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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE REQUEST)	
FOR ADMINISTRATION OF WATER)	Case No. CM-DC-2015-001
RIGHTS UNDER THE PRIOR)	
APPROPRIATION DOCTRINE BY)	
MEMBERS OF THE BIG & LITTLE)	
WOOD WATER USERS ASSOCIATION)	ASSOCIATION'S RESPONSE TO THE
DIVERTING FROM THE BIG WOOD)	DIRECTOR'S REQUEST FOR
RIVER)	INFORMATION
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IN THE MATTER OF THE REQUEST)	
FOR ADMINISTRATION OF WATER)	
RIGHTS UNDER THE PRIOR)	Case No. CM-DC-2015-002
APPROPRIATION DOCTRINE BY)	
MEMBERS OF THE BIG & LITTLE)	
WOOD WATER USERS ASSOCIATION)	
DIVERTING FROM THE LITTLE)	
WOOD RIVER)	

COMES NOW, the Big & Little Wood Water Users Association, by and through its attorney, Joseph F. James, of Brown & James, and hereby respond to the Director of the Department of Water Resources and provide additional information as follows:

1. Attachment 1 hereto provides a list of water rights for the senior surface water users diverting from the Big Wood River. Attachment 2 hereto provides a list of water rights for the senior surface water users diverting from the Little Wood River. Attachments 1 and 2 list the current owners of the listed water rights. Those current owners, which were not previously shown

on the Department records, have either contacted the Department's southern regional office to update the Department's records, or are in the process of updating the Department's records.

2. Attachment 1 and 2 provides the name and number of diversions for each water right listed to the best of the Association's knowledge. Attachment 3 hereto provides a map illustrating most of the diversions along the Big Wood River. Attachment 4 hereto provides a map illustrating most of the diversions along the Little Wood River. Attachment 5 hereto provides a map highlighting Big Wood Canal Company's diversions along the Little Wood River. Attachment 6 hereto provides a map illustrating Big Wood Canal Company's South Main #15 diversion. Attachment 7 hereto provides a map illustrating Big Wood Canal Company's Dietrich Main #11 diversion and Big Wood Canal Company's Lezamiz #59 diversion. Attachment 8 hereto provides a map illustrating Big Wood Canal Company's Slough Ditch #93 diversion. Attachment 9 hereto provides a map illustrating Big Wood Canal Company's Carpenter Ditch #98 diversion.

3. Attachment 1 and 2 provides points of injection and/or points of rediversion for each water right listed, to the best of the Association's knowledge. See also, Attachments 3, 4 and 5.

4. The water from Big Wood Canal Company's decree rights is co-mingled with Big Wood Canal Company's other water rights. These water rights are also co-mingled with the water rights of American Falls Reservoir District #2. The place of use of Big Wood Canal Company's decree rights is in the area within the service area boundaries. See Attachment 12. Big Wood Canal Company and American Falls Reservoir District #2 delivers water to their shareholders as requested by the shareholders and pursuant to its shareholder certificate.

5. Attachment 1 and 2 provides a description of the measuring devices at the point of final diversion for the listed water rights to the best of the Association's knowledge.

6. Attachment 1 and 2 describes the method of conveyance for the listed water rights to the best of the Association's knowledge.

7. To the best of the Association's knowledge, the point of use maps provided with the Request of Information, as supplemented via email on June 11, 2015, accurately describe the places of use for the listed water rights. Further, Attachment 1 and 2 provides the method of application for the listed water rights.

8. The Association is in the process of obtaining crop histories from the senior surface water right holders. Some of the senior surface water right holders have purchased their property and water rights after 2004. See Attachments 13, 14, 15, 17, and 18. The Association will supplement as more information becomes available.

9. The senior surface water right holders, listed in Attachment 1 and Attachment 2, have not received any benefit from the water exchange provisions contained in Bureau of Reclamation Contract #14-06-W-73, executed on October 14, 1954, as supplemented by Bureau of Reclamation Contract #14-06-100-6031, executed on June 1, 1962. The Association has contacted counsel for the American Falls Reservoir District #2 seeking information regarding how the water exchange provisions have historically been implemented. The Association will supplement as additional information becomes available.

10. Attachment 1 and 2 provides information on supplemental water from the Big Wood Canal Company and/or American Falls Reservoir District #2 regarding the listed water rights.

