

**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 GRANTING SUN VALLEY  
COMPANY'S MOTION TO COMPEL;  
DENYING REQUEST FOR ATTORNEY  
FEES AND COSTS**

**BACKGROUND**

On February 24, 2015, the Director ("Director") of the Idaho Department of Water Resources ("Department") received two conjunctive management water delivery call letters from counsel for members of the Big Wood & Little Wood Water Users Association ("Petitioners"). The letters allege senior surface water users on the Big Wood and Little Wood Rivers are being injured by water users diverting ground water hydraulically connected to the Big Wood and Little Wood Rivers. The letters request the Director regulate junior ground water users consistent with the prior appropriation doctrine.

The Director initiated new contested case proceedings and assigned each delivery call letter its own docket number. The Big Wood Delivery Call was assigned docket no. CM-DC-2015-001. The Little Wood Delivery Call was assigned docket no. CM-DC-2015-002.

On March 20, 2015, the Department sent letters to ground water users the Department identified as potentially affected by one or both of the above-described delivery calls. The purpose of the letters was to inform the water users of the delivery calls and notify them of a planned status conference. The letters invited the water users to file a written notice with the Department if they planned to participate in delivery call proceedings. The Department received over 100 notices of intent to participate, including a notice filed by Sun Valley Company ("SVC").

The Department also published general notice of the delivery calls and the status conference in the Idaho Mountain Express and Camas Courier on March 25th, 2015 & April 1st, 2015; and the Times News on March 26th, 2015 & April 2nd, 2015.

On April 29, 2015, the Department received *Sun Valley Company's Motion for Order Authorizing Discovery*. On May 13, 2015, the Director issued an *Order Authorizing Discovery; Notice of Pre-Hearing Conference*. On May 19, 2015, the Department received *Notice of Service of 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 Petitioners, requesting additional information about Petitioners' diversion and use of water ("Letter"). The Letter requested a response to the information request within thirty days.

On June 2, 2015, Petitioners filed *Petitioner's Motion for Scheduling Order and Motion for Protective Order* asking the Director to suspend authorization of discovery by the parties.

On June 3, 2015, the Director held a prehearing conference. At the prehearing conference the participants discussed information in the Department's possession and how it might be disseminated to the parties and participants. The Director stated he would request that staff prepare memoranda regarding how water is delivered to the Petitioners. The Director also stated the staff memoranda would summarize relevant hydrologic and hydrogeologic data and information in the possession of the Department. The Director issued a *Request for Staff Memoranda* ("Request") on June 12, 2015. The Director stated the "staff memoranda shall be submitted to the presiding officer on or before August 21, 2015, and also served upon the parties to this matter." *Request* at 4.

On July 2, 2015, the Director issued an *Order Denying Motion for Protective Order; Scheduling Order*, denying Petitioner's motion for protective order and ordering discovery to proceed consistent with requirements set forth in the Department's Rules of Procedure and the Idaho Rules of Civil Procedure.

On July 16, 2015, the Department received *Sun Valley Company's Motion to Compel* ("Motion to Compel"). SVC seeks an order from the Director compelling the Petitioners to immediately tender answers and responses to SVC's first set of discovery requests, served on Petitioners on or about May 19, 2015 (the "Discovery Requests"). *Motion to Compel* at 2. SVC asserts "Petitioners have failed to respond, in any manner, to the Discovery Requests" in violation of timetables for responses to discovery requests set forth in the Idaho Rules of Civil Procedure. *Id.* at 3-4. Petitioners submitted no response to SVC's Motion to Compel.

Petitioners' failure to timely respond to SVC's Discovery Requests in accordance with the Idaho Civil Rules of Procedure violates the Director's July 2, 2015, *Order Denying Motion for Protective Order*. The Director will grant the Motion to Compel. SVC also asks the Director to award attorney fees and costs incurred in bringing the Motion to Compel. *Motion to Compel* at 6. However, the Department's Rules of Procedure do not provide for a sanction of attorneys fees in this circumstance. *See* IDAPA 37.01.01.531 (authorizing sanctions for failure to comply with an order compelling discovery). Accordingly, the Director will deny SVC's request for attorney fees and costs incurred in bringing the Motion to Compel.

