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Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

**DISTRICT COURT OF THE STATE OF IDAHO
FOURTH JUDICIAL DISTRICT
ADA COUNTY**

IDAHO GROUND WATER
APPROPRIATORS, INC.,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES, and MAT WEAVER in his
capacity as the Director of the Idaho Department
of Water Resources.

Respondents,

and

AMERICAN FALLS RESERVOIR DISTRICT
#2, MINIDOKA IRRIGATION DISTRICT,
A&B IRRIGATION DISTRICT, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, TWIN FALLS CANAL
COMPANY, CITY OF POCATELLO, CITY
OF BLISS, CITY OF BURLEY, CITY OF
CAREY, CITY OF DECLO, CITY OF
DIETRICH, CITY OF GOODING, CITY OF
HAZELTON, CITY OF HEYBURN, CITY OF
JEROME, CITY OF PAUL, CITY OF
RICHFIELD, CITY OF RUPERT, CITY OF
SHOSHONE, CITY OF WENDELL,

Case No. CV01-23-13173

**DECLARATION OF COUNSEL IN
SUPPORT OF UNOPPOSED MOTION
TO MODIFY BRIEFING SCHEDULE**

BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT, and BINGHAM
GROUND WATER DISTRICT,

Intervenors.

IN THE MATTER OF DISTRIBUTION OF
WATER TO VARIOUS WATER RIGHTS
HELD BY OR FOR THE BENEFIT OF A&B
IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, AND TWIN FALLS
CANAL COMPANY

I, Elisheva M. Patterson, declare the following:

- 1) I am an attorney representing Petitioner Idaho Ground Water Appropriators, Inc. (“IGWA”) in the above-captioned matter.
- 2) Pursuant to this Court’s August 16, 2023 *Procedural Order*, the Petitioner’s opening brief is due within 35 days of the lodging of the settled transcript and record with the district court. The settled transcript and record were lodged with the district court on September 27, 2023, meaning that IGWA’s opening brief is due November 1, 2023.
- 3) On October 16, 2023, less than 21 days after the lodging of the settled transcript and record with the district court, IGWA filed a *Motion to Augment Agency Record or Present Additional Evidence* (“Motion to Augment”).
- 4) On October 26, 2023, the Court issued a notice of hearing on the *Motion to Augment*, setting oral arguments on the motion for November 9, 2023.
- 5) There is good cause to extend and reset the briefing deadlines because IGWA’s opening brief seeks to reference evidence at issue in the *Motion to Augment* but cannot do so without the Court’s decision on the *Motion to Augment*. Accordingly, IGWA requests that the Court vacate the briefing schedule set forth in the *Procedural Order* until the Court rules on the *Motion to Augment*.
- 6) No extensions of time have been previously requested, and so no requests for extensions of time have been denied or granted.

- 7) The parties to the above-captioned matter were consulted regarding this motion and all parties agree to vacating the current briefing schedule.
- 8) No alternate dates for when briefs become due are proposed as these alternate dates are subject to the Court's pending ruling on the *Motion to Augment*, of which the date of issuance is unknown. However, the briefing schedule contemplated in the Procedural Order and I.A.R. 34(c) will likely be applied and triggered by the Court's ruling on the Motion to Augment issuance date. Or, alternatively, based upon the date that Respondent Idaho Department of Water Resources and Mat Weaver elect to modify their actions and file any modifications or new findings with the Court, pursuant to Idaho Code § 67-5276(2). The proposed briefing schedule will likely be modified also because of the holiday season, over which briefs may be due.
- 9) After the issuance of the Court's decision on the Motion to Augment, the parties shall coordinate with one another and the Court to set a briefing schedule. The parties are known entities to this Court having brought judicial review before it numerous times in the past. To the best of my knowledge all parties have complied with the Court's procedural orders and have submitted briefs timely.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated this 27th day of October, 2023.

RACINE OLSON, PLLP

By: 
Elisheva M. Patterson
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of October, 2023, I served the foregoing document on the persons below via iCourt.



Elisheva M. Patterson

Clerk of the Court ADA COUNTY DISTRICT COURT
Director Mathew Weaver Garrick Baxter Sarah Tschohl IDAHO DEPT. OF WATER RESOURCES
John K. Simpson Travis L. Thompson MARTEN LAW
W. Kent Fletcher FLETCHER LAW OFFICE
Kathleen Marion Carr U.S. DEPT. INTERIOR
David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. DEPT. OF JUSTICE
Matt Howard U.S. BUREAU OF RECLAMATION
Sarah A Klahn SOMACH SIMMONS & DUNN
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