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JUL 16 2015

DEPARTMENT OF
WATER RESOURCES

Scott L. Campbell, ISB No. 2251
Matthew J. McGee, ISB No. 7979
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
slc@moffatt.com
mjm@moffatt.com
16845.0025
16845.0026

Attorneys for Sun Valley Company

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

**AFFIDAVIT OF MATTHEW J. McGEE
IN SUPPORT OF SUN VALLEY
COMPANY'S MOTION TO COMPEL**

**AFFIDAVIT OF MATTHEW J. McGEE IN SUPPORT
OF SUN VALLEY COMPANY'S MOTION TO COMPEL - 1**

Client:3891897.1

STATE OF IDAHO)
) ss.
County of ADA)

MATTHEW J. McGEE, having been duly sworn upon oath, deposes and states as follows:

1. I am an attorney representing the Sun Valley Company ("Sun Valley") in the above-captioned proceedings. As such, I have personal knowledge regarding the facts set forth herein.

2. On May 19, 2015, Sun Valley served its First Set of Discovery Requests (the "Discovery Requests") on Petitioners. The Discovery Requests included seven (7) interrogatories and twelve (12) requests for production.

3. On May 29, 2015, I conveyed via letter the importance of timely responses in light of the potentially condensed time-frame of the water delivery call proceedings. Attached hereto as Exhibit A is a true and correct copy of my letter to counsel for the Petitioners, dated May 29, 2015.

4. The Petitioners failed to respond to the Discovery Requests on or before June 22, 2015.

5. On July 2, 2015, I reiterated the importance of the outstanding Discovery Requests, in light of the date of the hearing and the need for depositions, and granted the Petitioners an extension to respond until July 13, 2015. Attached hereto as Exhibit B is a true and correct copy my letter to counsel for Petitioners, dated July 2, 2015. I received no response to the letter.

6. On July 13, 2015, I left a voicemail with counsel for Petitioners requesting a return telephone call concerning the outstanding Discovery Requests.

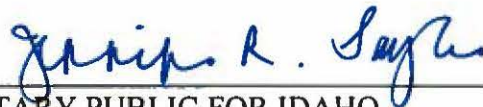
7. On July 14, 2015, I e-mailed counsel for the Petitioners requesting prompt response to the outstanding Discovery Requests. Attached hereto as Exhibit C is a true and correct copy of that correspondence. I received a telephone call from counsel for the Petitioners in response, indicating that submissions from some of the Petitioners would be forthcoming by the end of July.

Further your affiant sayeth naught.



Matthew J. McGee

SUBSCRIBED AND SWORN to before me this 16th day of July, 2015.



NOTARY PUBLIC FOR IDAHO

Residing at Beise, ID

My Commission Expires 9/13/18

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of July, 2015, I caused a true and correct copy of the foregoing **AFFIDAVIT OF MATTHEW J. McGEE IN SUPPORT OF SUN VALLEY COMPANY'S MOTION TO COMPEL** to be served by U.S. Mail and addressed to the following:

JOSEPH F JAMES
BROWN & JAMES
130 FOURTH AVENUE WEST
GOODING ID 83330

ALBERT BARKER
BARKER RSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139

PATRICK D BROWN
PATRICK D BROWN PC
PO BOX 125
TWIN FALLS ID 83303

RANDALL C BUDGE
RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391

SUSAN E BUXTON
CHERESE D MCLAIN
MOORE SMITH
950 W BANNOCK ST STE 520
BOISE ID 83702

MICHAEL C CREAMER
MICHAEL P LAWRENCE
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720