In addition to Petitioners' failure to timely respond to SVC's Discovery Requests, Petitioners failed to timely respond to the Director's May 20, 2015, Letter. The Department received a response from the Petitioners on August 3, 2015, well after the thirty day deadline established in the Letter.<sup>1</sup> Time is of the essence in the Big Wood and Little Wood Delivery Calls. Petitioners have requested the Director hold a hearing before the 2016 irrigation season. In recognition of the need to timely address the Big Wood and Little Wood Delivery Calls, the Director set a deadline for staff memoranda of August 21, 2015, and sent a letter to participants on June 11, 2015, asking them to reserve the dates of January 11-22, 2016, for hearing. Given the Petitioners' failure to timely respond to SVC's Discovery Requests and the Director's May 20, 2015, Letter, the Director will move the deadline for staff memoranda to August 28, 2015, and vacate the unofficial dates of January 11-22, 2016, for hearing in the Big and Little Wood Delivery Calls.

### ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that SVC's Motion to Compel is GRANTED.

IT IS FURTHER ORDERED that Petitioners must fully respond to SVC's Discovery Requests by August 19, 2015. If Petitioners fail to respond as ordered, the Director may take action as authorized by the Department's Rules of Procedure (IDAPA 37.01.01) including, but not limited to, the issuance of a notice of proposed default.

IT IS FURTHER ORDERED that SVC's request for costs and attorney fees is DENIED.

IT IS FURTHER ORDERED that the deadline for staff memoranda is moved to August 28, 2015. The unofficial hearing dates of January 11-22, 2016, are vacated.

DATED this 12<sup>th</sup> day of August 2015.



GARY SPACKMAN  
Director

---

<sup>1</sup> A copy of the Petitioners' response is posted on the Department's website: <http://www.idwr.idaho.gov/legal-actions/delivery-call-actions/>. The CD accompanying the August 3, 2015, response was missing certain documents. A corrected CD was received by the Department on August 10, 2015. The CD is also posted on the Department's website.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 12<sup>th</sup> 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:

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](mailto:joe@brownjameslaw.com)  
[dana@brownjameslaw.com](mailto:dana@brownjameslaw.com)

---

SOUTH VALLEY GROUND WATER DIST  
C/O ALBERT BARKER  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE ID 83701-2139  
[apb@idahowaters.com](mailto:apb@idahowaters.com)  
[sle@idahowaters.com](mailto: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@pblaw.co](mailto:pat@pblaw.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  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[tjb@racinelaw.net](mailto:tjb@racinelaw.net)  
[jgb@racinelaw.net](mailto: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  
[seb@msbtlaw.com](mailto:seb@msbtlaw.com)  
[cdm@msbtlaw.com](mailto: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](mailto: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](mailto:mcc@givenspursley.com)  
[mpl@givenspursley.com](mailto:mpl@givenspursley.com)  
[lisahughes@givenspursley.com](mailto:lisahughes@givenspursley.com)  
[lorigibson@givenspursley.com](mailto: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](mailto: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](mailto: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](mailto:heo@lawsonlaski.com)  
[jrl@lawsonlaski.com](mailto:jrl@lawsonlaski.com)

---

WATER DISTRICT 37-B GROUNDWATER  
GROUP  
C/O DYLAN B LAWRENCE  
VARIN WARDWELL LLC  
PO BOX 1676  
BOISE ID 83701-1676  
[dylanlawrence@varinwardwell.com](mailto:dylanlawrence@varinwardwell.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](mailto:chas@mcdevitt-miller.com)

C/O EILEEN MCDEVITT  
732 FALLS VIEW DR  
TWIN FALLS ID 83301  
[emdevitt1@msn.com](mailto:emdevitt1@msn.com)

---

CITY OF BELLEVUE  
MICHELLE WOLF  
C/O CANDICE MCHUGH  
CHRIS BROMLEY  
MCHUGH BROMLEY PLLC  
380 S 4<sup>TH</sup> STREET STE 103  
BOISE ID 83702  
[cmchugh@mchughbromley.com](mailto:cmchugh@mchughbromley.com)  
[cbromley@mchughbromley.com](mailto: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](mailto: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](mailto:jks@idahowaters.com)  
[jlw@idahowaters.com](mailto: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  
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  
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  
C/O JAMES P SPECK  
SPECK & AANESTAD  
PO BOX 987  
KETCHUM ID 83340  
[jim@speckandaanestad.com](mailto: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  
[sks&t@idaho-law.com](mailto:sks&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 ROSHOLT & SIMPSON LLP  
195 RIVER VISTA PL STE 204  
TWIN FALLS ID 83301-3029  
[tl@idahowaters.com](mailto:tl@idahowaters.com)