11. Attachment 11 hereto provides a hardcopy map. The areas shaded in blue represent the location of irrigated acres served by the Big Wood Canal Company. The Association is unable to identify whether the highlighted areas receive a supplemental supply or a full water supply from the Big Wood Canal Company and/or American Falls Reservoir District #2. Attachment 12 provides a hardcopy map of the service area for the Big Wood Canal Company and American Falls Reservoir District No. 2.

12. Attachment 11 provides a hardcopy map. The green highlighted areas represent the delivery network of canals and laterals for the Big Wood Canal Company and American Falls Reservoir District #2. The blue stars represent the location of the measuring devices.

13. Attachment 11 provides a hardcopy map. The blue areas represent the areas where water from Magic Reservoir is used.

14. The full head gate allotment for Big Wood Canal Company shareholders and American Falls Reservoir District #2 shareholders equals $\frac{5}{8}$ of an inch per acre.

15. Attachment 1 and 2 identifies, to the best of the Association's knowledge, whether supplemental water is available from any other source other than Big Wood Canal Company and/or American Falls Reservoir District #2.

16. The senior surface water right holders have suffered from premature curtailment of delivery of their water rights. The premature curtailment has resulted in material injury. Attachment 16 provides the priority cuts for the years 1975 through 2015. Attachments 19 through 66 provides the delivery record for each senior surface water user for the years 2003 through 2014. Generally, the reduction and/or curtailment of senior surface rights has resulted in less than maximum crop yields being obtained. Additionally, individual senior surface water users have provided specific information.

Alton Huyser, operator for Michelle Stennett, states that for the years of 2009 through 2013, a steady reduction in the flow of the Little Wood River, resulted in three cuttings of hay per year, rather than four. The reduction in flow has also resulted in a loss of quality producing soft white winter wheat. During the irrigation season of 2013, the decree rights were turned off early. The early turn off required Mr. Huyser to rent additional water. Likewise, in 2014, Mr. Huyser was also required to rent additional water as a result of the early turn off of Ms. Stennett's decree rights.

Fred Brossy, operator of Barbara Farms and Ernie's Organics, states that on July 9, 2013, water right number 37-973 was cut, resulting in a 33% reduction in his irrigation water delivery. At that time, the 314 acre feet of "contract water" was no longer available to use as a back up to his decreed water rights. He was able to rent 100 acre feet of water from the State Water Bank and small rental pool to help cover the shortfall of the cost of \$1,700.00 to Water District #1, and \$800.00 to American Falls Reservoir District #2 for wheeling, as well as a 10% conveyance loss reducing the amount available to Mr. Brossy to 90 acre feet. Additionally, Mr. Brossy was able to borrow 100 inches of American Falls water from a neighbor for 14 days to help meet his water needs. On August 14, 2013, water right number 37-344A was cut, as well, and if Mr. Brossy had not rented and borrowed water, he would have suffered additional losses to his bean and potato crops which still needed water in August and early September.

Mr. Brossy further states that on June 27, 2014, water right number 37-973 was cut, reducing his decreed water deliveries by 30%. On July 17, 2014, water right number 37-344A was also cut, eliminating Mr. Brossy's decreed water deliveries. Mr. Brossy was required to rent 80 shares of American Falls water from a neighbor at a cost of \$2,050.00. Mr. Brossy was able to receive contract water until August 13, 2014. Had Mr. Brossy not been able to receive his

contract water during July and the beginning of August, even with the 80 shares of rented American Falls Reservoir District #2 water, he would have suffered a total loss on row crops, as well as considerable reduction on alfalfa yields.

Mr. Brossy further states, for the 2015 irrigation season, after conversations with Kevin Lakey, District #37 Watermaster, Mr. Brossy anticipated early cut offs of both of his river decree rights. Accordingly, he rented 900 acre feet (747 feet net to Mr. Brossy with a 17% conveyance loss charged by American Falls Reservoir District #2) as a cost of \$18,765.00 (\$20.85 per acre foot to Idaho Irrigation District) plus \$5,976.00 (\$8.00 per acre foot to American Falls Reservoir District #2 for wheeling) for a total of \$24,741.00. Without being able to rent water at a significant cost, Mr. Brossy would be unable to grow the row crops this year that he has traditionally raised.

Rodney and Kaysi Hubsmith state that they bought their farm in 1980 with no history of curtailment. Starting in 1992, curtailments were yearly, due to low flows in the river. As years progressed, curtailment became more regular. Low water levels seemed to follow with the over-development of the Wood River Valley, and the extended irrigated acres in the Bellevue Triangle. The Hubsmith's installed a piping conveyance system, and in 2010 installed a pressurized irrigation system, including pivots and hand lines.

