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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	)	CASE NO. CV 2021-_____
DISTRICT,)	
)	
Plaintiff,)	
	)	DECLARATION OF TRAVIS L.
vs.	)	THOMPSON IN SUPPORT OF
	)	PETITION FOR JUDICIAL
THE IDAHO DEPARTMENT OF WATER	)	REVIEW, COMPLAINT FOR
RESOURCES and GARY SPACKMAN in his	)	DECLARATORY RELIEF,
official capacity as Director of the Idaho	)	TEMPORARY RESTRAINING
Department of Water Resources,	)	ORDER AND PRELIMINARY
	)	INJUNCTION, OR
Defendants.	)	ALTERNATIVELY, WRIT OF
	)	PROHIBITION
_____)	

I, Travis L. Thompson, hereby declare and state as follows:

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

2. I am one of the attorneys representing the South Valley Ground Water District (“SVGWD”) in the above captioned matter and am assigned to assist in the scheduled hearing in this matter, June 7-11, 2021, in Boise, Idaho.
3. Attached hereto as **Exhibit A** is a true and correct copy of an excerpt from a presentation given by Craig Tesch (IDWR) at the Idaho Water Users Association Annual Conference entitled *Ground Water Conditions Throughout Idaho* (dated Jan. 21, 2020).
4. Attached hereto as **Exhibit B** is a true and correct copy of the *Preliminary Order* from *In the Matter of the Proposed Combination of Water District Nos. 37 et al.* issued by the Idaho Department of Water Resources (“IDWR”) on September 17, 2013. The order became a final agency action by operation of law.
5. Attached hereto as **Exhibit C** is a true and correct copy of excerpts of a March 7, 2014 PowerPoint presentation titled: *Idaho CM Rules and Ground Water District Formation* presented by Tim Luke (IDWR) to water users in Basin 37. Through this presentation Mr. Luke, on behalf of IDWR, represented that a contested case for conjunctive administration in Basin 37 could take a “year or more.”
6. Attached hereto as **Exhibit D** is a true and correct copy of the *Memorandum Decision and Order* issued on April 22, 2016 in *Sun Valley Co. v. Spackman*, Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV-WA-2015-14500.
7. Attached hereto as **Exhibit E** is a true and correct copy of the *Judgment* issued on April 22, 2016 in *Sun Valley Co. v. Spackman*, Ada County Dist. Ct., Fourth Jud. Dist., Case No. CV-WA-2015-14500.

8. Attached hereto as **Exhibit F** is a true and correct copy of the minutes from the April 7, 2021 meeting of the Big Wood River Basin Groundwater Management Area (“BWRBGWMA”) advisory committee.
9. Attached hereto as **Exhibit G** is a true and correct copy of the agenda from the April 15, 2021 meeting of BWRBGWMA advisory committee.
10. Attached hereto as **Exhibit H** is a true and correct copy of the minutes from the April 15, 2021 meeting of BWRBGWMA advisory committee.
11. Attached hereto as **Exhibit I** is a true and correct copy of the Director’s May 4, 2021 *Notice of Administrative Proceeding, Pre-Hearing Conference, and Hearing (“Notice”)*.
12. Attached hereto as **Exhibit J** is a true and correct copy of the IDWR Director’s May 4, 2021 *Letter to “Water Right Holder”* cover letter.
13. Attached hereto as **Exhibit K** is a true and correct copy of the May 7, 2021 email from Tim Luke to BWRGWMA advisory committee members.
14. Attached hereto as **Exhibit L** is a true and correct copy of the Statement of Purpose for Idaho House Bill 43 from the 2021 legislative session.
15. Attached hereto as **Exhibit M** is a true and correct copy of IDWR’s June 7, 2017 *Order Dismissing Petition for Administration* in the matter CM-DC-2017-001.
16. Attached hereto as **Exhibit N** is a true and correct copy of IDWR’s *Request for Staff Memorandum* issued on May 11, 2021.
17. On May 13, 2021, SVGWD filed its: (1) *Motion Dismiss / Supporting Points & Authorities / Motion to Shorten Time for Response / Request for Oral Argument (“Motion to Dismiss”)*; (2) *Motion to Appoint Independent Hearing Officer*; (3)

Motion for Continuance of Hearing; (4) Motion for Order Authorizing Discovery; and, (5) Request for Information.

