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Attorneys for Petitioner South Valley Ground Water District

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE**

CV07-21-00243

SOUTH VALLEY GROUND WATER
DISTRICT,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES and GARY SPACKMAN in his
official capacity as Director of the Idaho
Department of Water Resources,

Respondents.

)
) CASE NO. CV07-2021-_____
)
)
) **DECLARATION OF DAVID B**
) **SHAW IN SUPPORT OF PETITION**
) **FOR JUDICIAL REVIEW,**
) **COMPLAINT FOR**
) **DECLARATORY RELIEF,**
) **TEMPORARY RESTRAINING**
) **ORDER AND PRELIMINARY**
) **INJUNCTION, OR**
) **ALTERNATIVELY, WRIT OF**
) **PROHIBITION**
)
)
)

I, David B. Shaw, hereby declare and state as follows:

1. My name is David B. Shaw, and my work address is ERO Resources Corporation (ERO), 4001 E Main St., Emmett, ID 83617. My telephone number is (208) 365-7684.

I am over the age of 18 and state the following based upon my own personal knowledge.

2. Since July 1996 I have been employed by ERO providing consulting services to clients in the areas of water rights, water right adjudication, and water distribution and management.
3. I have experience providing expert opinions in conjunctive administration cases before IDWR, including the Surface Water Coalition and A&B Irrigation District delivery call cases. In each of those matters, IDWR provided for a discovery and pre-hearing schedule that spanned several months. Evaluating issues concerning conjunctive administration in Basin 37 is no less complex given the unique hydrology, ground water interaction, and hundreds of individual water rights, irrigation delivery systems, and irrigated areas.
4. The Director recently issued a *Request for Staff Memorandum* on May 11, 2021, requesting certain information and reports to be disclosed on May 17, 2021, exactly three weeks from the start of the proposed hearing.
5. ERO has been retained to assist the South Valley Ground Water District (SVGWD) prepare for the contested case currently scheduled for hearing June 7-11, 2021 in Boise, Idaho. As part of our research to prepare for this case we will need to analyze and evaluate the 10 items requested by the Director to be disclosed on May 17, 2021. Among other items, the disclosure includes multiple evaluations of ground water conditions and relationships using the WRV 1.1 Wood River Valley Ground Water Flow Model. The actual analysis includes 440 abbreviated runs of the WRV 1.1 ground water model using over 56 million input records. The final information to evaluate the response to the Director's request was not received until the afternoon of May 21, 2021, 9½ working days from the scheduled hearing date.

6. The Director's request for Staff Memorandum does not provide time for deposition of the Staff Memorandum authors prior to the hearing scheduled to begin on June 7, 2021. Depositions of the Memorandum authors would assist the preparation of my expert opinion.
7. No information has been provided by the Director, IDWR staff or surface water users showing surface water is being used efficiently, without waste and on lands to which the surface water rights are appurtenant.
8. In my professional opinion I do not believe the time available from May 21 to June 7, combined with the lack of pertinent data and information, will provide me with a reasonable and fair opportunity to formulate an expert opinion in this case.
9. The schedule proposed is shorter than any administrative proceeding I have personally been involved in, including contested applications for permit or transfer.
10. The schedule is prejudicial to my client SVGWD if I am prevented from having sufficient time and information to adequately evaluate and prepare an expert opinion on SVGWD's behalf.

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

DATED this 24th day of May, 2021.

/s/ David B. Shaw
David B. Shaw

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May, 2021, the foregoing was filed, served, and copied as shown below.

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/s/ Albert P. Barker
Albert P. Barker