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 Irrigation District, Milner Irrigation District,  
 North Side Canal Company, and Twin Falls  
 Canal Company*

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

BASIN 33 WATER USERS, a coalition of	)	Case No. CV01-20-8069
water right holders, and the UPPER VALLEY	)	
WATER USERS, a coalition of water right	)	<b>DECLARATION OF JONAS A. REAGAN IN</b>
holders,	)	<b>SUPPORT OF SURFACE WATER</b>
	)	<b>COALITION'S OPPOSITION TO SRS'S</b>
Petitioners,	)	<b>PETITION TO INTERVENE</b>
	)	
vs.	)	
	)	
SURFACE WATER COALITION, a coalition	)	
of water right holders,	)	
	)	
Cross Petitioner,	)	
	)	
vs.	)	
	)	
THE IDAHO DEPARTMENT OF WATER	)	
RESOURCES,	)	
	)	
Respondent.	)	
_____	)	
	)	
<u>IN THE MATTER OF DESIGNATING THE</u>	)	
<u>EASTERN SNAKE PLAIN AQUIFER</u>	)	
<u>GROUND WATER MANAGEMENT AREA</u>	)	

I, Jonas A. Reagan, declare as follows:

1. I am duly licensed to practice law in the State of Idaho and before this Court, and I am an attorney with the firm Barker Rosholt & Simpson LLP. I am over the age of 18 and make this declaration based upon my personal knowledge. I am an attorney representing A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company in this matter.

2. Attached hereto are true and correct copies of materials exchanged during the underlying action including as follows:

3. Attached hereto, as Exhibit A, is a true and correct copy of the July 13, 2016 letter to Director Spackman from American Falls Aberdeen Area Ground Water District Chairman Nic Behrend concerning the designation of the Eastern Snake Plain Aquifer (“ESPA”) as a Ground Water Management Area (“GWMA”) received by the Idaho Department of Water Resources (“IDWR”) on August 1, 2016.

4. Attached hereto, as Exhibit B, is a true and correct copy of the letter to Director Spackman from Bingham Groundwater District Chairman Craig B. Evans concerning the designation of the ESPA as a GWMA received by IDWR on September 1, 2016.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

RESPECTFULLY submitted this 23<sup>rd</sup> day of June, 2020.

**BARKER ROSHOLT & SIMPSON LLP**

  
Jonas A. Reagan

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23<sup>rd</sup> day of June, 2020, I served true and correct copies of the foregoing upon the following by the method indicated:

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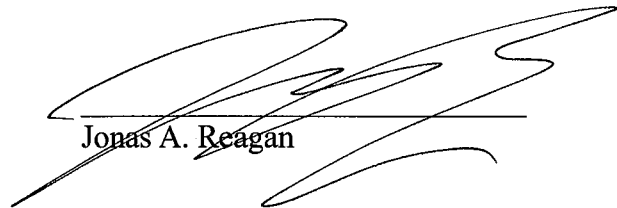
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Jonas A. Reagan

# Exhibit

# A

RECEIVED

AUG 01 2016

DEPARTMENT OF  
WATER RESOURCES

American Falls Aberdeen Area  
Ground Water District  
505 N. Oregon Trail  
P.O. Box 70  
American Falls, ID 83211  
(208)226-5914  
(208)226-1253 fax

**American Falls Aberdeen Area Ground Water District**

July 13, 2016

Gary Spackman, Director  
Idaho Department of Water Resources  
322 East Front Street  
Boise, ID 83702-7374

The American Falls-Aberdeen Ground Water District (AFAGWD) has reviewed and discussed the letter from the Department of Water dated July 7, 2016 and has provided the following response.

Over the past year and a half, AFAGWD has participated in many hours of informational and negotiating meetings in an effort to understand the trends in the ESPA and come up with solutions to address those trends. AFAGWD recognizes the importance of having a healthy aquifer and believes that through implementation of the plans set forth in the SWC agreement for recharge and reduction we can be successful in managing the health of the aquifer.

AFAGWD believes that it is the responsibility for all water users to participate in those efforts and recognizes that there are users that are outside the ESPA but whose pumping has an effect on the levels of the ESPA. AFAGWD supports the idea of expanding the area of common groundwater supply to include these outlying users and would encourage the Department to achieve this goal by expanding the Rule 50 boundaries to make the area reach from "mountain top to mountain top," as it's commonly referred to.

