Electronically Filed 1/10/2024 12:27 PM Fourth Judicial District, Ada County Trent Tripple, Clerk of the Court By: Brenna Lawson, Deputy Clerk

Thomas A. Banducci (ISB No. 2453) Jennifer Reinhardt-Tessmer (ISB 7432)

KIRTON MCCONKIE

11th & Idaho Building 1100 W. Idaho St., Ste. 930 Telephone: (208) 370-3325 Facsimile: (208) 370-3324 tbanducci@kmclaw.com itessmer@kmclaw.com

RAÚL R. LABRADOR ATTORNEY GENERAL

SCOTT L. CAMPBELL

Chief of Energy and Natural Resources Division

GARRICK L. BAXTER, ISB No. 6301 MEGHAN M. CARTER, ISB No. 8863

Deputy Attorneys General Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098

Telephone: (208) 287-4800 Facsimile: (208) 287-6700 garrick.baxter@idwr.idaho.gov meghan.carter@idwr.idaho.gov

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STRIDER CONSTRUCTION CO., INC., | Case No. CV01-22-10932

Plaintiff,

VS.

IDAHO WATER RESOURCE BOARD,

Defendant.

NOTICE OF ERRATA TO SECOND DECLARATION OF MARK GEMPERLINE IN SUPPORT OF DEFENDANT'S THIRD MOTION TO AMEND SCHEDULING ORDER

NOTICE OF ERRATA TO SECOND DECLARATION OF MARK GEMPERLINE IN SUPPORT OF DEFENDANT'S THIRD MOTION TO AMEND SCHEDULING ORDER

NOTICE OF ERRATA

Idaho Water Resource Board ("IWRB"), by and through its counsel of record, Kirton McConkie, respectfully submits this notice of errata to its Second Declaration of Mark Gemperline in Support of Defendant's Third Motion to Amend Scheduling Order that was filed on January 5, 2024. The corrected Second Declaration of Mark Gemperline in Support of Defendant's Third Motion to Amend Scheduling Order is attached hereto as **Exhibit A**.

DATED this 10th day of January 2024.

KIRTON MCCONKIE

/s/ Jennifer Reinhardt-Tessmer
Jennifer Reinhardt-Tessmer
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January 2024, a true and correct copy of the

foregoing was served by the method indicated below, and addressed to the following:

Lindsay (Taft) Watkins, <i>Pro Hac Vice</i> Nicholas Korst, <i>Pro Hac Vice</i> AHLERS CRESSMAN & SLEIGHT PL 1325 4 th Ave., Suite 1850 Seattle, WA 98101 Telephone: (206) 287-9900 Attorneys for Plaintiff Strider Construction Inc.	Overnight Delivery iCourt E-File/Serve:
Joe Meuleman MEULEMAN LAW GROUP PLLC 950 W. Bannock St., Ste. 490 Boise, ID 83702 Telephone: (208) 472-0066 Attorneys for Plaintiff Strider Construction Inc.	U.S. Mail Facsimile: Hand Delivery Overnight Delivery iCo., iCourt E-File/Serve: jmeuleman@meulemanlaw.com
Garrick L. Baxter Meghan M. Carter Deputy Attorneys General Idaho Water Resource Board P.O. Box 83720 Boise, Idaho 83720-0098 Telephone: (208) 287-4800 Attorneys for Defendant	☐ U.S. Mail ☐ Facsimile: ☐ Hand Delivery ☐ Overnight Delivery ☐ iCourt E-File/Serve: garrick.baxter@idwr.idaho.gov meghan.carter@idwr.idaho.gov
/s/ Jennifer Reinhardt-Tessmer Jennifer Reinhardt-Tessmer	

EXHIBIT A

Thomas A. Banducci (ISB No. 2453) Jennifer Reinhardt-Tessmer (ISB 7432)

KIRTON MCCONKIE

11th & Idaho Building 1100 W. Idaho St., Ste. 930 Telephone: (208) 370-3325 Facsimile: (208) 370-3324 tbanducci@kmclaw.com jtessmer@kmclaw.com

RAÚL R. LABRADOR ATTORNEY GENERAL

SCOTT L. CAMPBELL

Chief of Energy and Natural Resources Division

GARRICK L. BAXTER, ISB No. 6301 MEGHAN M. CARTER, ISB No. 8863

Deputy Attorneys General Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098

Telephone: (208) 287-4800 Facsimile: (208) 287-6700 garrick.baxter@idwr.idaho.gov meghan.carter@idwr.idaho.gov

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STRIDER CONSTRUCTION CO., INC.,

Case No. CV01-22-10932

Plaintiff,

VS.