---

ANTHONY & JUDY D ANGELO  
PO BOX 3267  
KETCHUM ID 83340  
[judydanglore@gmail.com](mailto:judydanglore@gmail.com)

---

BARBARA CALL  
PO BOX 4  
ROSS CA 94957  
[barbcall@sbcglobal.net](mailto:barbcall@sbcglobal.net)

---

BERNARD I FRIEDLANDER PHD  
116 VALLEY CLUB DRIVE  
HAILEY ID 83333

---

BLUEGROUSE RIDGE HOA  
C/O BRIAN MCCOY  
PO BOX 3510  
KETCHUM ID 83340  
[brian@seabrd.net](mailto:brian@seabrd.net)

---

BRIAN L SMITH & DIANE STEFFEY-SMITH  
PO BOX 629  
BELLEVUE ID 83313  
[brianlamarsmith@me.com](mailto:brianlamarsmith@me.com)

---

BRITTA S HUBBARD  
PO BOX 1167  
KETCHUM ID 83340  
[brittahubbard@gmail.com](mailto:brittahubbard@gmail.com)

---

BRUCE & KAREN TRUXAL  
PO BOX 431  
BELLEVUE ID 83313  
[btruxal@powereng.com](mailto:btruxal@powereng.com)

---

CANADIAN CLUB  
HOMEOWNERS ASSN  
PO BOX 4041  
KETCHUM ID 83340

---

COLD SPRINGS WATER COMPANY  
PO BOX 254  
KETCHUM ID 83340

---

DAVID BERMAN  
PO BOX 1738  
CAVE CREEK AZ 85327  
[berman.dlb@gmail.com](mailto:berman.dlb@gmail.com)

---

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

---

GARY HOFFMAN  
PO BOX 1529  
KETCHUM ID 83340

---

GREGORY R BLOOMFIELD  
REVOCABLE TRUST  
PO BOX 757  
HAILEY ID 83333

---

HARRY S RINKER  
949 SOUTH COAST DR STE 500  
COSTA MESA CA 92626  
[hrinker@rinkercompany.com](mailto:hrinker@rinkercompany.com)

---

HARRY S RINKER  
PO BOX 7250  
NEWPORT BEACH CA 92658  
[toni@rinkercompany.com](mailto:toni@rinkercompany.com)

---

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  
[jdwhite@q.com](mailto:jdwhite@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](mailto:kensangha@gmail.com)

---

KEVIN D LAKEY  
WATER DISTRICT 37  
107 W 1ST  
SHOSHONE ID 83352  
[watermanager@cablone.net](mailto:watermanager@cablone.net)

---

LAWRENCE SCHOEN  
18351 US HWY 20  
BELLEVUE ID 83313

---

LUBOFF SENAVSKY &  
CHARLES TIMOTHY FLOYD  
PO BOX 1240  
EAGLE ID 83616  
[bsfloyd@mac.com](mailto:bsfloyd@mac.com)

---

MARLYS J SCHMIDT  
10901 HWY 75  
BELLEVUE ID 83313  
[mjschmidt49@msn.com](mailto: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  
[zsewell@gmail.com](mailto:zsewell@gmail.com)

---

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

---

POPPY ENGLEHARDT  
10965 HIGHWAY 75  
BELLEVUE ID 83313

---

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](mailto: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

---



STARWEATHER OWNERS ASSN INC  
PO BOX 254  
KETCHUM ID 83340

---

STEVEN C FUNK  
90 FREEDOM LOOP  
BELLEVUE ID 83313

---

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](mailto:jgough@fs.fed.us)

---

VALLEY CLUB OWNERS ASSN INC  
PO BOX 254  
KETCHUM ID 83340

---

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

---

WOOD RIVER LAND TRUST  
119 E BULLION ST  
HAILEY ID 83333

---

*COURTESEY COPIES TO:*  
ED REAGAN  
COURIER NEWS  
PO BOX 339  
FAIRFIELD ID 83327  
[news@highway46.org](mailto:news@highway46.org)

---



Deborah Gibson  
Administrative Assistant