

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

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHTS HELD BY
MEMBERS OF THE BIG WOOD & LITTLE
WOOD WATER USERS ASSOCIATION
DIVERTING FROM THE BIG WOOD
RIVER

Docket No. CM-DC-2015-001

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHTS HELD BY
MEMBERS OF THE BIG WOOD & LITTLE
WOOD WATER USERS ASSOCIATION
DIVERTING FROM THE LITTLE WOOD
RIVER

Docket No. CM-DC-2015-002

**ORDER DENYING MOTION FOR
PROTECTIVE ORDER; SCHEDULING
ORDER**

On April 29, 2015, the Director ("Director") of the Idaho Department of Water Resources ("Department") issued an *Order Authorizing Discovery; Notice of Pre-hearing Conference* ("Order") in the above-captioned matters. On May 19, 2015, Respondent Sun Valley Company ("SVC") filed with the Department a *Notice of Service Sun Valley Company's First Set of Discovery Requests to the Big Wood and Little Wood Water Users Association and its Members*.

On May 20, 2015, the Director sent a letter to counsel for the Petitioners, members of the Big Wood & Little Wood Water Users Association ("Association"), requesting additional information about the Association members' diversion and use of water. The letter requested a response to the information request within thirty days.

On June 2, 2015, the Association filed *Petitioner's Motion for Scheduling Order and Motion for Protective Order* ("Motion"). On June 16, 2015, SVC filed its *Opposition to Motion for Protective Order* ("Opposition").¹

Motion for Protective Order

The Association's motion for protective order asks the Director to suspend authorization of discovery by the parties "until Petitioners have had an opportunity to collect and submit the information requested by the Director" in the letter dated May 20, 2015. *Motion* at 2. The Association notes that SVC's "First Set of Discovery Requests, to a large extent, seek the same information requested by the Director." *Id.* at 1.

¹ On June 22, 2015, James P. Speck, counsel for multiple parties in the above-captioned matter, filed with the Department a *Joinder in and Support of Opposition to Motion for Protective Order*.

Overlap between discovery requests and information requested by the Director in the letter dated May 20, 2015, is not a reason to suspend authorization of discovery by the parties. Discovery is an ongoing process. The Association should be able to respond to a discovery request with the information it already has in its possession. As additional information is collected by the Association, its discovery responses can be supplemented. Supplementing the information response does not constitute an undue burden upon the Association. Moreover, the Association requested the Director hold the hearing in this matter as quickly as possible. Given the Association's request to expedite the hearing, the Director will not suspend the order "that parties to the above-captioned matters are authorized to engage in discovery." *Order* at 1. The Director will deny the Association's motion for protective order.

Requests Regarding Discovery

The Association asks the Director to issue an order requiring that proponents of proposed interrogatories obtain the Director's authorization prior to serving those interrogatories on other parties. *Motion* at 3. Rule 520.02 of the Department's Rules of Procedure states that, "[u]nless otherwise provided by statute, rule, order or notice, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b))." IDAPA 37.01.01.520.02.

The Association's request deviates from the Idaho Rules of Civil Procedure. While the Department included a requirement similar to the one proposed by the Association in a previously issued discovery order for another contested case, the Director is not convinced it is necessary in this case. This matter should continue to be governed by the Idaho Rules of Civil Procedure. Granting the Association's request would only impede the progress of discovery and is not currently necessary. The Director will not require submission of proposed interrogatories to the Director.

The Association requests the Director limit the number of interrogatories served by one party on another at any given time to not more than ten, "with subparts of interrogatories counting as a separate interrogatory." *Motion* at 3. This request deviates from Idaho Rule of Civil Procedure 33(a)(3), which governs the number of interrogatories parties may serve. The Association also asks "that requests for admission should not be authorized, and that depositions should be authorized and be taken in accordance with Idaho Rules of Civil Procedure." *Motion* at 2-3. Depositions and requests for admission are two types of discovery recognized and authorized by Rule 520.01 of the Department's Rules of Procedure. IDAPA 37.01.01.520.01(a) & (c).

