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Attorneys for Bonneville-Jefferson Ground Water District

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE DISTRIBUTION
OF WATER TO VARIOUS WATER RIGHTS
HELD BY AND FOR THE BENEFIT OF A&B
IRRIGATION DISTRICT, AMERICAN FALLS
RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, AND TWIN FALLS
CANAL COMPANY

Docket No. CM-DC-2010-001

**BONNEVILLE-JEFFERSON
GROUND WATER DISTRICT'S
STATEMENT OF ISSUES**

The Bonneville-Jefferson Ground Water District (hereafter “Bonneville-Jefferson”), acting for and on behalf of its respective members, through counsel, submits this *Statement of Issues* pursuant to the Director’s May 2, 2023, *Scheduling Order and Order Authorizing Remote Appearance at Hearing*.

As a threshold matter, Bonneville-Jefferson notes that the Orders at issue in this matter were issued a mere three weeks ago on April 21, 2023. Bonneville-Jefferson was not provided notice or an opportunity to be heard prior to these Orders being issued, nor has it been provided

any of the information the Department relied upon in issuing these Orders as of the date of this filing.

During the preliminary hearing before the Department on April 28, 2023, counsel for Bonneville-Jefferson joined in support of the Coalition of Cities' *Motion to Continue* the June 6, 2023, hearing on the Orders, raising concerns that it would not have sufficient time to obtain and review relevant information with its experts. This will impair Bonneville-Jefferson's ability to adequately review relevant information and develop evidence opposing the Orders before the scheduled hearing date. These concerns still abound, and Bonneville-Jefferson maintains that it will be deprived of due process and will not be able to address all issues raised by the Fifth Methodology Order should the Director not continue the hearing.

Without waiving any objection or defense, Bonneville-Jefferson submits the following *Statement of Issues* without the benefit of discovery, including the ability to review information the Department reconduct depositions, and with a limited information:

- 1) The procedures and process used by the Department in issuing the Methodology Order.
- 2) The technical rationale for the Methodology Order.
- 3) The policy behind changing to transient state modeling in the Methodology Order.
- 4) The analysis and factual basis for the Methodology Order.
- 5) The Department's new reliance on transient modeling.
- 6) The Department's failure to consider the Twin Falls Canal Company's increase in diversions over the last twenty years.
- 7) The Department's failure to consider changes in the efficiency of the SWC's operations.
- 8) The Department's failure to consider all sources of supply available to the SWC

- 9) The Department's rational and factual basis for using 2018 as the new baseline year.
- 10) Issues pertaining to futile call, including waste, reasonable time, and efficiency.
- 11) Whether the Methodology Order results in the optimum development of water resources in the public interest.
- 12) Whether the Methodology Order is contrary to the State's interest in securing the maximum use and benefit, and least wasteful use, of its water resources
- 13) Whether the Methodology Order permits SWC to command the entirety of large volumes of water in a surface or ground water source to support its appropriation contrary to the public policy of reasonable use of water as described in the Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11.
- 14) Whether the Department provided due process to water users in issuing the Methodology Order.
- 15) Bonneville-Jefferson reserves the right to present evidence, argument, and rebuttal as to any issues presented by other parties in this matter.
- 16) Bonneville-Jefferson further reserves the right to contest additional issues regarding the Fifth Methodology Order and the As-Applied Order that may be revealed through the discovery process.

Respectfully submitted this the 5th day of May 2023.

DATED: May 5, 2023

OLSEN TAGGART PLLC

/s/ Skyler C. Johns

SKYLER C. JOHNS

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May 2023, I served the foregoing document on the persons below via email as indicated:

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