

Sarah A. Klahn (ISB# 7928)
SOMACH SIMMONS & DUNN
Attorneys for City of Pocatello

Robert L. Harris (ISB# 7018)
HOLDEN KIDWELL HAHN & CRAPO
Attorneys for City of Idaho Falls

Candice M. McHugh (ISB# 5908)
Chris M. Bromley, ISB # 6530
MCHUGH BROMLEY, PLLC
*Attorneys for the Cities of Bliss, Burley,
Carey, Declo, Dietrich, Gooding, Hazelton,
Heyburn, Jerome, Paul, Richfield, Rupert,
Shoshone, and Wendell*

Thomas J. Budge (ISB# 7465)
Elisheva M. Patterson (ISB# 11746)
RACINE OLSON, PLLP
*Attorneys for Idaho Ground Water
Appropriators, Inc. (IGWA)*

Skyler C. Johns (ISB# 11033)
Nathan M. Olsen (ISB# 7373)
Steven L. Taggart (ISB# 8551)
OLSEN TAGGART PLLC
*Attorneys for Bonneville-Jefferson Ground
Water District*

Dylan Anderson (ISB# 9676)
DYLAN ANDERSON LAW
Attorney for Bingham Groundwater District

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

IDWR Docket No. CM-DC-2010-001

**MOTION FOR DIRECTOR TO
ISSUE SUBPOENAS**

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’), pursuant to Rules 523 and 220 of the Rules of Procedure of the Idaho Department of Water Resources (found at IDAPA 37.01.01), as well as I.R.C.P. 45, hereby moves Director Gary Spackman, the Hearing Officer in the above-entitled action, to issue subpoenas to the following individuals to appear and testify at the hearing currently scheduled for June 6-10, 2023, concerning the *Fifth Amended Methodology Order Regarding Methodology for Determining material Injury to Reasonable In-Season Demand And Reasonable Carryover* (the “*Fifth Methodology Order*”) and a *Final Order Regarding April 2023 Forecast Supply* (the “*As-Applied Order*”):

1. Mathew Weaver, P.E.

Deputy Director
Idaho Department of Water Resources
322 E. Front Street
Boise, ID 83702

2. Tony Olenichak

Water District 01 Watermaster
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402-1718

The Parties intend to question Mr. Weaver as a lay witness on matters related to the Department’s preparation and issuance of the *Fifth Methodology Order* and the *As-Applied Order*, including all information the Director considered in developing the orders. Additionally, the Parties intend to question Mr. Olenichak about water distribution and water supply in Water District 01, including availability of natural flow and storage water.

The Parties understand that Mr. Weaver is out of the country on a planned vacation, but consistent with other attorneys and hearing witnesses who are unavailable to participate in person because of planned vacations, Mr. Weaver can participate remotely. Mr. Olenichak should be required to appear in person given his presence in the State of Idaho, unless extenuating circumstances exist, in which case, Mr. Olenichak could also appear remotely. The Parties request

that Mr. Weaver and Mr. Olenichak be put on notice by the Director that they may be called as witnesses at any time during June 6-10 hearing, although the Parties anticipate discussing order of witnesses at the commencement of the hearing where the anticipated date and time of each witnesses' anticipating testimony will be discussed. As of the date of this filing, the Parties initially anticipate—which is subject to change—that both Mr. Weaver and Mr. Olenichak will testify on either Friday, June 9th, or Saturday, June 10th.

Dated this 1st day of June, 2023.