Again, the Director is not convinced that it is necessary to deviate from the Idaho Rules of Civil Procedure at this time. The Director will not limit the scope of discovery allowed by the Department's Rules of Procedure. Discovery shall proceed consistent with requirements set forth in the Department's Rules of Procedure and the Idaho Rules of Civil Procedure.

Scheduling Order

The Association asks the Director to issue an order establishing the "schedule for discovery" and "setting forth a schedule requiring disclosure of witnesses, expert witnesses, expert witness reports and exhibits." *Motion* at 2-3.

The Director has already issued an order authorizing the commencement of discovery. No further schedule for discovery is currently needed. Recently, two motions to dismiss the delivery calls have been filed. The SVC filed the first motion. The cities of Hailey and Bellevue filed the second motion. The motions to dismiss are dispositive motions. The Director will delay issuance of a scheduling order until the motions have been decided. At this time, the Director will not, grant the Association's request for a scheduling order.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that:

- 1) The Association's motion for protective order is DENIED;
- 2) Discovery shall proceed consistent with requirements set forth in the Department's Rules of Procedure and the Idaho Rules of Civil Procedure; and
- 3) The Association's motion for a scheduling order is DENIED.

DATED this 2nd day of July 2015.



GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 2nd day of July 2015, I served a true and correct copy of the above and foregoing document by placing a copy of the same in the United States mail, postage prepaid and properly addressed and by e-mail to participants who have provided e-mail addresses to the Department for service to the following:

BIG WOOD WATER USERS ASSN
LITTLE WOOD WATER USERS ASSN
C/O JOSEPH F. JAMES
BROWN & JAMES
130 FOURTH AVENUE WEST
GOODING ID 83330
joe@brownjameslaw.com
dana@brownjameslaw.com

AARON DECHEVRIEUX
ANTELOPE SPRINGS RANCH (ROBERT
DREYER)
BELLE RANCH LLC (JUSTIN AND BRETT
STEVENSON)
GRACE EAKIN
HEART ROCK RANCH LLC (HARRY &
SHIRLEY HAGEY)
JOHN & KRISTY MOLYNEUX
JOHN FERY MARK GATES AND WARD
WOODS (LOVING CREEK RANCH)
JOHN STEVENSON
JOHN TEDESCO
JULIE GARDNER & LAUREN CORD
LAKESIDE INDUSTRIES (WOOD RIVER
RANCH/SHARON LEE)
LOVING SPRINGS RANCHES LP (GERALD B.
BASHAW)
MARGARET CLAIRE B CASEY
MATT & KATE GARNER
MICKY & JUSTIN VANHULLE
MIKE BORDENKIRCHER
PAM LARSEN
PETER & TORI MADSEN
PHIL PUCHNER
PICABO LIVESTOCK (NICK PURDY)
POINT OF ROCKS RANCH LLC (JOHN &
ELAINE FRENCH)
PRAIRIE SUN RANCH OWNER'S ASSN INC
(KATHY LYNN)
RICHARD SPRINGS III (DICK & MELINDA
SPRINGS)
ROBERT & KATHRYN GARDNER
ROCKY & TERRI SHERBINE
RON HARRISONRUSTY & CAROLYN BAIRD
SARAH GARDNER

STEPHANIE EISENBARTH
SYLVIA WOOD
THOMAS BECK, MD
THOMAS M O'GARA FAMILY TRUST (TOM
O'GARA C/O BRIAN BARSOTTI)
THREE CREEKS RANCH LLC (JOHN &
KINGSLEY R CROUL)
C/O ALBERT BARKER
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139
apb@idahowaters.com
sle@idahowaters.com

