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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Sun Valley Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

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

Docket No. CM-DC-2017-001

**SUN VALLEY COMPANY'S FIRST
SET OF DISCOVERY REQUESTS TO
THE BIG WOOD & LITTLE WOOD
WATER USERS ASSOCIATION AND
ITS MEMBERS**

COMES NOW, Sun Valley Company, by and through undersigned counsel of
record and pursuant to Idaho Rules of Civil Procedure 26, 33, and 34 and IDAPA 37.01.01.520-
524; and the Idaho Department of Water Resources' *Order Authorizing Discovery* dated

**SUN VALLEY COMPANY'S FIRST SET OF DISCOVERY
REQUESTS TO THE BIG WOOD & LITTLE WOOD WATER
USERS ASSOCIATION AND ITS MEMBERS - 1**

March 28, 2017; and hereby submits its First Set of Discovery Requests to the Big Wood & Little Wood Water Users Association and its members as follows:

**I.
INSTRUCTIONS**

In responding to these Interrogatories and Requests for Production of Documents, you are requested to furnish all information available to you, or subject to your reasonable inquiry, including information in the possession of your attorneys, investigators, employees, agents, representatives, guardians, consultants, expert witnesses, and any other person or persons acting on your behalf, and not merely such information as is known to you by your own personal knowledge.

In responding to these discovery requests, you must make a diligent search of your Records and all other papers and materials that are in your possession or available to you, or to the individuals described in the preceding paragraph. If any item has subparts, please answer each part separately and in full. If you cannot answer any of the following requests in full after exercising due diligence to secure the information necessary to do so, please so state and answer or respond to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

If you object to any discovery request on the ground that the information sought is privileged and non-discoverable, please state the basis for your claim of privilege and, in the case of any request for production, identify the documents and records which you object to producing, in sufficient detail as to enable the Hearing Officer to rule upon the claim of privilege.

These discovery requests are deemed to be continuing. If, after responding to these requests, you acquire any further information responsive to them, you are hereby requested, pursuant to the above-referenced Order and Rules, to file and serve supplemental answers or responses containing such further information.

If you fail to respond to one or more of these discovery requests or if your response to one or more of these requests is evasive or incomplete, Sun Valley Company may move the Hearing Officer for an order compelling you to fully respond to these requests and to pay the reasonable expenses, including attorney fees, incurred by it in obtaining the order.

If you fail to produce documents and records requested herein on the ground that the necessary information, records or documents are not within your care, custody, possession or control, please state what efforts you have made to obtain such information, documents or records.

If you fail to respond to any of these discovery requests in full or fail to supplement your answers or responses as requested, Sun Valley Company may move the Hearing Officer for an order precluding you from introducing into evidence, or otherwise using at hearing, any testimony, witness, exhibit, document, record, publication, or other item or information not timely disclosed in your responses to these discovery requests.

The discovery requests that follow are directed to the Big Wood & Little Wood Water Users Association, as well as to each individual member of said Association.

II. DEFINITIONS

1. The term "Communication(s)" shall include, without limitation, any dissemination of information or transmission of a statement from one person to another or in the presence of another, whether written, oral, or by action or conduct.

2. The terms "Document(s)" and/or "Record(s)" mean any tangible thing upon which has been placed handwriting, e-mail transmission, typewriting, printing, photocopying, photographing, digital or computerized data, or any other form of recording, communication or representation, including but not limited to letters, words, pictures, sounds, magnetic impulses, symbols, numbers or any combination thereof, whether or not visible to the unassisted human eye. This definition shall include, but is not limited to, any and all originals, copies, or drafts of any and all of the following: Records, notes, summaries, schedules, contracts, agreements, orders, design manuals, inventories, audits, acknowledgments, diaries, findings, forecasts, tests, appraisals, reports, memoranda, telephone recordings, telephone logs, telephone lists, diaries, calendars, planners, daytimers, correspondence and letters, e-mail, telegrams, telexes, facsimiles and faxes, cables, tapes, tape recordings, statements, receipts, invoices, transcripts, digital or other recordings, photographs, witness statements, pictures, films, videotapes, computer programs, computer databases, models, things and materials of any nature whatsoever. Any "Document" which contains any comment, notation, addition, insertion or marking of any kind which is not part of another document is to be considered as a separate "Document."

3. The terms "Historic" or "Historical," as used in these Interrogatories and Requests for Production, refers to the entire time period for which you have, or have access to,

knowledge, information, documents or records about a subject, or the last ten (10) years, whichever is longer.

4. When asked to "Identify" a person or entity or when asked for the "Identity" of a person or entity, please include:

- (a) The name of the person or entity;
- (b) The present or last known address and telephone number of the person or entity;
- (c) The present or last known occupation, title, business, and employer of the person or entity; and
- (d) The present or last known address and telephone number of the employer of the person or entity.

5. When asked to "Identify" a Record or Document please include:

- (a) The nature or type of Record or Document (e.g., letter, photograph, map, drawing, tape recording, etc.);
- (b) The subject matter of the Record or Document and/or a general description of its contents;
- (c) The "identity" of the person who authored or created the Record or Document;
- (d) The date of the Document or, if it bears no date, the date on which it was prepared or created; and

(e) The physical location of the original and any copies of the Document or Record of which you are aware and the “identity” of the present custodian of the Record or Document.

