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DEPARTMENT OF  
WATER RESOURCES

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Attorneys for Sun Valley Company

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION FOR  
ADMINISTRATION BY BIG WOOD &  
LITTLE WOOD WATER USERS  
ASSOCIATION

Docket No. CM-DC-2017-001

**ANSWER TO PETITION FOR  
ADMINISTRATION**

Respondent Sun Valley Company (the "Company"), by and through undersigned counsel of record, and pursuant to Rule 270 of the Rules of Procedure of the Idaho Department of Water Resources, IDAPA 37.01.01, answers the Big Wood & Little Wood Water Users Association's (the "Association") Petition for Administration as follows:

1. The Petition for Administration should be dismissed for the Association's failure to provide all information, measurements, data or study results available to support a claim for administration.

2. The Company admits the allegations set forth in paragraph 1, but denies the Association's status as a single petitioner making a single delivery call.

3. The Company is without sufficient information or knowledge to admit or deny the allegations set forth in paragraphs 2-5, and therefore the Company denies the same.

4. With respect to the allegations set forth in paragraph 6, the Company denies the allegation that the boundary of the Wood River Valley Aquifer Model Study area comprises an area of common ground water supply that accurately reflects the geographic and geologic area within which ground water diversions may impact the flow in a surface water source providing water for diversion by the individual members of the Association.

5. The Company admits the allegations set forth in paragraph 7.

6. With respect to the allegations set forth in paragraph 8, the Company denies that it is causing material injury to the the Association, and also denies that it is causing material injury to any single member of the Association. Furthermore, and to that end, the Company objects to any aggregation or consolidation of evidence of material injury by and among members of the Association.

7. The Company denies the allegations set forth in paragraph 9.

8. The Company denies the allegations set forth in paragraph 10, and further objects and moves to strike evidence and opinions developed by Department staff in aid and investigation of the delivery calls designated as Idaho Department of Water Resources Docket No. CM-DC-2015-001.

## **DEFENSES**

The Company states the following defenses, which are not exclusive, separately as to each petitioning member of the Association. The defenses are applicable, where

appropriate, as to each delivery call. The defenses listed are not exhaustive, and the Company reserves the right to assert additional defenses after it has the opportunity to conduct discovery, if allowed, and additional factual investigation. In asserting the following defenses, the Company does not admit that the burden of proof falls upon the Company.


1. The Company's water rights are used non-consumptively.
2. The Company's use of water does not materially affect the quantity and timing of when water is available to the Association, or any member thereof.
3. The Association's Petition for Administration constitutes a delivery call by the Association, and each member thereof, and is futile as to the water rights of the Company.
4. Junior-priority water rights (sourced from both surface water and ground water) diverted outside of the alleged area of common ground water supply must be administered to remedy the alleged material injury, if any, to members of the Association.
5. The Association's Petition for Administration fails to satisfy the requirements for administration pursuant to Rule 41 of the Conjunctive Management Rules, IDAPA 37.03.11 because, in part, members of the Association are not identified as holders of senior-priority ground water rights.
6. Rule 20.11 of the Conjunctive Management Rules is unconstitutional as applied to the Company's water rights in this proceeding, and cannot legally be used in any administration of diversion or use of water in a ground water management area under Rule 41 of the Conjunctive Management Rules.
7. The Association, and each member thereof, fails to use water efficiently and without waste.

## REQUEST FOR RELIEF


The Company respectfully requests that the Director dismiss the Petition for Administration.

DATED this 24th day of March, 2017.

CAMPBELL LAW, CHARTERED

By   
Scott L. Campbell – Of the Firm  
Attorneys for Sun Valley Company

MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED

By   
Matthew J. McGee – Of the Firm  
Attorneys for Sun Valley Company

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of March, 2017, I caused a true and correct copy of the foregoing **ANSWER TO PETITION FOR ADMINISTRATION** to be served by the method indicated below, and addressed to the following:

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☐ Hand Delivered  
☐ Overnight Mail  
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