

**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

**FINAL ORDER DISMISSING
DELIVERY CALLS**

On April 22, 2016, the District Court issued a *Memorandum Decision and Order and Judgment* in *Sun Valley Company v. Spackman*, CV-WA-2015-14500, a judicial review proceeding involving the two above captioned delivery calls pending before the Idaho Department of Water Resources (“Department”) and its Director, Gary Spackman (“Director”). The District Court held that the “seniors failed to satisfy both the filing and service requirements of Rule 30 to the prejudice of the substantial rights of Sun Valley, the Cities of Fairfield and Ketchum, and the Water District 37B Ground Water Association.” *Memorandum Decision and Order* at 14. The District Court set aside the Director’s *Order Denying Sun Valley Company’s Motion to Dismiss* issued on July 22, 2015, and remanded the matter back to the Department “for further proceedings as necessary.” *Judgment* at 3. No appeal was filed.

On April 22, 2016, the District Court also issued a *Memorandum Decision and Order and Judgment* in a companion case, *City of Hailey v. Spackman*, CV-WA-2015-14419, a second judicial review proceeding involving the two above captioned delivery call proceedings. The District Court held that its decision in *Sun Valley Company v. Spackman* “is dispositive of the issues raised by the parties in this matter.” *Memorandum Decision and Order* at 6. The District Court set aside the Director’s *Order Denying Joint Motion to Designate ACGWS by Rulemaking*

and to Dismiss Delivery Calls issued on July 22, 2015, and remanded the matter back to the Department “for further proceedings as necessary.” *Judgment* at 3. No appeal was filed.

Based on the District Court’s decision in *Sun Valley Company v. Spackman*, the Director concludes no further proceedings are necessary and the Director should dismiss the delivery calls.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the Big Wood Delivery Call (Docket No. CM-DC-2015-001) and the Little Wood Delivery Call (Docket No. CM-DC-2015-002) are DISMISSED.

DATED this 22nd day of June 2016.


GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 23rd day of June 2016, 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

SOUTH VALLEY GROUND WATER DIST
C/O ALBERT BARKER
BARKER RSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139
apb@idahowaters.com
sle@idahowaters.com

HAILEY CEMETERY MAINTENANCE DIST
JACOB & RUTH BLOOM
C/O PATRICK D BROWN
PATRICK D BROWN PC
PO BOX 125
TWIN FALLS ID 83303
pat@pblaw.co
(CONSENTED TO E-MAIL SERVICE ONLY)

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
tjb@racinelaw.net
jgb@racinelaw.net
(CONSENTED TO E-MAIL SERVICE ONLY)

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
cdm@msbtlaw.com
kmd@msbtlaw.com

(CONSENTED TO E-MAIL SERVICE ONLY)

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 PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720
mcc@givenspursley.com
mpl@givenspursley.com
lisahughes@givenspursley.com
lorigibson@givenspursley.com
(CONSENTED TO E-MAIL SERVICE ONLY)

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
dle@lawsonlaski.com
(CONSENTED TO E-MAIL SERVICE ONLY)

WATER DISTRICT 37-B GROUNDWATER
GROUP
C/O DYLAN B LAWRENCE
VARIN WARDWELL LLC
PO BOX 1676
BOISE ID 83701-1676
dylanlawrence@varinwardwell.com
(CONSENTED TO E-MAIL SERVICE ONLY)

IDAHO FOUNDATION FOR PARKS AND
LANDS INC
C/O CHAS MCDEVITT
MCDEVITT & MILLER LLP
PO BOX 1543
BOISE ID 83701
chas@mcdevitt.org
heather@mcdevitt-miller.com

C/O EILEEN MCDEVITT
732 FALLS VIEW DR
TWIN FALLS ID 83301
emcdevitt1@msn.com
(CONSENTED TO E-MAIL SERVICE ONLY)

CITY OF BELLEVUE
C/O CANDICE MCHUGH
CHRIS BROMLEY
MCHUGH BROMLEY PLLC
380 S 4TH STREET STE 103
BOISE ID 83702
cmchugh@mchughbromley.com
cbromley@mchughbromley.com
(CONSENTED TO E-MAIL SERVICE ONLY)

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
(CONSENTED TO E-MAIL SERVICE ONLY)

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
(CONSENTED TO E-MAIL SERVICE ONLY)

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
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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
(CONSENTED TO E-MAIL SERVICE ONLY)

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
(CONSENTED TO E-MAIL SERVICE ONLY)

CATHERINE S DAWSON REVOCABLE
TRUST
DEER CREEK RANCH INC
ROBERT L BAKER REVOCABLE TRUST
C/O TRAVIS L THOMPSON
PAUL L. ARRINGTON
BARKER RSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063
ltl@idahowaters.com
pla@idahowaters.com

ANTHONY & JUDY D ANGELO
PO BOX 3267
KETCHUM ID 83340
judydangelore@gmail.com
tdangelo41@cox.net
charles.e.brockway@brockwayeng.com
(CONSENTED TO E-MAIL SERVICE ONLY)

BARBARA CALL
PO BOX 4
ROSS CA 94957
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

BRIAN L SMITH & DIANE STEFFEY-SMITH
PO BOX 629
BELLEVUE ID 83313
brianlamarsmith@me.com
(CONSENTED TO E-MAIL SERVICE ONLY)

BRITTA S HUBBARD
PO BOX 1167
KETCHUM ID 83340
brittahubbard@gmail.com
(CONSENTED TO E-MAIL SERVICE ONLY)

CANADIAN CLUB
HOMEOWNERS ASSN
PO BOX 10160
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
(CONSENTED TO E-MAIL SERVICE ONLY)

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
(CONSENTED TO E-MAIL SERVICE ONLY)

HARRY S RINKER
PO BOX 7250
NEWPORT BEACH CA 92658
toni@rinkercompany.com
(CONSENTED TO E-MAIL SERVICE ONLY)

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

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

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 S 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
(CONSENTED TO E-MAIL SERVICE ONLY)

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

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
tom@mistick.com
amymistick@gmail.com
(CONSENTED TO E-MAIL SERVICE ONLY)

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 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
camascourier@gmx.com
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EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: The petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.