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

IN THE MATTER OF THE BIG WOOD  
RIVER GROUND WATER  
MANAGEMENT AREA

CITY OF BELLEVUE AND CITY OF  
HAILEY’S POST-HEARING BRIEF RE  
SILVER CREEK ISSUE

COMES NOW the City of Bellevue (“Bellevue”) through its attorney of record, Candice McHugh of the firm McHugh Bromley, PLLC, and the City of Hailey (“Hailey”) through its attorney of record, Micheal P. Lawrence of the firm Givens Pursley, LLP, and file this post-hearing brief as instructed by the Hearing Officer on October 17, 2023 in the above captioned matter. Bellevue and Hailey will be referred to collectively herein as the “Cities.”

Detailed procedural background information will be omitted from this brief.

**DISCUSSION**

This post-hearing brief addresses the following issue:

*Whether all pumping in the BWGWMA has an impact on all surface water sources upstream from Magic Reservoir, including Silver Creek.*

On May 17, 2022, an *Order Establishing Moratorium* was signed establishing a moratorium in the Big Wood River Basin (“*BWR Moratorium Order*”). The *BWR Moratorium Order* made a broad statement without any qualifications regarding the hydrogeologic

interactions and impacts between surface and groundwater in the Big Wood River Ground Water Management Area. Because the statements appeared to contradict other Department analysis that was implemented in a surface to groundwater administrative proceeding in 2021, the Cities sought clarification of the following language:

Hydrogeologic analysis and modeling since implementation of the Management Policy confirm significant interaction between surface water and ground water in the BWRGWMA. Pumping ground water from within the BWRGWMA affects surface water flows in the Big Wood River drainage upstream from Magic Reservoir and in Silver Creek, a key tributary of the Little Wood River. Lower ground water levels would result in less aquifer discharge to surface water. New development of consumptive ground water use would reduce the quantity of water available to fill senior surface water rights during times when administration by priority is necessary.

*BWR Moratorium Order* at 3.

Based on the evidence and testimony at the October 17-18, 2023 hearing on this issue, the Cities request that additional language be added to *BWR Moratorium Order* to clarify that the above paragraph is limited to a multi-year analysis and is not intended to be a finding that all pumping in the BWRGWMA causes material injury to water users diverting water from Silver Creek for purposes of a “short-term, in-season curtailment.” Tr. Vol 3, 642:16-17 (Sukow).

The Cities’ expert (Greg Sullivan) and the Department’s expert (Jennifer Sukow) both testified that the analysis that is referenced in the quoted language above relates only to new appropriations of groundwater that are contemplated to be pumped “every year, year after year” under a “long-term approach” rather than a “curtailment that’s being contemplated ... in a short-term, in-season curtailment.” Tr. Vol 3, 641:13-642:2 (Sukow); Tr. Vol. 3, 554:18-555:5 (Sullivan). Furthermore, Ms. Sukow testified that the timing of impacts of pumping above Glendale Bridge would vary seasonally and that some of the impacts would occur “outside the irrigation season,” Tr. Vol 3, 647:1-7, which would be important in a delivery call type of curtailment.


## CONCLUSION

Thus, based on the foregoing, the Cities request the language on page 3 of the *BWR Moratorium Order* be modified as follows (additional language underlined):

Hydrogeologic analysis and modeling looking at long-term impacts since implementation of the Management Policy confirm significant interaction between surface water and ground water in the BWRGWMA. Pumping ground water every year, year in and year out, from within the BWRGWMA affects surface water flows in the Big Wood River drainage upstream from Magic Reservoir and in Silver Creek, a key tributary of the Little Wood River. The timing of impacts to Silver Creek of any pumping above Glendale Bridge would fluctuate seasonally. New development of consumptive ground water use would reduce the quantity of water available to fill senior surface water rights during certain times when administration by priority is necessary.

DATED this 17th day of November, 2023

/s/  
Micheal P. Lawrence  
*Attorney for City of Hailey*

  
Candice M. McHugh  
*Attorney for City of Bellevue*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17<sup>th</sup>, day of November 2023, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

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