S BRYCE FARRIS
SAWTOOTH LAW PLLC
PO BOX 7985
BOISE ID 83707

FRITZ X HAEMMERLE
HAEMMERLE LAW PLLC
PO BOX 1800
HAILEY ID 83333

JAMES R LASKI
HEATHER E O'LEARY
LAWSON LASKI CLARK & POGUE
PO BOX 3310
KETCHUM ID 83340

CHAS F MCDEVITT
MCDEVITT & MILLER LLP
PO BOX 2564
BOISE ID 83701

EILEEN MCDEVITT
732 FALLS VIEW DR
TWIN FALLS ID 83301

CANDICE MCHUGH
MCHUGH BROMLEY
380 S 4TH ST STE 103
BOISE ID 83702

J EVAN ROBERTSON
ROBERTSON & SLETTE PLLC
PO BOX 1906
TWIN FALLS ID 83303-1906

JOHN K SIMPSON
BARKER RSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139

JAMES P SPECK
SPECK & AANESTAD PC
PO BOX 987
KETCHUM ID 83340

LAIRD B STONE
STEPHAN KVANVIG STONE
PO BOX 83
TWIN FALLS ID 83303-0083

TRAVIS THOMPSON
BARKER RSHOLT & SIMPSON
195 RIVER VISTA PL STE 204
TWIN FALLS ID 83301-3029

ANTHONY & JUDY D ANGELO
PO BOX 3267
KETCHUM ID 83340

BARBARA CALL
PO BOX 4
ROSS CA 94957

BERNARD I FRIEDLANDER PHD
116 VALLEY CLUB DR
HAILEY ID 83333

BLACK BUTTE HILLS LLC
PO BOX 333
FAIRFIELD ID 83327

BLUEGROUSE RIDGE HOA
BRIAN MCCOY
PO BOX 3510
KETCHUM ID 83340

BRIAN LAMAR SMITH
DIANE STEFFEY-SMITH
PO BOX 629
BELLEVUE ID 83313

BRITTA S HUBBARD
PO BOX 1167
KETCHUM ID 83340

BRUCE & KAREN TRUXAL
PO BOX 431
BELLEVUE ID 83313

CANADIAN CLUB
HOMEOWNERS ASSN
PO BOX 4041
KETCHUM ID 83340

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

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

HARRY S RINKER
PO BOX 7250
NEWPORT BEACH CA 92658

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

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

KEVIN D LAKEY
107 W 1ST
SHOSHONE ID 83352

LAWRENCE SCHOEN
18351 US HWY 20
BELLEVUE ID 83313

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

LUBOFF SENAVSKY &
CHARLES TIMOTHY FLOYD
PO BOX 1240
EAGLE ID 83616

MARLYS J SCHMIDT
10901 HWY 75
BELLEVUE ID 83313

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

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

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
PO BOX 591
FAIRFIELD ID 83327

SAGE SPRINGS HOMEOWNERS
ASSN INC
PO BOX 254
KETCHUM ID 83340

SILVER SAGE OWNERS ASSN INC
C/O CAROLS 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

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

THOMAS & AMY MISTICK
149 ASPEN LAKES DR
HAILEY ID 83333

USDA FOREST SERVICE
ATTN JAMIE GOUGH
324 25TH ST
OGDEN UT 84401

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

ED REAGAN
COURIER NEWS
PO BOX 339
FAIRFIELD ID 83327


Matthew J. McGee

EXHIBIT A

MOFFATT THOMAS

Attorneys at Law

Matthew J. McGee

(208) 385-5416
mjm@moffatt.com

MAILING ADDRESS:
PO Box 829
Boise ID 83701-0829

www.moffatt.com

PHYSICAL ADDRESS:
101 S Capitol Blvd 10th Fl
Boise ID 83702-7710

208.345.2000 MAIN
800.422.2889 TOLL-FREE
208.385.5384 FAX

May 29, 2015

Joseph F. James
Brown & James
130 Fourth Ave. W.
Gooding, ID 83330

Re: Discovery in Case Nos. CM-DC-20015-001 and CM-DC-20015-002
MTBR&F File No. 16845.0025 and 16845.0026

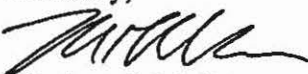
Dear Mr. James:

The purpose of this letter is to follow up on the written discovery requests directed to your clients on May 19, 2015. Under the applicable rules, your clients' responses are due on June 22, 2015. In light of immediacy with which the Director has indicated he expects to hold a hearing and address what the Department has deemed a delivery call under the Conjunctive Management Rules, it is absolutely critical that my client receive a timely response to such requests. Your clients' complete and timely responses will be critical to allow my client to adequately prepare its experts, and more broadly evaluate your clients' claims.

The other reason your clients' timely responses are critical is that additional and more targeted written discovery and depositions must necessarily proceed at an expedited pace in light of the timeline for a hearing proposed by the Director at the status conference of May 4, 2015. To that end, please provide available dates in July and August 2015 for the Rule 30(b)(6) depositions of the Big Wood and Little Wood Water Users Association (the "Association"), as well as the Big Wood Canal Company, who we understand is a member of the Association. We hope that, in light of the scope of this administration and the number of parties involved, we can likewise cooperate in coordinating availability for depositions with respect to additional witnesses, which we assume will be disclosed in your clients' discovery responses on June 22, 2015.

We look forward to receiving your responses to written discovery, and available dates, in short order. Should you have any questions about the foregoing, please do not hesitate to call.

Sincerely,



Matthew J. McGee

MJM/jrt

EXHIBIT B

MOFFATT THOMAS

Attorneys at Law

Matthew J. McGee

(208) 385-5416

mjm@moffatt.com

MAILING ADDRESS:
PO Box 829
Boise ID 83701-0829

www.moffatt.com

PHYSICAL ADDRESS:
101 S Capitol Blvd 10th Fl
Boise ID 83702-7710

208.345.2000 MAIN
800.422.2889 TOLL-FREE
208.385.5384 FAX

July 2, 2015

Joseph F. James
Brown & James
130 Fourth Ave. W.
Gooding, ID 83330

Re: Discovery in Case Nos. CM-DC-20015-001 and CM-DC-20015-002
MTBR&F File No. 16845.0025 and 16845.0026

Dear Mr. James:

I am following up on my correspondence, dated May 29, 2015, regarding discovery in Case Nos. CM-DC-20015-001 and CM-DC-20015-002. As you know, my client directed written discovery requests to the Petitioners on May 19, 2015, meaning the deadline for response was June 22, 2015. We have not yet received any responses, and we are not aware that your clients have replied to the Department's request for information due June 20, 2015.