HAILEY CEMETERY MAINTENCE DIST
JACOB & RUTH BLOOM
C/O PATRICK D BROWN
PATRICK D BROWN PC
PO BOX 125
TWIN FALLS ID 83303
pat@phlaw.co

IDAHO GROUND WATER APPROPRIATORS
INC
C/O RANDALL C BUDGE
THOMAS J BUDGE
JOSEPH G BALLSTAEDT
RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391
rdb@racinelaw.net
tjb@racinelaw.net
jgb@racinelaw.net

CITY OF FAIRFIELD
CITY OF KETCHUM
C/O SUSAN E BUXTON
CHERESE D MCLAIN
MOORE SMITH BUXTON & TURCKE
950 W BANNOCK ST STE 520
BOISE ID 83702
seh@msbtlaw.com
cdm@msbtlaw.com

SINCLAIR OIL CORPORATION DBA SUN
VALLEY COMPANY
C/O SCOTT L CAMPBELL
MATTHEW J MCGEE
MOFFATT THOMAS
PO BOX 829
BOISE ID 83701-0829
slc@moffatt.com

CITY OF HAILEY
VALLEY CLUB INC
C/O MICHAEL C CREAMER
MICHAEL P LAWRENCE
GIVENS PURLSEY LLP
PO BOX 2720
BOISE ID 83701-2720
mcc@givenspursley.com
mpl@givenspursley.com
lisahughes@givenspursley.com
lorigibson@givenspursley.com

STROM RANCHES INC
DENNIS STROM
C/O S BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
PO BOX 7985
BOISE ID 83707-7985
bryce@sawtoothlaw.com

AF 2014 TRUST
GEOFFREY SMITH LLC
MARIANA S PAEN TRUST
C/O FRITZ HAEMMERLE
HAEMMERLE & HAMMERLE PLLC
PO BOX 1800
HAILEY ID 83333
fxh@haemlaw.com

ANIMAL SHELTER OF WOOD RIVER
VALLEY
DENNIS J CARD & MAUREEN M MCCANTY
EDWARD A LAWSON
FLYING HEART RANCH II SUBDIVISION
OWNERS ASSN
HELIOS DEVELOPMENT LLC
SOUTHERN COMFORT HOMEOWNERS
ASSN
THE VILLAGE GREEN VCHOA
C/O JAMES R LASKI
HEATHER O'LEARY
LAWSON LASKI CLARK & POGUE PLLC
PO BOX 3310
KETCHUM ID 83340
heo@lawsonlaski.com
jrl@lawsonlaski.com

IDAHO FOUNDATION FOR PARKS AND
LANDS INC
C/O CHAS MCDEVITT
MCDEVITT & MILLER LLP
PO BOX 2564
BOISE ID 83701
chas@mcdevitt-miller.com

C/O EILEEN MCDEVITT
732 FALLS VIEW DR
TWIN FALLS ID 83301
emcdevitt1@msn.com

CITY OF BELLEVUE
MICHELLE WOLF
C/O CANDICE MCHUGH
CHRIS BROMLEY
MCHUGH BROMLEY PLLC
380 S 4TH STREET STE 103
BOISE ID 83702
cmchugh@mchughbromley.com
cbromley@mchughbromley.com

ECCLES FLYING HAT RANCH LLC
ECCLES WINDOW ROCK RANCH LLC
HOLLY FARMS LTD
J EVAN ROBERTSON
SUN VALLEY WATER & SEWER DISTRICT
C/O J EVAN ROBERTSON
ROBERTSON & SLETTE PLLC
PO BOX 1906
TWIN FALLS ID 83303-1906
erobertson@rsidaholaw.com

IDAHO POWER COMPANY
C/O JOHN K SIMPSON
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139
jks@idahowaters.com
jlw@idahowaters.com