The Hubsmith's further state that their losses have been significant, as they have been unable to finish their crops, planting shorter maturity crops, oats instead of corn. They put off planting new seeding alfalfa because of short water years. The Hubsmiths' were basically unable to put the crops in that would have normally been put in. They estimated that overall, the early and continuing curtailments have cost them enormously. They state that they have sufficient land to provide feed for their operation if the water curtailments had not increased and become more

regular. As a result of the continuing curtailments, they have been forced to buy feed from outside sources. They have also been required to sell their cattle early because there has not been enough feed.

The Hubsmith's further state that they have been in the dairy business for 28 years and have bought enough land to be self-sustaining. However, they find themselves buying more and more acreage to be at the same self-sustaining level with the same number of cows.

Additionally, the Hubsmith's state that they have suffered losses due to immature crops. In 2013, they planted silage corn only to lose their water after 70 days (planted 90 day corn). The early curtailment of water in 2013 resulted in a reduction in yield by 1/3, and losses of about 1/3 of the feed value. They state that the short irrigation seasons that have become the norm have produced a domino effect. The income from their cattle has been affected by short irrigation seasons. Typically, they would market their cattle in July or August. In the last few years, they have been selling their cattle in February, March or April, knowing the pasture feed will be short due to the early irrigation curtailment.

Jeff Ward is the manager of 7 Mile Ranch. Mr. Ward states that beginning in 2008, a portion of the real property began to be farmed by Donnelly Farms. To increase efficiency, a pivot was put on 50 acres and corrugates were eliminated. In 2012, 7 Mile Ranch put wheel lines on another 50 acres and Donnelly Farms began farming that parcel, as well.

Linda and James Ritter state that traditionally, their water rights have not been subject to curtailment or reduction. However, their water was cut in July of 2014. Because of this early curtailment, Mr. and Mrs. Ritter were forced to buy supplemental hay for their cattle herd. They spent \$6,925.00 on supplemental hay to get through the feeding season.

Additionally, a portion of Linda and James Ritter's farm was leased by Donnelly Farms, commencing in 2011. At that time, two small pivots were installed. Don Taber is the operator of Donnelly Farms. Mr. Taber indicates that the portion of the water he has leased from Linda and James Ritter has been good water. However, in 2014, there was no water in the river to pump.

Don Taber holds senior surface water rights in the Little Wood River. Mr. Taber states that typically he can irrigate through the season with his river decree rights. However, occasionally he has had to use a supplemental well to complete the irrigation season. His supplemental well was used to a limited extent in 2004, 2007 and 2008. This resulted in additional development and pumping costs to Mr. Taber.

Mr. Taber further states that 2013 was a short water year. He was required to run his supplemental well for a significant period of time. In addition to running his supplemental well, he moved water around, including rented water, in order to finish his crops. It was also necessary to let his alfalfa dry up to finish his corn and sugar beets. Accordingly, Mr. Taber suffered reduced yields on his alfalfa.

Mr. Taber states that 2014 was the worst water year in memory. All of his decreed rights went off early. The river went completely dry and there was no water for his pumps. The timely rains in the last part of July and the first part of August saved his crops, yet he still suffered significant loss and reduced yields.

Bill and John Arkoosh hold senior surface water rights in the Big and Little Wood Rivers. They are partners in Tunupa Cattle and the partnership manages their combined farming operations. John Arkoosh states that over the past several years, Tunupa Cattle has experienced earlier priority cuts on decreed water rights. Over the past 10 years, they have had to pump a supplemental well more often and some years are required to lease extra water from outside

sources to finish their crops. Before the early 1990's they rarely had to use their supplemental well. Due to the earlier and earlier priority cuts, they have been required on short water years to stagger their hay cutting in order to shuffle their water. This involves cutting, baling and stacking from 1/4 to 1/5 of their hay before moving to the next position. This is not an efficient way to harvest hay, and results in production and quality losses. They have also found it necessary to dry up irrigation pasture in the late summer in order to finish more valuable crops.

