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

IN THE MATTER OF DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS  
HELD BY OR 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

**MOTION TO RE-SET HEARING  
DATES**

COME NOW, the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell (“Coalition of Cities”), by and through their attorneys of record, Candice M. McHugh and Chris M. Bromley, the City of Idaho Falls, by and through its attorney of record, Robert L. Harris, and the City of Pocatello by and through its attorney of record Sarah A. Klahn (collectively the “Cities”), Idaho Ground Water Appropriators (“IGWA”) by and through its attorney of record Thomas J. Budge,

Bingham Ground Water District by and through its attorney, Dylan Anderson and Bonneville-Jefferson Ground Water District, by and through its attorney Skyler Jones, (collectively the “Parties”) and request the hearing dates for the above captioned matter be moved to June 19-23, 2023..

As stated in his recent *Order Denying Motion for Reconsideration of Denial of Continuance*, (“Order Denying Reconsideration”) the Director states that “he is willing to work with the parties to move the hearing to anytime within the first three weeks of June 2023.” *Id.* at 6.<sup>1</sup> The Director stated that a hearing within the month of June will “ensure timely administration for predicted material injury in this current irrigation season.” *Id.* While the Parties to this Motion do not believe that moving the hearing dates back comport with the necessary due process this case requires and do not hereby waive any arguments relative to the process, the Parties believe that moving the hearing date back is needed and necessary for them to better prepare and accommodate their experts. The Parties conferred with counsel for the Surface Water Coalition but could not reach agreement on a continuance.

The bases for Parties’ request to re-set the hearing to June 19-23 are as follows:

1. IGWA’s expert, Jaxon Higgs will be available for hearing, whereas currently he will be out of the country. See previously filed Declaration of Higgs. Re-setting the dates will at least allow one of IGWA’s experts to attend the hearing in-person which is vital to effectively assist at hearing and evenings. Currently, none of IGWA’s experts can attend the hearing in person. *Id.* See too previously filed Declaration of Sigstedt.

2. The Cities’ expert, Greg Sullivan returns on June 2 from an overseas trip. By

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<sup>1</sup> To be clear, counsel for IGWA and counsel for the Cities on multiple separate occasions tried to get the SWC to agree to move the hearing to a more reasonable time period but were met with either outright denials or other requests that impeded the ability to reach agreement among all the parties.

resetting the hearing to June 19, Mr. Sullivan will be available to assist the Cities with trial preparation. In addition, Mr. Sullivan's expert report would be due June 12 which gives him 10 days to finalize such report upon his return, whereas currently his report is due when he is out of the country. See previously filed Declaration of Sullivan.

3. The Cities' counsel, Candice McHugh will be available to both assist in witness preparation and to attend the hearing in person. See previously filed Declaration of McHugh.<sup>2</sup>

4. The Cities have filed a *Petition for Judicial Review and Motion for Stay Based on IDWR's Interference with Lawful Discovery and Complaint for Declaratory Relief and Writ of Prohibition and Petition for Writ of Mandamus*. Resetting the hearing to June 19 will allow due consideration of the pending Complaint and Writ Action.

5. IGWA and the GWDS have filed a *Petition for Judicial Review* and have also filed: *Ground Water Districts' Motion to Compel*, *Ground Water Districts' Motion for Order to Show Cause*, *Ground Water Districts' Motion for Stay*, *Ground Water Districts' Motion for Injunctive Relief*, *Ground Water Districts' Motion for Expedited Decision*. Moving the hearing dates back will allow due consideration of the various Motions.

### CONCLUSION

Based on the foregoing, the Parties to this Motion request that the Director re-set the hearing dates as requested.

In addition, the Parties to this Motion recognize that the Surface Water Coalition has a right to respond to this motion but given the compressed hearing schedule, the Parties request

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<sup>2</sup> The resetting will also facilitate Mr. Bromley's preparation for the Supreme Court argument on June 5 in the Basin 37 matter.

that the Director order them to respond by the end of business Wednesday, May 23, 2023, and issue an order on this Motion by Friday, May 26, 2023.

Submitted this 22nd day of May, 2023.

/s/ Sarah Klahn

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/s/ Candice M. McHugh

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/s/ Robert Harris

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HOLDEN KIDWELL HAHN & CRAPO  
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/s/ Chris M. Bromley

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Chris M. Bromley  
MCHUGH BROMLEY  
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/s/ Thomas J. Budge

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Appropriators, Inc. (IGWA)*

/s/ Skyler C. Johns

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Water District*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of May, 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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/s/ Candice McHugh

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