AIRPORT WEST BUSINESS PARK OWNERS
ASSN INC
AQUARIUS SAW LLC
ASPEN HOLLOW HOMEOWNERS ASSN
(ALLAN PATZER & WILLIAM
LEHMAN)
B LAMBERT TRUST (TOBY B LAMBERT)
BARBER FAMILY ASSOCIATES LP
BARRIE FAMILY PARTNERS
BELLEUE FARMS LANDOWNERS ASSN
INC
BLAINE COUNTY RECREATION DISTRICT
BLAINE COUNTY SCHOOL DIST NO. 61
CAROL BURDZY THIELEN
CHANEY CREEK RANCH LLC
CHARLES & COLLEEN WEAVER
CHARLES L MATTHIESEN
CLEAR CREEK LLC
CLIFFSIDE HOMEOWNERS ASSN INC
COMMUNITY SCHOOL (JANEL L
GODDARD)
DAN S FAIRMAN MD & MELYNDA KIM
STANDLEE FAIRMAN
DEER CREEK FARM (LYNN CAMPION)
DON R & JUDY H ATKINSON
DONNA F TUTTLE TRUST
ELIZABETH K GRAY
F ALFREDO REGO
FLOWERS BENCH LLC
GOLDEN EAGLE RANCH HOA INC
GREENHORN HOMEOWNERS ASSN
(JEFFREY T SEELY)
GRIFFIN RANCH PUD SUBDIVISION HOA
(CHERI HICKS)

GRIFFIN RANCH SUBDIVISION HOA
(CHERI HICKS)
GULCH TRUST (TERESA L MASON)
HEATHERLANDS HOMEOWNERS ASSN
HENRY & JANNE BURDICK
IDAHO RANCH LLC
JAMES K & SANDRA FIGGE
JAMES P & JOAN CONGER
KIRIL SOKOLOFF
LAURA L LUCERE
LINDA WOODCOCK
LOUISA JANE H JUDGE
MARGO PECK
MARION R & ROBERT M ROSENTHAL
MATS & SONYA WILANDER
MICHAEL E WILLARD
MID-VALLEY WATER CO LLC
PIONEER RESIDENTIAL & RECREATIONAL
PROPERTIES LLC
R THOMAS GOODRICH & REBECCA LEA
PATTON
RALPH R LAPHAM
RED CLIFFS HOMEOWNERS ASSOCIATION
REDCLIFF PARTNERS LP (RANNEY E
DRAPER)
RHYTHM RANCH HOMEOWNERS ASSN
RIVER ROCK RANCH LP (SHEILA WITMER)
ROBERT ROHE
SAGEWILLOW LLC
SALIGAO LLC
SANDOR & TERI SZOMBATHY
SCI PROPERTIES LLC (BRENDA A LEVINE)
STARLITE HOMEOWNERS ASSN
STONEGATE HOMEOWNERS ASSN LLC
THE ANNE L WINGATE TRUST
THE BARKER LIVING TRUST
THE DANIEL T MONOOGIAN REVOCABLE
TRUST
THE JONES TRUST
THE RALPH W & KANDI L GIRTON 1999
REVOCABLE TRUST
THE RESTATED MCMAHAN 1986
REVOCABLE TRUST
THE VERNON IRREVOCABLE TRUST
THOMAS W WEISEL
TIMBERVIEW TERRACE HOA INC
WEBB LANDSCAPE INC (MARK PALMER)
C/O JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340
jim@speckandaanestad.com

DEAN R ROGERS INC (DEAN R ROGERS III)
C/O LAIRD B STONE
STEPHAN KVANVIG STONE & TRAINOR
PO BOX 83
TWIN FALLS ID 83303-0083
sk&t@idaho-law.com

CATHERINE S DAWSON REVOCABLE
TRUST
DEER CREEK RANCH INC
ROBERT L BAKER REVOCABLE TRUST
SYRINGA RANCH LLC
C/O TRAVIS L THOMPSON
BARKER RSHOLT & SIMPSON LLP
195 RIVER VISTA PL STE 204
TWIN FALLS ID 83301-3029
lt@idahowaters.com