/s/ Sarah Klahn

Sarah A. Klahn
SOMACH SIMMONS & DUNN
Attorneys for City of Pocatello

/s/ Candice M. McHugh

Candice M. McHugh
MCHUGH BROMLEY
Attorneys for Coalition of Cities

/s/ Robert Harris

Robert L. Harris
HOLDEN KIDWELL HAHN & CRAPO
Attorneys for City of Idaho Falls

/s/ Chris M. Bromley

Chris M. Bromley
MCHUGH BROMLEY
Attorneys for Coalition of Cities

/s/ Thomas J. Budge

Thomas J. Budge
Elisheva M. Patterson
RACINE OLSON, PLLP
*Attorneys for Idaho Ground Water
Appropriators, Inc. (IGWA)*

/s/ Skyler C. Johns

Skyler C. Johns
OLSEN TAGGART PLLC
*Attorneys for Bonneville-Jefferson Ground
Water District*

/s/ Dylan Anderson

Dylan Anderson
DYLAN ANDERSON LAW
Attorney for Bingham Groundwater District

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2023, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

DOCUMENT SERVED: MOTION FOR DIRECTOR TO ISSUE SUBPOENAS

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Idaho Dept. of Water Resources
Director Gary Spackman
file@idwr.idaho.gov
Garrick.baxter@idwr.idaho.gov
gary.spackman@idwr.idaho.gov
sarah.tschohl@idwr.idaho.gov

Kathleen Marion Carr
US Dept. Interior
960 Broadway Ste 400
Boise, ID 83706
kathleenmarion.carr@sol.doi.gov

John K. Simpson
MARTEN LAW LLP
P.O. Box 2139 Boise, ID 83701-2139
jsimpson@martenlaw.com

David W. Gehlert
Natural Resources Section Environment and
Natural Resources Division U.S. Department
of Justice
999 18th St., South Terrace, Suite 370
Denver, CO 80202
david.gehlert@usdoj.gov

Travis L. Thompson
MARTEN LAW LLP P.O. Box 63
Twin Falls, ID 83303-0063
tthompson@martenlaw.com
jnielsen@martenlaw.com

Matt Howard
US Bureau of Reclamation
1150 N Curtis Road
Boise, ID 83706-1234
mhoward@usbr.gov

W. Kent Fletcher
FLETCHER LAW OFFICE
P.O. Box 248
Burley, ID 83318
wkf@pmt.org

Thomas J. Budge
Elisheva M. Patterson
RACINE OLSON
P.O. Box 1391
Pocatello, ID 83204-1391
tj@racineolson.com
elisheva@racineolson.com

Candice McHugh
Chris Bromley
MCHUGH BROMLEY, PLLC
380 South 4th Street, Suite 103
Boise, ID 83702
cbromley@mchughbromley.com
cmchugh@mchughbromley.com

Sarah A. Klahn
Maximilian C. Bricker
SOMACH SIMMONS & DUNN
1155 Canyon Blvd., Ste. 110
Boulder, CO 80302
sklahn@somachlaw.com
mbricker@somachlaw.com

Robert E. Williams
WILLIAMS, MESERVY, & LOTH SPEICH,
LLP
P.O. Box 168
Jerome, ID 83338
rewilliams@wmlattys.com

Skyler C. Johns
Nathan M. Olsen
Steven L. Taggart
OLSEN TAGGART PLLC
P.O. Box 3005
Idaho Falls, ID 83403
sjohns@olsentaggart.com
nolsen@olsentaggart.com
staggart@olsentaggart.com

Randall D. Fife
City Attorney
City of Idaho Falls
P.O. Box 50220
Idaho Falls, ID 83405
rfife@idahofallsidaho.gov

Corey Skinner
IDWR—Southern Region
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3033
corey.skinner@idwr.idaho.gov

Dylan Anderson
Dylan Anderson Law
P. O. Box 35
Rexburg, ID 83440
208-684-7701
dylan@dylanandersonlaw.com

Tony Olenichak IDWR—Eastern Region
900 N. Skyline Drive, Ste. A
Idaho Falls, ID 83402
Tony.Olenichak@idwr.idaho.gov

Courtesy copy to:
William A. Parsons
PARSONS SMITH & STONE
P.O. Box 910
Burley, ID 83318
wparsons@pmt.org

/s/ Robert L. Harris

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.