Mr. Arkoosh states that in 2013, they pumped their supplemental well for over 2 months with a diesel engine. In 2014, they ran an electrical line in order to be more efficient and save expenses. In 2014, the well did not produce a single drop of water, as it had run dry and was unsalvageable. In anticipation of further difficulty in obtaining their water, they decided it was necessary to drill a new well for insurance against the increasing earlier priority cuts. Mr. Arkoosh states that he has quantified what he considers to be material injury over the last 3 years. These expenses include the following costs: In 2013, \$6,895.00 was spent leasing water. Approximately \$23,000.00 was spent on diesel fuel to pump the supplemental well. Pasture was dried up in late summer resulting in production losses. \$6,906.00 was spent in an attempt to rebuilt and lower the well pump. In 2014, \$20,782.00 was spent on three phase electrical service to the well. \$3,750.00 was spent on a 150 horsepower electric motor. \$7,996.00 was spent on electrical wiring and a pump panel. \$5,000.00 was spent in an unsuccessful attempt to deepen the well. \$600.00 was spent to explore old well with a video camera and experts concluded that they needed a new and deeper well. \$37,295.00 was spent to lease water. In 2015, \$63,600 was spent on drilling a new well. \$40,519.00 was spent on test pumping and changing out and lowering the pump to match the well capacity. \$16,680.00 was spent on leasing water, and they anticipate spending another \$7,000.00 on leased water to finish the summer.

Steve and Wendy Mohr have senior surface water rights out of the Little Wood River. They state that due to the decreased availability of water, a decreased amount has been utilized on crops by having to reduce the amount of water placed on the crops. This has resulted in crops growing in less than optimal conditions and, while not quantifiable, maximum yields have not been obtained.

Mark Sabala is an operator for M & M Farms and Sabala Farms. These entities also lease farm ground from Tina Iest. Mr. Sabala states that the loss of decreed water early in the water season, results in having to let pasture ground dry up, and having to use feed inventories early, purchase additional feed, and/or rent additional pasture. The biggest impact is being restricted to growing wheat on substantial acres which is currently at break-even prices instead of a more profitable crop (corn, hay, potatoes, etc.). In recent years, they lose their decreed right before their grain crops are finished, so the more profitable crops suffer due to pulling water from these crops to finish the grain crops. Traditionally, but for the decreased river flows, there would have been enough decree water to make grain crops.

Further, Mr. Sabala states that when Sabala Farms purchased the property with the appurtenant decree water, they made every effort to use irrigation water efficiently by replacing gravity irrigation with 4 center irrigation pivots and hand line sprinklers. The decreased river flows, and early priority cut offs, has made it difficult to justify their large investment on the new property and irrigation systems.

Dave and Nicole Hults own senior surface water rights out of the Big Wood River. Mr. Hults states that they purchased the property in 2012. Further, he states that they had to move water around in 2013 and 2014, from other farms that they own, to finish their crop following curtailment of their decreed water rights. This resulted in not obtaining maximum yields.

Additionally, in 2015, their decreed water rights were shut off before their pump was even turned on. They had to utilize water from other farms to even put the ground into production.

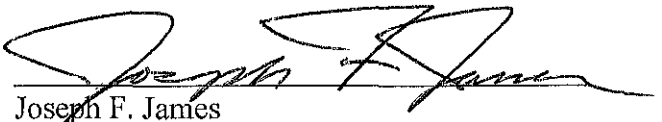
Northview Farms holds senior water rights out of the Big Wood River. They state that due to the early priority cut offs on their decreed river rights, they have had to use and shift around water to the 122.45 acres that are affected by their decree water. Due to them having to share canal water with other farms, and the required rotation, they estimate that they lose approximately 1 ton per acre for each cutting of hay.

Nick Westendorf is a holder of senior surface water rights out of the Big Wood River. He states that in 2013, his barely crop suffered a severe loss of yield due to the early curtailment of their decreed water rights. He estimates he lost approximately 60 bushels per acre. In 2014, a crop of newly seeded alfalfa was lost due to the early priority cuts in their decree water. Ultimately, they had to pay to have the crop sprayed and replanted in 2015. This crop was on 32 acres. Also, he states that they have suffered a general loss in alfalfa yield and pasture growth due to the early priority cuts.

The Association will supplement as additional information becomes available.

DATED this 3rd day of August, 2015.

BROWN & JAMES


Joseph F. James

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 3rd day of August, 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:

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SILVER SAGE OWNERS ASSN INC
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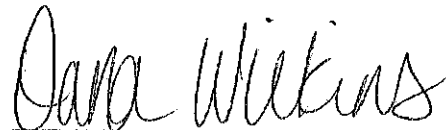
VALLEY CLUB OWNERS ASSN INC
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