene filed by South Valley Ground Water District, Big Wood & Little Wood Water Users Association, Big Wood Canal Company, and the City of Hailey are GRANTED.

IT IS FURTHER ORDERED that Shelley Keen, Water Allocation Bureau Chief, is appointed as the Department contact for informal proceedings in this case. The parties may reach out to Shelley Keen as needed at [shelley.keen@idwr.idaho.gov](mailto:shelley.keen@idwr.idaho.gov) or by calling (208) 287-4800.

Dated this 12<sup>th</sup> day of September 2022.



GARY SPACKMAN  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12th day of September 2022, the above and foregoing, was served by the method indicated below, and addressed to the following:

<p>Candice McHugh <b>MCHUGH BROMLEY, PLLC</b> 380 South 4<sup>th</sup> Street, Suite 103 Boise, ID 83702 <a href="mailto:cmchugh@mchughbromley.com">cmchugh@mchughbromley.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p><i>Attorney for Petitioner the City of Bellevue</i></p>	
<p>Albert P. Barker Travis L. Thompson Michael A. Short <b>BARKER ROSHOLT &amp; SIMPSON, LLP</b> P. O. Box 63 Twin Falls, ID 83303-0063 <a href="mailto:apb@idahowaters.com">apb@idahowaters.com</a> <a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a> <a href="mailto:mas@idahowaters.com">mas@idahowaters.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p><i>Attorneys for Intervenor South Valley Ground Water District</i></p>	
<p>Jerry R. Rigby Chase T. Hendricks <b>RIGBY, ANDRUS &amp; RIGBY, PLLC</b> 25 North Second East Rexburg, ID 83440 <a href="mailto:jrigby@rex-law.com">jrigby@rex-law.com</a> <a href="mailto:chendricks@rex-law.com">chendricks@rex-law.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p><i>Attorneys for Intervenor Big Wood &amp; Little Wood Water Users Association</i></p>	
<p>W. Kent Fletcher <b>FLETCHER LAW OFFICE</b> P.O. Box 248 Burley, ID 83318 <a href="mailto:wkf@pmt.org">wkf@pmt.org</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p><i>Attorney for Intervenor Big Wood Canal Company</i></p>	

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- Email

*Attorney for Intervenor City of Hailey*

**COURTESY COPIES TO:**

<p>BWRGWMA Advisory Committee Members:</p> <p>Corey Allen <a href="mailto:callen@sunvalley.com">callen@sunvalley.com</a></p> <p>Cooper Brossy <a href="mailto:cooper.brossy@gmail.com">cooper.brossy@gmail.com</a></p> <p>Rod Hubsmith <a href="mailto:kaysi10@live.com">kaysi10@live.com</a></p> <p>Sharon Lee <a href="mailto:slee247@mac.com">slee247@mac.com</a></p> <p>Pat McMahon <a href="mailto:pat@svwsd.com">pat@svwsd.com</a></p> <p>Kristy Molyneux <a href="mailto:jkmoly78@gmail.com">jkmoly78@gmail.com</a></p> <p>Carl Pendleton <a href="mailto:pendletonranch@hotmail.com">pendletonranch@hotmail.com</a></p> <p>Pat Purdy <a href="mailto:pat@purdyent.com">pat@purdyent.com</a></p> <p>William Simon <a href="mailto:wasimon9@gmail.com">wasimon9@gmail.com</a></p> <p>Michelle Stennett <a href="mailto:mstennett@senate.idaho.gov">mstennett@senate.idaho.gov</a></p> <p>Nick Westendorf <a href="mailto:nick@4lfarms.com">nick@4lfarms.com</a></p> <p>Brian Yeager <a href="mailto:brian.yeager@haileycityhall.org">brian.yeager@haileycityhall.org</a></p>	<p><input checked="" type="checkbox"/> Email</p>
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Sarah Tschohl  
Paralegal