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

SOUTH VALLEY GROUND WATER)
DISTRICT and GALENA GROUND)
WATER DISTRICT,)
)
Petitioners,)
vs.)
)
THE IDAHO DEPARTMENT OF)
WATER RESOURCES and GARY)
SPACKMAN in official capacity as)
Director of the Idaho Department of Water)
Resources,)
)
Respondents.)
)
)
_____)

CASE NO. CV07-21-243

DECLARATION OF JERRY R. RIGBY

and)
)
 SUN VALLEY COMPANY, CITY OF)
 BELLEVUE, BIG WOOD CANAL)
 COMPANY, BIG WOOD & LITTLE)
 WOOD WATER USERS ASSOCIATION,)
 and CITY OF POCA TELLO,)
)
 Intervenor s.)
)
)
 _____)

I, Jerry R. Rigby, 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 individual senior surface water right holders in the administrative proceeding contested case held before the Director of the Idaho Department of Water Resources in Boise, Idaho from June 7 through and including June 12, 2021, who have joined together as a group entitled Big Wood & Little Wood Water Users Association (“BWLWWUA”).

3. In support of the above entitled Petitioners various motions, including their *Amended Petition for Judicial Review, Complaint for Declaratory Relief, Temporary Restraining Order and Peliminary Injunction, or Alternatively, Writ of Prohibition*, Petitioners have filed the *Declaration of Mark Johnson* and the *Declaration of Michael A. Short*, together with the *Second Declaration of Michael A. Short* as their claim of irreparable harm which would result from the Director’s *Final Order* in Docket No. AA-WRA-2021-001 *In the matter of Basin 37 Administrative Proceeding*, dated June 28, 2021, before the Department of Water Resources and

the Director's most recent *Final Order Denying Petition to Stay Curtailment/Granting Request for Expedited Decision/Granting Request for Hearing*, dated June 29, 2021.

4. However, as evidenced in the said administrative hearing, the individual members of the BWLWWUA and the President of Big Wood Canal Company ("BWCC") each testified as to the substantial injuries they would sustain IF curtailment was NOT to be ordered. Below is a list of some of the most senior water right holders who produced and testified to the attached exhibits which were admitted into the record of the proceeding:

A. Attached hereto as Barbara Exhibit 1 is as true and correct copy of the injury to be sustained by crops as testified to by Mr. Fred Brossy regarding to his personally owned entities should curtailment not be ordered. Mr. Brossy's testimony verifying his injuries are found in *Tr.* pp. 448-451 and summarized by the Director in his *Final Order*, p.13.

B. Attached hereto as Hubsmith Exhibit 1 is as true and correct copy of the injury to be sustained by crops as testified to by Mr. Rodney Hubsmith should curtailment not be ordered. Mr. Hubsmith's testimony verifying his injuries are found in *Tr.* pp. 495-497 and summarized by the Director in his *Final Order*, pp. 13-14.

C. Mr. Carl Pendleton, chairman of the board of the Big Wood Canal Company testified as to the injury to the BWCC's water rights should curtailment not be ordered. See *Tr.* pp 542 & 556 and summarized by the Director in his *Final Order*, pp. 14-15.

D. Attached hereto as W. Arkoosh Exhibit 1 is as true and correct copy of the injury to be sustained by crops as testified to by John Arkoosh on behalf of William Arkoosh should curtailment not be ordered. Mr. John Arkoosh, William's partner providing testimony verifying

this injuries are found in *Tr.* pp. 587-588 & 592-593 and summarized by the Director in his *Final Order*, pp. 15-16.

E. Attached hereto as J. Arkoosh Exhibit 1 is as true and correct copy of the injury to be sustained by crops as testified to by Mr. John Arkoosh should curtailment not be ordered. Mr. John Arkoosh testimony verifying this injuries are found in *Tr.* pp. 610-611 and summarized by the Director in his *Final Order*, pp 16-17.

F. Attached hereto as Big Wood Farms Exhibit 1 is as true and correct copy of the injury to be sustained by crops as testified to by Mr. Alton Huyser on behalf of his entity should curtailment not be ordered. Mr. Huyser's testimony verifying this injuries are found in *Tr.* p. 654 and summarized by the Director in his *Final Order*, p. 17.

G. Attached hereto as Taber Exhibit 1, 7 Mile Exhibit 1 & Ritter Exhibit 1 are true and correct copies of the injury to be sustained by crops as testified to by Mr. Don Taber should curtailment not be ordered. Mr. Taber owns a farm and rents the farms known as 7 Mile and Ritter described in the respective exhibits. Mr. Taber's testimony verifying this injuries are found in *Tr.* pp. 673-674 and summarized by the Director in his *Final Order*, pp. 17-18.

H. Attached hereto as Newell Exhibit 1 is a true and correct copy of the injury to be sustained by crops as testified to by Mr. Charles Newell should curtailment not be ordered. Mr. Newell's testimony verifying this injuries are found in *Tr.* p. 736 and summarized by the Director in his *Final Order*, p. 18.

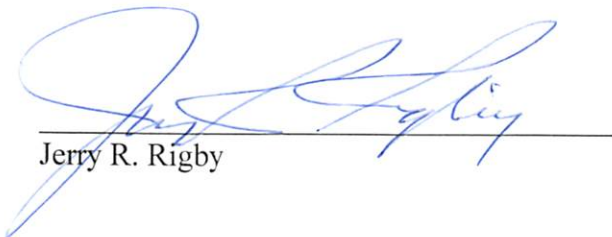
5. As found by the Director in his *Final Order* as to Mr. Fred Brossy injuries, the Director ruled that: “. . . the record supports a finding that a shortage of water in 2021 has already impacted Brossy's farming activities, and will probably cause significant economic injury

by the end of the 2021 irrigation season.” *Final Order*, p. 13. Similarly, the same injury was found by the Director as to each of the other surface water right holders. (Hubsmith, p. 14; W. Arkoosh, p. 15; J. Arkoosh, p. 16; Huyser, p. 17; Taber, p. 18; and Newell, p. 18).

6. As further found by the Director in his *Final Order*, the surface water right holders have met their burden “to support an initial determination that during the 2021 irrigation season, the surface water users have been and will continue to be injured by a shortage of water resulting, in part, from ground water pumping in the Bellevue Triangle under junior priority water rights.” *Final Order*, p. 23

7. In addition to the above, most of the BWLWWUA members testified as to their personal knowledge that when the pumps are turned off within the Bellevue Triangle, the Little Wood River’s flows increase within a very short period of time, all as summarized by the Director in his *Final Order*, pp. 13-18.

Dated this 1st day of July, 2021



Jerry R. Rigby

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of July, 2021, the above and foregoing was served on the following by the method(s) indicated below:

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