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**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

CITY OF POCATELLO,

Plaintiff,

vs.

IDAHO WATER RESOURCE BOARD,
IDAHO DEPARTMENT OF WATER
RESOURCES, GARY SPACKMAN, in his
capacity as Director of the Idaho Department of
Water Resources, and TONY OLENICHAK, in
his capacity as Water District 01 Watermaster,

Defendants.

Case No. CV03-23-00876

**JOINT MOTION FOR CHANGE
OF VENUE I.R.C.P 40.1(a)(1)(B)**

Defendants, Idaho Water Resource Board (“Board”), Idaho Department of Water Resources (“IDWR”), Gary Spackman, and Tony Olenichak (collectively referred to as the “State”), and Plaintiff, the City of Pocatello (“City”) by and through their attorneys of record, hereby jointly move for change of venue in this matter to the Snake River Basin Adjudication Court in the Fifth Judicial District, County of Twin Falls (“SRBA Court”) under I.R.C.P. 40.1(a)(1)(B).

LEGAL BACKGROUND

Idaho Rule of Civil Procedure 40.1(a)(1)(B) provides that a judge may, at his or her discretion, grant a change of venue when it appears that “the convenience of the witnesses and the ends of justice would be promoted by the change.” If a change of venue is granted pursuant to I.R.C.P. 40.1(a)(1)(B), the judge may “enter an order changing venue and suggesting a court of proper venue and refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and for assignment of a specific judge to preside.” I.R.C.P. 40.1(c)(2).

On December 9, 2009, the Idaho Supreme Court issued its *Administrative Order in the Matter for the Appointment of the SRBA District Court to Hear all Petitions for Judicial Review from the Department of Water Resources Involving Administration of Water Rights* (“Supreme Court Order”). In the order, the Supreme Court noted that the SRBA Court has “particular expertise in the area of water right adjudication.” In recognition of this expertise, the Supreme Court Order states that “all petitions for judicial review of any decision regarding the administration of water rights from the Department of Water Resources shall be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District.” The Supreme Court Order

further states that “the Snake River Basin Adjudication District Court is authorized to develop the procedural rules necessary to implement this order.”

On December 3, 2020, the SRBA Court issued its *Administrative Order Regarding Transition to Electronic Filing System, Re: Petitions for Judicial Review or Actions for Declaratory Judgment of Decisions from the Idaho Department of Water Resources*

(“SRBA Court Order”). The SRBA Court Order provides:

[A]ny petition for judicial review pursuant to Idaho Code § 42-1701A, or any action for declaratory judgment, of any decision from the Idaho Department of Water Resources must be filed electronically with the appropriate County using Idaho’s electronic filing system. . . . The clerk of the district court in the county where the action is filed will reassign the case to the presiding judge of the [SRBA Court]. All filings made subsequent to reassignment are to continue to be filed electrically [sic] in the County where the action was filed in accordance with the procedures governing Idaho’s electronic filing system.

SRBA Court Order at 1.

MOTION

The parties move, under I.R.C.P. 40.1(a)(1)(B), for a change of venue to the SRBA Court. This matter includes a request for a declaratory judgment regarding actions taken by the State agencies, which include IDWR. The parties believe the issues in this matter, or some portion thereof, fall within the scope of the Supreme Court Order and the SRBA Court Order and, as reflected in those Orders, the issues raised by the Complaint could be resolved more effectively with the expertise of the SRBA Court. In addition, the subject matter of this case involves, among other things, complex issues of storage water rights, storage water spaceholder contracts, water allocation, and water right administration and the parties believe the “ends of justice would be promoted” by changing the venue to the SRBA Court. I.R.C.P. 40.1(a)(1)(B). The parties further state that the “convenience of

witnesses” will not be affected by the requested change of venue. *Id.* If this Court grants a change of venue, the Parties respectfully request that, pursuant to I.R.C.P. 40.1(c)(2), this court move the venue to the SRBA District Court in the Fifth Judicial District and that the SRBA Presiding Judge be assigned to this matter.

CONCLUSION

The parties respectfully, jointly move the Court for a change of venue of this matter to the SRBA Court pursuant to I.R.C.P. 40.1(a)(1)(B).

DATED this 24th day of April 2023.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



ANN N. YRIBAR
Deputy Attorney General

DATED this 24th day of April 2023.

CITY OF POCA TELLO



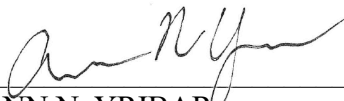
SARAH A. KLAHN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April 2023, I caused to be served a true and correct copy of the foregoing Joint Motion for Change of Venue I.R.C.P. 40.1(a)(1)(B) via iCourt E-File and Serve, upon the following:

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