ANTHONY & JUDY D ANGELO
PO BOX 3267
KETCHUM ID 83340
judydangelore@gmail.com

BARBARA CALL
PO BOX 4
ROSS CA 94957
barbcall@shcglobal.net

BERNARD I FRIEDLANDER PHD
116 VALLEY CLUB DRIVE
HAILEY ID 83333

BLACK BUTTE HILLS LLC
PO BOX 333
FAIRFIELD ID 83327
camascreek@hughes.net

BLUEGROUSE RIDGE HOA
C/O BRIAN MCCOY
PO BOX 3510
KETCHUM ID 83340
brian@seabrd.net

BRIAN L SMITH & DIANE STEFFEY-SMITH
PO BOX 629
BELLEVUE ID 83313
brianlamarsmith@me.com

BRITTA S HUBBARD
PO BOX 1167
KETCHUM ID 83340
brittahubbard@gmail.com

BRUCE & KAREN TRUXAL
PO BOX 431
BELLEVUE ID 83313
btruxal@powereng.com

CANADIAN CLUB
HOMEOWNERS ASSN
PO BOX 4041
KETCHUM ID 83340

CATTLE-LACK RANCH HOA
11 PURPLE SAGE LANE
BELLEVUE ID 83313
pepin1776@gmail.com

CLARE & KAREN OLSON
OKC RANCHES
PO BOX 136
HILL CITY ID 83337

COLD SPRINGS WATER COMPANY
PO BOX 254
KETCHUM ID 83340

DAVID A & KAREN L SIMON
PO BOX 545
FAIRFIELD ID 83327

DAVID BERMAN
PO BOX 1738
CAVE CREEK AZ 85327
berman.dlb@gmail.com

DEBORAH L & MATT A MCLAM
PO BOX 253
FAIRFIELD ID 83327

DENNIS STROM WATER DISTRICT 37-B
GROUNDWATER GROUP
PO BOX 137
HILL CITY ID 83337-0137

DOUGLAS C WALTON
DIANA L WHITING
109 RIVER GROVE LN
HAILEY ID 83333

ERNEST & JUDITH GETTO TRUST
ERNEST J GETTO
417 ENNISBROOK DR
SANTA BARBARA CA 93108

FLOYD CRANDALL WATER DISTRICT 37-B
GROUNDWATER GROUP
29 E HWY 20
FAIRFIELD ID 83327

GARY HOFFMAN
PO BOX 1529
KETCHUM ID 83340

GREGORY R BLOOMFIELD
REVOCABLE TRUST
PO BOX 757
HAILEY ID 83333

GWINN RICE RANCH INC
PO BOX 131
HILL CITY ID 83337

HARRY S RINKER
949 SOUTH COAST DR STE 500
COSTA MESA CA 92626
hrinker@rinkercompany.com

HARRY S RINKER
PO BOX 7250
NEWPORT BEACH CA 92658
toni@rinkercompany.com

HEATHERLANDS HOMEOWNERS
ASSOCIATION INC
PO BOX 1672
SUN VALLEY ID 83353

H PHILIP CASH
607 E 200 S
FAIRFIELD ID 83327

HULEN MEADOWS WATER COMPANY AND
ASSN INC
PO BOX 254
KETCHUM ID 83340

INNOVATIVE MITIGATION SOLUTIONS LLC
2918 N EL RANCHO PL
BOISE ID 83704

JAMES D WHITE
PO BOX 367
BELLEVUE ID 83313
jwhite@q.com

JARED R WILLIAMS
REVOCABLE TRUST
PO BOX 99658
SEATTLE WA 98139

JIM W KOONCE
PO BOX 2015
HAILEY ID 83333

KATHERINE BRECKENRIDGE
B BAR B INC
PO BOX 685
PICABO ID 83348

KEN SANGHA
ASAM TRUST
PO BOX 9200
KETCHUM ID 83340
kensangha@gmail.com

KEVIN D LAKEY
WATER DISTRICT 37
107 W 1ST
SHOSHONE ID 83352
watermanager@cableone.net