In regards to GWMA, AFAGWD does not see the necessity to develop another layer of bureaucracy to impose rules and regulations that would duplicate a majority of those already put into place by the existing district. We are only a few months into the beginning of our reduction plan to comply with the negotiated settlement. We have spent countless hours and many dollars coming up with a plan that will achieve the goals of the settlement, improve the health of the aquifer and allow our members to continue to operate the farms and businesses. AFAGWD would like the opportunity to continue to work towards successfully achieving these recovery efforts through the district, without the complications of a GWMA.

Respectfully submitted,



Nic Behrend  
Chairman  
American Falls-Aberdeen Ground Water District

.....

Exhibit

B





RECEIVED

SEP 01 2016

DEPARTMENT OF  
WATER RESOURCES

P.O. BOX 1268  
1725 Riverton Road  
Blackfoot, Idaho 83221

Phone: (208) 684-9634  
email: [binghamgwd@hotmail.com](mailto:binghamgwd@hotmail.com)

Director Gary Spackman

Idaho Department of Water Resources

322 East Front St

P.O. 83720

Boise, ID 83720

Dear Director Spackman,

I am Craig Evans, Bingham Groundwater District Board Chairman, and am writing to bring up some issues that we have as a District with the proposed creation of a Groundwater Management Area (GWMA) in the Eastern Snake Plain Aquifer (ESPA) area.

1. The point made by the Department that the ESPA is declining despite all prior mitigation plans and therefore a GWMA must be created does not take into consideration that ALL previous mitigation plans were to provide "wet water" to seniors in answer to a call that they made and were never directed at aquifer levels until the SWC/IGWA agreement was signed last year and then approved as a mitigation plan. This current irrigation year is the first year actions are being made to increase aquifer levels. It has taken many years for the aquifer levels to respond to various changes in practices on the ESPA and to expect a quick response now to actions taken under the agreement is to expect something that cannot happen, give it a little time for this to happen. We have many in the District questioning why we should even be part of the SWC/IGWA settlement agreement if they will still be subject to curtailment through Groundwater Management Area.
2. While trying to increase aquifer levels seems a laudable goal, I am not sure that the Department has authority to mandate reductions in groundwater use in order to maintain an artificially increased aquifer level that was increased over the last of the 1800's and first half of the 1900's due to several activities at that time.
  - a. Prior to the Winter Water Savings Agreement between the BOR and several irrigation entities to shore up water supplies to fill the Palisades dam (which filled first in 1957), water was run in canals in WD01 area for livestock watering totaling to an average of about 500,000 AF per year. This went to

recharge (or pre-charge it as the aquifer was increasing to a level it had never been before). The majority of this stock water was run in the canals in the lower ESPA area. Twin Falls Northside Canal said that they used to use a boxcar load of dynamite a year to keep the ice out of their canal then. This also helps to explain why the aquifer has dropped more from it's peak levels in the lower ESPA area than in the upper ESPA area.

- b. Irrigation practices such as converting from surface irrigation to sprinkler irrigation resulted in about 1 million Acre Feet LESS being diverted out of the Water District 01 service area. This reduction resulted in this water not percolating into the aquifer.
3. The ESPA is often administered as a single homogeneous unit when reality shows a much different picture.
- a. As mentioned above about the differences in the early pre-charging of the ESPA between the upper and lower valley. This is shown in the Attachment 1 "well hydrographs" these two are examples of changes in irrigation practices in Egin Bench area where they "sub irrigated " with large quantities of water were put into ditches around the fields to bring the aquifer up under the crop. This practice was discontinued in the late '70's to 1980's and the aquifer there declined, but not due to excessive pumping, only changes of practices. Also shown on this attachment is the water level changes spring 1980 to spring 2013. Again much larger drops in the lower valley where the winter water flows were discontinued in 1957.
  - b. Attachment 2. The "Water Past Milner" shows that much water is "escaping" the ESPA through Snake River flows which could and should be put out on the ESPA to keep the water here to replenish the aquifer.
  - c. Attachment 3. "The Up Down Chart" verses the "King Hill Flows" shows the declines in the Snake River flows are NOT nearly the drop . Evidently the water is leaving the ESPA through an exit other than the "Thousand Springs" springs into the Snake River such as flows down the River its self.

These are some of the reasons that we believe that implementation of a Groundwater Management Area is ill advised at this time. Let's work on these other options other than the seemingly "nuclear option" of a Management area.

Respectfully submitted,

Craig B. Evans

Chairman, Bingham Groundwater District