On or about June 2, 2015, you sought a protective order from the Director related to Sun Valley Company's written discovery requests. Such protective order has not been entered, and accordingly, your clients remain obligated to respond to the discovery requests propounded by my client in accordance with the Idaho Rules of Civil Procedure and the Department's Procedural Rules. Furthermore, the Director indicated at the pre-hearing conference on June 3, 2015 he was inclined to simply require compliance with the Idaho Rules of Civil Procedure by your clients in any event. Additionally, as you acknowledged at the hearing on June 3, 2015, the discovery requests we propounded are in many instances the same or similar to the information requested by the Department, and accordingly, it should not be difficult to organize and respond to them.

You also represented at that hearing that your motion for protective order was directed more toward establishing some limitations on discovery that will apply going forward in light of the numerous potential respondents seeking duplicative information. We are unaware of any other written discovery requests that have been propounded, and we see no reason why you cannot or should not respond to the outstanding discovery requests propounded by my client, especially in light of the urgency with which you have demanded the Director treat the Petitioners' delivery calls. In light of the very detailed and technical nature of the matters that will be submitted to the Director for consideration, it is critical that we have your answers and responsive productions *before* commencing depositions and/or inspections. Please provide responses, verified in accordance with the Idaho Rules of Civil Procedure, on or before July 13, 2015.

Joseph F. James
July 2, 2015
Page 2

On that note, I again request that you provide available deposition dates for the Rule 30(b)(6) deposition of the Big Wood and Little Wood Water Users Association, as well as the Big Wood Canal Company, between July 20, 2015 and August 14, 2015. Please also provide available deposition dates for each of your other individual or entity clients between August 17, 2015 and October 9, 2015. We would prefer to avoid inconveniencing your clients by simply noticing depositions without regard for availability, so your cooperation in this regard is greatly appreciated.

You have represented that your clients seek resolution of their water delivery call by the Director as soon as possible, and the Director has indicated his intent to hold a hearing in January 2016. As I am sure you are aware, that leaves a lot of work to be done in the coming months. In light of the possible impact of the above-referenced proceedings on Sun Valley Company's valuable water rights and business interests, I must insist on your compliance with the Idaho Rules of Civil Procedure and the Department's Procedural Rules, including the timelines set forth therein. Further delay operates to substantially prejudice my client's ability to defend its rights and interests.

We look forward to receiving your responses to written discovery, and available deposition dates, on or before July 13, 2015. If you have any questions or concerns about any of the foregoing, please do not hesitate to contact me or Scott Campbell.

Sincerely,



Matthew J. McGee

MJM/jrt

EXHIBIT C

Jennifer Taylor

From: Matt McGee
Sent: Tuesday, July 14, 2015 12:03 PM
To: joe@brownjameslaw.com
Cc: Scott Campbell
Subject: Sun Valley Company Discovery Requests [MT-C.FID672084]

Mr. James,

I am following up on my correspondence, dated July 2, 2015, as well as my voicemail from yesterday, July 13, 2015. Please call me immediately to discuss when we will receive the Petitioners' responses. The responses to Sun Valley Company's written discovery requests were due on June 22, 2015. No responses were served. On July 2, 2015, we followed up with you concerning the status of the responses, granting the Petitioners until July 13, 2015 to serve the untimely responses. No responses were served, and I received no response from your office concerning the status thereof. Yesterday, on July 13, 2015, I left you a voicemail requesting that you contact me about the status of the Petitioners' responses. I have received no response.

As you know, the Director has scheduled a hearing for the Petitioners' water delivery calls to occur in January 2016, a mere six months from now. In light of the complexity of these matters, it is absolutely critical that we receive the Petitioners responses immediately so we can commence depositions, and if necessary, additional targeted written discovery, as well as our own evaluation of defenses. The delay associated with your clients' complete non-responsiveness continues to prejudice my client.

Again, please call me to discuss when we can expect the Petitioners' responses. Time is of the essence. If we cannot resolve this matter and promptly receive your responses, we will be forced to file a motion to compel, and we will seek all costs and fees associated with such motion.

MATTHEW J. MCGEE

Attorney

**MOFFATT
THOMAS**
Attorneys at Law

Direct 208 385 5416

Main 208 345 2000

Fax 208 385 5384

MJM@moffatt.com

<http://www.moffatt.com>

Mailing Address:

P.O. Box 829
Boise, ID 83701-0829

Physical Address:

101 S. Capitol Blvd., 10th Floor
Boise, ID 83702-7710