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DEPARTMENT OF
WATER RESOURCES

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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

**DECLARATION OF SKYLER C.
JOHNS IN SUPPORT OF MOTION
FOR RECONSIDERATION OF
DENIAL OF CONTINUANCE**

I, SKYLER C. JOHNS, under penalty of perjury, make this *Declaration in Support of Motion for Reconsideration of Denial of Continuance*.

1. I am over the age of eighteen (18) and competent to testify in this matter. I make this declaration based upon my own personal knowledge unless otherwise stated.

2. I am an attorney for the Bonneville-Jefferson Ground Water District (hereafter "Bonneville-Jefferson") in the above-captioned matter, and I have personal knowledge of the matters involved in these legal proceedings.

3. Bonneville-Jefferson has retained Rocky Mountain Environmental Associates, Inc. (hereafter “Rocky Mountain”), to review and advise me on technical matters involved in the above-captioned matter, including matters pertaining the Surface Water Coalition (hereafter “SWC”) water delivery call against the Idaho Ground Water Appropriators (hereafter “IGWA”).

4. On April 21, 2023, the Director of the Idaho Department of Water Resources (hereafter “Director”) changed the methodology used to calculate injury to the SWC in his 5th Amended Methodology Order. The Director also the April 2023 As-Applied Order on April 21, 2023, and the new methodology used in the As-Applied Order calculated a material injury of 75,200-acre feet to SWC.

5. Prior to issuing these orders, I never received formal notice from the Idaho Department of Water Resources (hereafter “IDWR”) that the Director would transition from Steady State to Transient State analysis as a tool to calculate material injury to SWC. To my knowledge, the Director never conducted a hearing prior to changing the methodology order. Neither myself, nor the experts who advise me from Rocky Mountain, were involved in any work group or discussions pertaining changes in the methodology order.

During the preliminary hearing held on April 28, 2023, I, on behalf of Bonneville-Jefferson, joined in support of the Motion to Continue filed by the Coalition of Cities to continue the evidentiary hearing set for June 6, 2023. I also expressed my concerns that Bonneville-Jefferson would not have sufficient time to obtain and review relevant information with its experts, and that would impair Bonneville-Jefferson’s ability to adequately review relevant information and develop evidence opposing the Orders before the scheduled hearing date. The Director, however, did not continue the hearing.

6. In my professional opinion, I do not have time to perform an adequate review of the

information requested from IDWR in this litigation in order to properly prepare for the June 6, 2023, hearing. I further do not have adequate time to consult with my experts from Rocky Mountain regarding their review of the information requested from IDWR, nor do I have adequate time to prepare them to testify at the June 6, 2023, hearing. This will impair my ability to develop evidence and legal arguments in opposition to the Orders if the hearing continues as scheduled.

7. As of the date of this declaration, I have not received any work products or documentations of decisions or recommendations from any technical working group as referenced by the Director during the April 28, 2023, preliminary hearing. I presently do not have access to all the documents and data that I would need to review and prepare a defensible legal argument to the 5th Methodology Order.

8. Given the time limitations specified by the Director in his Scheduling Order, I must prepare for depositions of IDWR staff without having access to any of the documents that were relied upon by IDWR. Depositions will occur on May 10 and 12, 2023. I will be unable to adequately prepare effective questions for the deponents as I likely will not have access to any relevant documents or other information prior to these depositions.

9. As such, I will be unable to perform comprehensive review and consult with and prepare legal counsel for Bonneville-Jefferson prior to the scheduled hearing date. It is my opinion that I would need at least 6 months to adequately review and prepare myself and counsel for the hearing.

10. Based upon my knowledge and experience, not granting additional time for Bonneville-Jefferson to obtain review and evidence and legal arguments will cause prejudice to my client's real property interests and rights to due process.

11. Further your declarant saith not.

DATED this 5th day of May 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 or as otherwise indicated:

/s/ Skyler C. Johns
SKYLER C. JOHNS

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