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Attorneys for Galena 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	)	CASE NO. CV07-2021-_____
DISTRICT,)	
)	
Petitioner,	)	DECLARATION OF G. ERICK
	)	POWELL IN SUPPORT OF
vs.	)	PETITION FOR JUDICIAL
	)	REVIEW, COMPLAINT FOR
THE IDAHO DEPARTMENT OF WATER	)	DECLARATORY RELIEF, WRIT
RESOURCES and GARY SPACKMAN in his	)	OF PROHIBITION, TEMPORARY
official capacity as Director of the Idaho	)	RESTRAINING ORDER, AND
Department of Water Resources,	)	PRELIMINARY INJUNCTION
)	
Respondents.)	
)	
)	
)	

I, G. Erick Powell, under penalty of perjury, hereby declare and state as follows:

1. I am currently a senior engineer at Brockway Engineering (“Brockway”) and have been employed there since September 2006. My duties include providing consulting services to clients in the areas of water rights (including transfers, permits, adjudication, and review), water resource engineering, hydrology and hydraulics, analysis and design.

2. I have experience providing expert opinions in administration cases before the Idaho Department of Water Resources (the “Department”), including water right transfer hearings and water right permit hearings. In all the water right hearings, even relatively simple hearings, that I have been involved in, the Department provided sufficient time for a hearing schedule that included discovery and depositions.

3. On May 11, 2021, Gary Spackman, the Director of the Department issued a Request for Staff Memorandum seeking information and reports to be disclosed by May 17, 2021 which was only three (3) weeks prior to the date of the proposed hearing (the “Hearing”) scheduled to take place on June 7-11, 2021 in this matter.

4. The Wood River Valley groundwater model version 1.1 (“WRV v 1.1”) is the primary tool to evaluate impact of groundwater pumping to the Big Wood River and Silver Creek. The WRV v. 1.1 model has 55,219 model cells and three model layers. In comparison, the Eastern Snake Plain Aquifer (“ESPA”) model used in the Rangen and Surface Water Coalition water call hearings has 11,236 model cells and one model layer. The WRV v. 1.1 model does not have any of the modeling aids or shortcuts that the ESPA model has including the transfer tool, steady state model scenario, flat plain model, and response functions. Thus, evaluating issues concerning conjunctive administration in Basin 37 is a complex process which takes time.

5. Brockway was retained by the Galena Ground Water District (“Galena GWD”) to assist it in preparing for the Hearing. To prepare for the Hearing and provide an expert opinion, we will need to analyze and evaluate the information provided pursuant to the *Request for Staff Memorandum*, which was disclosed last week.

6. Specifically, on May 18, 2021, the Department posted four different staff reports in response to a *Request for Staff Memorandum*; these reports were not served on the parties, and

these reports were not accessible via the Department's website until late in the day of May 18, 2021. Background information supporting certain portions of the technical reports were not made available until late in the afternoon on May 19, 2021. Elements of that background information were uploaded as corrupt files, specifically, the shapefiles. The shapefiles were not produced in an accessible format until late-morning on May 21, 2021. That information is not only voluminous, but it contains multiple evaluations of ground water conditions that will need to be reviewed and evaluated.

7. Given the abbreviated schedule and the breadth of technical information involved, a delay of four (4) days impairs my ability to complete a proper review of the staff material in the minimal time allotted, and prejudices the District's ability to prepare for the Hearing.

8. Additionally, given the current date of the hearing, the District's attorneys will not have adequate time to depose any of the individuals who provided information pursuant to the Staff Memorandum prior to the Hearing, which is crucial to enable us to prepare a thorough and accurate expert opinion.

9. Based on the foregoing factors and in my professional opinion, I do not believe that the Director has provided a reasonable and fair opportunity to evaluate and analyze all of the data, information and reports in order to form an expert opinion prior to the commencement of the Hearing.

10. I also believe that Galena GWD will be prejudiced if I am not provided adequate time to evaluate and prepare my expert opinion as it will prevent the District from being able to properly defend itself at the Hearing.

11. Additionally, the hearing, as currently scheduled, conflicts with my schedule as I will be out of town on June 8, 2021. My absence from the Hearing will further prejudice the interest of the Galena GWD.

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

Dated: May 24, 2021



G. Erick Powell

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
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