LAWRENCE SCHOEN
18351 US HWY 20
BELLEVUE ID 83313

LOU ANDERSON WATER DISTRICT 37-B
GROUNDWATER GROUP
PO BOX 141
FAIRFIELD ID 83327

LUBOFF SENAUSKY &
CHARLES TIMOTHY FLOYD
PO BOX 1240
EAGLE ID 83616
bsfloyd@mac.com

MARLYS J SCHMIDT
10901 HWY 75
BELLEVUE ID 83313
mjschmidt49@msn.com

NANCIE C TATUM &
THOMAS F HENNIG
PO BOX 1365
SUN VALLEY ID 83353

PAUL & POLLY CARNEY LLOYD & DEANN
RICHINS MARK & SUSAN WILLIAMS FISH
CREEK RESERVOIR RANCH, LLC
384 2 2900 E
PAUL ID 83347

PAUL & TANA DEAN
40 FREEDOM LOOP
BELLEVUE ID 83313

PETER ZACH SEWELL
LORI SEWELL
PO BOX 3175
HAILEY ID 83333
zlsewell@gmail.com

PHILIP J VANDERHOEF
KATHLEEN MCKAY
5069 HAROLD PL NE
SEATTLE WA 98105

POPPY ENGLEHARDT
10965 HIGHWAY 75
BELLEVUE ID 83313

RALPH P CAMPANALE II
PO BOX 3778
KETCHUM ID 83340
rcampanalemd@qwestoffice.net

ROBERT BOUTTIER
PO BOX 476
BELLEVUE ID 83313

ROBERT & JUDITH PITTMAN
121 LOWER BROADFORD RD
BELLEVUE ID 83313

ROBERT J STRUTHERS
762 ROBERT ST PICABO ROUTE
BELLEVUE ID 83313

RUSTY KRAMER
WATER DISTRICT 37B
PO BOX 591
FAIRFIELD ID 83327
waterdistrict37b@outlook.com

SAGE SPRINGS HOMEOWNERS
ASSN INC
PO BOX 254
KETCHUM ID 83340

SILVER SAGE OWNERS ASSN INC
C/O CAROL'S BOOKKEEPING
PO BOX 1702
KETCHUM ID 83340

SMOKEY DOME LLC
PO BOX 333
FAIRFIELD ID 83327

SOUTH COVE VENTURES LLC
PO BOX 333
FAIRFIELD ID 83327
camascreek@hughes.net

STARWEATHER OWNERS ASSN INC
PO BOX 254
KETCHUM ID 83340

STEVEN C FUNK
90 FREEDOM LOOP
BELLEVUE ID 83313

SV RANCH LLC
PO BOX 333
FAIRFIELD ID 83327
camascreek@hughes.net

THOMAS & AMY MISTICK
149 ASPEN LAKES DR
HAILEY ID 83333

USDA FOREST SERVICE
ATTN JAMIE GOUGH
324 25TH ST
OGDEN UT 84401
jgough@fs.fed.us

VALLEY CLUB OWNERS ASSN INC
PO BOX 254
KETCHUM ID 83340

WILLIAM A SIMON WATER DISTRICT 37-B
GROUNDWATER GROUP
PO BOX 364
FAIRFIELD ID 83327

WILLIAM R & KATHRYN L RATLIFF
206 BAYHORSE RD
BELLEVUE ID 83313

WOOD RIVER LAND TRUST
119 E BULLION ST
HAILEY ID 83333

COURTESY COPIES TO:

ED REAGAN
COURIER NEWS
PO BOX 339
FAIRFIELD ID 83327
news@highway46.org


Deborah Gibson
Administrative Assistant