6. The terms “You” and “Your” shall mean the Big Wood & Little Wood Water Users Association (the “Association”), and each member of the Association.

III. INTERROGATORIES

INTERROGATORY NO. 1: Please identify every person who has, or may have, any knowledge of facts regarding this matter, and please state the substance of their knowledge.

INTERROGATORY NO. 2: Please identify each person who participated in preparing answers, responses, and produced documents pursuant to this first set of discovery requests.

INTERROGATORY NO. 3: Please identify all persons you intend to call to testify as an expert witness at a hearing of this matter, and please provide the subject matter upon which the expert witness is expected to testify, a complete statement of all opinions to be expressed by the expert and the reasons therefor, the substance of the expert witness’ opinions, the basis and reasons for the opinions, the underlying facts and data upon which those opinions are based, and all information referenced in and required by Rule 26(b)(4)(A)(i) of the Idaho Rules of Civil Procedure.

INTERROGATORY NO. 4: For each water right you contend is being injured:

(a) The water right number (e.g., 37-00001) and date of priority for each such water right.

(b) The purpose of and current use of each such water right.

(c) The current authorized and actual point(s) of diversion and common diversion name or water district diversion identifier, if applicable, as well as IDWR metal tag number / point of diversion identifier (e.g., A0000001) for each such water right, designated by GPS location coordinates and U.S. Public Land Survey property description.

(d) The historic quantities of water actually diverted at each point of diversion under each such water right, including when such diversions commenced and ended each year, and segregated by 24-hour time segments, months, and years, including peak instantaneous diversion rate and annual diversion volume.

(e) The current place(s) of use for each such water right, designated by acreage descriptions using U.S. Public Land Survey property description.

(f) The historic number of acres actually irrigated within the place of use for each such water right and location of such acreage, designated by a map or description using U.S. Public Land Survey property description, or, in the case of stock water, the historic numbers and locations of stock for which water is diverted.

(g) A complete description of the diversion and delivery system for the water used under each such water right, including without limitation, descriptions, illustrations, maps, GIS shape files, or schematics of points of diversion, points of injection, points of re-diversion,

water diversion and delivery works, and any and all channels or delivery paths within which water is conveyed to the place of use.

(h) The historic conveyance losses (actual, assigned or assumed) for each identified channel or delivery path in sub-paragraph (g) of this Interrogatory.

(i) The method for measuring, determining or calculating the conveyance losses (actual, assigned or assumed) for each identified channel or delivery path in sub-paragraph (g) of this Interrogatory.

(j) Any and all expenses incurred for the diversion and delivery of water from the source to the place of use.

(k) The historical methods of irrigation water application for each irrigation water right (e.g. gravity sprinkler, etc.).

(l) A historical statement of crops planted on the irrigated acreage comprising the place of use of such water right.

(m) The historic crop rotations on the irrigated acreage comprising the place of use of such water right.

(n) The historic annual crop yields from the irrigated acreage comprising the place of use of such water right.

(o) The soil type(s) of the irrigated acreage comprising the place of use of such water right, as determined by the Natural Resources Conservation Service soil survey (e.g. Genola silt loam, 0 to 1 percent slopes).

INTERROGATORY NO. 5: For each and every actual place of use (or stock location) identified in your answer to subpart (f) of Interrogatory No. 4, please state the following:

(a) Whether you hold any water right(s) other than the water right(s) identified in your answer to Interrogatory No. 4 that authorize you to divert and/or otherwise deliver water to such acreage or stock location (each, an “Overlapping Water Right”).

(b) The water right number (e.g., 37-00001) and date of priority for each such Overlapping Water Right.

(c) The source of water authorized by each such Overlapping Water Right.

(d) The current authorized and actual point(s) of diversion and IDWR metal tag number / point of diversion identifier (e.g., A0000001) for each such Overlapping Water Right, designated by GPS location coordinates and U.S. Public Land Survey property description.

(e) The historic quantities of water actually diverted at each point of diversion under each such Overlapping Water Right, including when such diversions commenced and ended each year, and segregated by 24-hour time segments, months, and years, including peak instantaneous diversion rate and annual diversion volume.

(f) The historic quantities of water diverted under each such Overlapping Water Right that is actually delivered to the acreage (or stock location) identified in your answer to subpart (f) of Interrogatory No. 4 (the historic number of acres actually irrigated within the place of use for each injured water right and location of such acreage), segregated by 24-hour

time segments, months, and years, including peak instantaneous diversion rate and annual diversion volume.

(g) The current place(s) of use for each such Overlapping Water Right, designated by acreage descriptions using U.S. Public Land Survey property description.

(h) The historic number of acres actually irrigated within the place of use for each such Overlapping Water Right and location of such acreage, designated by description using U.S. Public Land Survey property description or, in the case of stock water, the historic numbers and locations of stock for which water is diverted.

