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Attorneys for Petitioners

**IDAHO DEPARTMENT OF WATER RESOURCES  
STATE OF IDAHO**

IN THE MATTER OF THE WATER  
RIGHTS OF:  
MICHAEL BEER AND LORI BEER  
AND WATER RIGHT NO. 29-13740.

Docket No. CM-DC-2021-001

PETITIONERS' OCTOBER 4, 2022  
WITNESS AND EXHIBIT LIST

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Petitioners, Michael Beer and Lori Beer, by and through their attorney, Lance J. Schuster of the firm Beard St. Clair Gaffney PA, hereby submits the following list of proposed witnesses and exhibits that they may use at the trial of this matter:

**WITNESSES**

1. Michael Beer  
Address and phone number available through counsel.

Mr. Beer will testify regarding his observations, measurements, methodologies, and research regarding the springs that are located on his property. He will also testify as to his interactions and communications with the Lava Ranch Property Owners Association (LRPOA), as well as his observations of the use of the Upper Well and the Lower Well by LRPOA. He will testify that it is his belief, based upon empirical evidence, that LRPOA's unmeasured and unregulated use of the Upper Well has caused the depletion of his springs.

2. Lori Beer  
Address and phone number available through counsel.

Mrs. Beer will testify regarding her observations, measurements, methodologies, and research regarding the springs that are located on her property. She will also testify as to her interactions and communications with the Lava Ranch Property Owners Association (LRPOA), as well as her observations of the use of the Upper Well and the Lower Well by LRPOA. She will testify that it is her belief, based upon empirical evidence, that LRPOA's unmeasured and unregulated use of the Upper Well has caused the depletion of her springs.

3. Matt Groll, or other individual from Lava Hot Springs Property Owners Association.  
Address and phone number available through counsel.

It is expected that Matt Groll, or other individuals from LRPOA will testify as to the development and use of the Upper Well.

4. Gary Haskett and Linda Bernt Haskett  
2074 Keagan Court  
Pocatello, ID 83201  
360-896-0460

The Hasketts have a well on their property (Lot 502) that was excavated in approximately 2004. Their property is located across the road from the Beers' property. On September 2, 2017, there was a major earthquake near Soda Springs. They were in the cabin when it happened and felt the shaking and lights swinging. Since the earthquake, they have noticed no change in their well as a result of the earthquake. They have not noticed any changes to their well since the well was excavated. Gary will also testify as to his fishing on beaver ponds located in Smith Canyon in the 1950s.

5. Dr. Justin Tobias  
14469 Smith Canyon Road  
Lava Hot Springs, ID  
(801)648-4888

Dr. Tobias will testify that over the past two years he has seen a change in the flow from his well. He will testify that his well was dug in 2018, and that he was getting 1 gallon of water per minute from the well. Now he is hardly getting any water from his well.

6. Petitioners may call any witness identified by any Party in discovery and/or witnesses to offer rebuttal testimony and/or witnesses necessary to lay the foundation for the introduction of evidence.

### **EXHIBITS**

1. Beer Water Right Report.
2. September 15, 2019, The 13714 South Smith Canyon Spring Failure.

3. July 2021, Surface Water and Spring Flow Measurements for Upper Deer Creek in Smith Canyon, Bannock County ID.
4. July 25, 2021, Addendum To: Surface Water and Spring Flow Measurements for Upper Deer Creek in Smith Canyon, Bannock County ID.
5. October 25, 2021, Deer Creek Aquifer Well Elevations.
6. December 7, 2021, Technical Report, Mike McVay, and October 3, 2022 update to the report.
7. April 2022, Locations of Hydrologic Features in Lava Ranch.
8. August 30, 2022 Surface Water and Spring Flow Measurements for Upper Deer Creek in Smith Canyon, Bannock County ID 2019-2022.
9. Letter from Dr. Justin Tobias.
10. Letter from Bernt Family Trust.
11. Plat for Lava Ranch.
12. Plat for Lava Ranch, Phase 3.
13. Deer Creek total output for 2020-2021 water year.
14. Deer Creek cumulative output for 2021-2022 water year.
15. Deer Creek data.
16. Lot 182 cumulative output report for 2019-2020 water year.
17. Lot 182 cumulative output report for 2021-2022 water year.
18. Lot 182 Spring data.
19. Any documents produced by any Party in discovery or obtained via subpoena.
20. Any exhibits of any Party in this matter.
21. Any pleadings filed with the Court in this matter.

22. Any document introduced by any Party in this matter through discovery, and/or any exhibit offered as impeachment or rebuttal evidence.

DATED: October 4, 2022.

/s/ Lance J. Schuster

Lance J. Schuster  
BEARD ST. CLAIR GAFFNEY PA  
Attorneys for Petitioners

### CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing *Petitioners' October 4, 2022*

*Witness and Exhibit List* upon the following by mailing a copy thereof, properly addressed with postage prepaid, to:

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Dated: October 4, 2022.

/s/ Lance J. Schuster

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