18. Attached hereto as **Exhibit O** is a true and correct copy of IDWR's *Order Denying Motions to Dismiss, for Continuance or Postponement, and for Clarification or More Definite Statement* ("Dismiss Denial Order") issued on Saturday, May 22, 2021.
19. Attached hereto as **Exhibit P** is a true and correct copy of the Director's May 21, 2021 *Order Denying Motion to Appoint Independent Hearing Officer*.
20. Attached hereto as **Exhibit Q** is a true and correct copy of the Director's May 21, 2021 *Order Authorizing Discovery*. Although the order is dated May 21, 2021 it was not served until Saturday May 22, 2021 by email.
21. Attached hereto as **Exhibit R** is a true and correct copy of the order designating the Big Wood River Groundwater Management Area issued on June 28, 1991.
22. Attached hereto as **Exhibit S** is a true and correct copy of Petitioner's *Request for Information* with IDWR on May 13, 2021. As of the filing of this case IDWR has not produced any documents in response.
23. On May 18, 2021, IDWR posted four different staff reports in response to a *Request for Staff Memorandum*; these reports were not served on Petitioner, and Petitioner was not aware of these reports until late in the day of May 18, 2021. Background information supporting certain portions of the technical reports were not made available until 11:27 a.m. on May 21, 2021 when a new file was emailed to Albert Barker. The staff reports total more than 150 pages, and the background data contains additional information and maps spanning numerous documents.

24. On May 22, 2021, Petitioner filed a motion requesting the Director to designate the *Dismiss Denial Order* as a final agency order under the Idaho Administrative Procedure Act.
25. During the pre-hearing conference, “from the table,” the Director denied Petitioner’s motion to designate his dismissal of Petitioner’s *Motion to Dismiss* as final; the Director issued a written dismissal later on May 24, 2021. Attached hereto as **Exhibit T** is a true and correct copy of the Director’s *Order Denying South Valley Ground Water District’s Motion to Designate Order Denying Motion to Dismiss as Final Order* issued on May 24, 2021.
26. On May 21, 2021, after eight (8) days and no response to its *Request for Production*, Petitioner was forced to file a public records request with the agency pursuant to Idaho Code § 74-102.
27. To the best of my knowledge and experience, the following outlines prior delivery call cases and their timeframes to complete discovery, motion practice, and hold an administrative hearing on the issues raised by affected senior surface and junior ground water users.
- a. Spring Users (Blue Lakes / Clear Springs): May 2005 to November 2007;
 - b. Surface Water Coalition: January 2005 to February 2008;
 - c. A&B Irrigation District: January 2008 to June 2009;
 - d. Rangen, Inc.: Sept. 2011 to March 2014; and,
 - e. Big Wood and Little Wood Users (Basin 37): Feb. 2015 to Jan. 2016.
28. Attached hereto as **Exhibit U** is a true and correct copy of the screen printout of the IDWR contested case (Docket No. AA-WRA-2021-001) identifying filings and

entities and individuals that have filed notices of participation. The original *Notice* included a certificate of service list that was over 40 pages long.

29. Attached hereto as **Exhibit V** is a true and correct copy of the *Declaration of Fred Brossy in Support of BWLWWUA Motions to Dismiss*.

DATED this 24th day of May, 2021.

BARKER ROSHOLT & SIMPSON LLP

/s/ TRAVIS L. THOMPSON

Travis L. Thompson

Attorneys for South Valley Ground Water District

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