(i) A complete description of the diversion and delivery system for the water used under each such Overlapping Water Right, including without limitation, descriptions, illustrations, maps, GIS shape files or schematics of points of diversion, points of injection, points of re-diversion and any and all channels or delivery paths within which water is conveyed to the place of use.

(j) The historic conveyance losses (actual, assigned or assumed) for each identified channel or delivery path in sub-paragraph (i) of this Interrogatory.

(k) The method for measuring, determining or calculating the conveyance losses (actual, assigned or assumed) for each identified channel or delivery path in sub-paragraph (i) of this Interrogatory.

(l) For each such Overlapping Water Right that includes a groundwater point of diversion, identify (1) the well number, well identification number or IDWR metal tag number

that identifies the well(s) from which such Overlapping Water Right is diverted; (2) the location of the well(s); and (3) the driller's report(s) associated with each such well.

INTERROGATORY NO. 6: For each acreage or location identified in your answer to subpart (f) of Interrogatory No. 4 (the historic number of acres actually irrigated within the place of use for each injured water right and location of such acreage), please identify and describe the nature, source and amount of any application of tail water or waste water to such acreage, as well as any run-off from such acreage (whether the information about such application and run-off is documented, otherwise recorded and tracked, or anecdotal).

INTERROGATORY NO. 7: Please identify and describe any water measurement devices or water measurement and recording devices used at any place within the delivery system that delivers water to your actual place of use for your water rights, including the size, type, manufacturer, model, serial number, installation date, IDWR identification number, location and date(s) on which each such device was calibrated or checked by a watermaster, IDWR, groundwater district hydrographer or other person or entity, and the identity of such person(s).

INTERROGATORY NO. 8: Please identify and describe each communication between you or your counsel and the Director or any other Idaho Department of Water Resources employee or agent.

IV. REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce any and all documents and records you relied upon and/or identified in your answers to the above-stated interrogatories.

REQUEST FOR PRODUCTION NO. 2: Please produce copies of all documents or records which reflect information, measurements, data, or study results concerning water use, water measurement, water availability, or injury for the water rights identified in Interrogatory No. 4.

REQUEST FOR PRODUCTION NO. 3: Please produce copies of all documents or records which reflect the results of any calibration of water measurement devices set forth in Interrogatory No. 7.

REQUEST FOR PRODUCTION NO. 4: Please produce copies of all documents or records which reflect information, measurements, data, or study results concerning water use, water measurement, and water availability for the water rights identified in Interrogatory No. 5.

REQUEST FOR PRODUCTION NO. 5: Please produce copies of all documents or records which reflect information, measurements, data, or study results concerning water use, water measurement, and water availability for the water rights identified in Interrogatory No. 6.

REQUEST FOR PRODUCTION NO. 6: Please produce copies of all documents or records, including but not limited to maps, GIS shape files, charts, photographs, schematics or other representations that illustrate or show the water delivery system for each of your water rights.

REQUEST FOR PRODUCTION NO. 7: Please produce any and all documentation supporting any conveyance losses identified in Interrogatory Nos. 4-6.

REQUEST FOR PRODUCTION NO. 8: Please produce all documents or records, including but not limited to financial or other accountings, Excel, Quickbooks or other accounting spreadsheets, invoices and receipts setting forth your expenses associated with the delivery of water under each of your water rights.

REQUEST FOR PRODUCTION NO. 9: Please produce copies of all crop records, including crop reports, crop rotations, and crop receipts over the period for which you have such records.

REQUEST FOR PRODUCTION NO. 10: Please produce copies of any documents evidencing your shares, assessments, ownership, rights or interests in any organized or incorporated irrigation delivery entity, including without limitation canal companies, lateral ditch water users' associations, or irrigation districts, and in any organized or incorporated drainage entity.

REQUEST FOR PRODUCTION NO. 11: Please produce copies of any and all organizational and governance documents for the Big Wood & Little Wood Water Users Association, including without limitation any articles of incorporation, organization or association, operating agreements, rules, regulations, bylaws, meeting minutes, and member lists.


REQUEST FOR PRODUCTION NO. 12: For every expert you intend to call to testify as an expert witness at a hearing of this matter, please produce any and all reports (both formal and informal), opinions, analysis, and studies relating in any way to the issues in this matter, and any other document that reflects an opinion relating to this matter.

REQUEST FOR PRODUCTION NO. 13: Please produce a copy of each communication between you or your counsel and the Director or any other Idaho Department of Water Resources employee or agent between June 1, 2014 and the present date.

REQUEST FOR PRODUCTION NO. 14: Please produce a copy of each communication among your members relating to meetings or correspondence with the Director or any other Idaho Department of Water Resources employee or agent between June 1, 2014 and the present date.

DATED this 11th day of April, 2017.

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 11th day of April, 2017, I caused a true and correct copy of the foregoing **SUN VALLEY COMPANY'S FIRST SET OF DISCOVERY REQUESTS TO THE BIG WOOD & LITTLE WOOD WATER USERS ASSOCIATION AND ITS MEMBERS** to be served by the method indicated below, and addressed to the following:

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