SECOND DECLARATION OF MARK GEMPERLINE IN SUPPORT OF DEFENDANT'S THIRD MOTION TO AMEND SCHEDULING ORDER

IDAHO WATER RESOURCE BOARD,

Defendant.

STATE OF IDAHO)
: ss.
County of Ada)

Mark Gemperline, being first duly sworn upon oath, deposes and says:

- 1. I am an expert knowledgeable and with significant experience in dam engineering, construction, material testing and geotechnical engineering. I was hired in this matter for Defendant, Idaho Water Resource Board ("IWRB"). I am over the age of 18 and base this declaration on my personal knowledge.
- 2. On December 20-21, 2023, I conducted an inspection of the Priest Lake Dam with the assistance of Justin Rittgers, Ph.D., PGP, Owner of JR Geophysics, LLC.
- 3. Generally, the above-referenced inspection entailed camera inspections and void mapping by direct measurement and ground penetrating radar (GPR) surveying.
- 4. Our inspection included measurements, photographs and inspection-camera footage that established the void under the dam is large enough to raise concerns regarding dam safety and the feasibility of previously planned repairs.
- 5. Specifically, the areas we were able to access and evaluate indicated extensive void space (both in depth and horizontal extent) and poor foundation conditions underlying a large portion of the new apron extension installed by Strider. A void formed by erosion was observed to undermine the original dam foundation along 18 percent of the dam's length.
- 6. The figure below shows the horizontal extent of voids determined by probing (yellow lines) and GPR (black lines with red line indicating locations of voids and poor foundation contact).

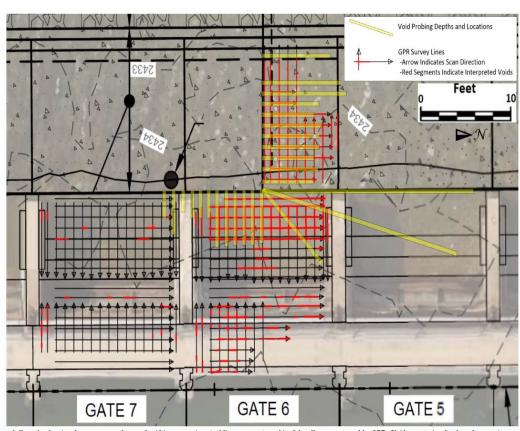


Figure 25. Overview of all results showing the same maps of manual void interpretations (red line segments) combined for all areas surveyed by GPR. Void penetration depth probe mapping results are also included on the figure. Here, the locations and extents of several manual void penetration probing tests conducted along the bottom of the aprons are plotted as semi-transparent yellow rectangles (dashed rectangle segments are where probing initially met some minor refusal, but probe was then inserted further until significant refusal was met). Note that there is generally an excellent match between the depth probing results and the GPR interpretations, helping to corroborate the GPR results.

- 7. The patterns of the erosion channels observed during the inspection indicate they are the result of Strider's multiple failed dewatering attempts.
- 8. IWRB plans on demolishing a portion of the apron slab poured by Strider as a result of plastic sheeting Strider improperly included in the pour.
- 9. As such, the improperly poured section of the apron slab will need to be repoured, which can only occur in warmer weather conditions (~mid to upper 20s depending on the exact material selected). Only when this occurs can the apron work conclude, allowing me to conduct my requested surface Windsor Probe (ASTM C803) testing.

DATED this 10^{th} day of January 2024.

/s/ Mark Gemperline

Mark Gemperline

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January 2024, a true and correct copy of the

foregoing was served by the method indicated below, and addressed to the following:

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_/s/ Jennifer Reinhardt-Tessmer Jennifer Reinhardt-Tessmer	