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Attorneys for Petitioner South Valley Ground Water District and 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**

SOUTH VALLEY GROUND WATER)
DISTRICT and GALENA GROUND WATER) CASE NO. CV07-21-00243
DISTRICT,)
)
Petitioners,)
)
) **SECOND DECLARATION OF**
vs.) **MICHAEL A. SHORT**
)
)
THE IDAHO DEPARTMENT OF WATER)
RESOURCES and GARY SPACKMAN in his)
official capacity as Director of the Idaho)
Department of Water Resources,)

Respondents.

)
)
)
)
)

COME NOW,
I, Michael A. Short, 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.
3. On June 23, 2021, SVGWD and Galena Ground Water District (“GGWD”) submitted its *Proposed Mitigation Plan* to the Director of Idaho Department of Water Resources in in the Basin 37 administrative proceeding (Docket No. AA-WRA-2021-001) (“Basin 37 Matter”). *See Ex. T to Declaration of Michael A. Short* (filed previously with the Court).
4. On June 29, 2021, at 2:39 p.m., without holding a hearing pursuant to the *Mitigation Plan*, the Director of Idaho Department of Water Resources filed a *Final Order Denying Mitigation Plan* in the Basin 37 Matter. A true and correct copy of that order is attached hereto as **Exhibit A**.
5. On June 28, 2021, SVGWD and GGWD submitted its *Petition to Stay Curtailment/Request for Expedited Decision/Request for Hearing on Proposed Mitigation Plan* in the Basin 37 Matter. *See Ex. Y to Declaration of Michael A. Short* (filed previously with the Court).
6. On June 29, 2021, at 2:39 p.m., the Director of Idaho Department of Water Resources emailed a *Final Order Denying Petition to Stay Curtailment/Granting Request for Expedited Decision/Granting Request for Hearing on Proposed Mitigation Plan* in the Basin 37 Matter. A true and correct copy of that order is attached hereto as **Exhibit B**.

7. The Director did not follow the required procedures for a mitigation plan set forth in Rule 43 of the Department’s Conjunctive Management Rules, *see* IDAPA 37.03.11.43, in his consideration and denial of the Petitioners’ *Proposed Mitigation Plan*.
8. The Director denied the Petitioners’ *Proposed Mitigation Plan* without first holding a hearing on the plan.¹
9. The Director denied the petition to stay the curtailment of Petitioners’ water rights, which is set to begin at 12:01 a.m. on July 1, 2021.
10. There is no administrative remedy at this point to stop the curtailment of Petitioners’ member’s groundwater rights.
11. On June 29, 2021, I received communications indicating that the Idaho Department of Water Resources intends to send ten (10) people to the Bellevue Triangle area of Basin 37 on the morning of Thursday, July 1, 2021 to check that those water users curtailed by the Director have shut-off their pumps. The risk of harm to Petitioners’ is immediate and manifest. The Directors’ curtailment order will be enforced the morning of July 1, 2021, and Petitioners will be irreparably, and immediately harmed without action from this Court.

DATED this 29th day of June, 2021.

BARKER ROSHOLT & SIMPSON LLP

/s/ MICHAEL A. SHORT
Michael A. Short

Attorneys for South Valley Ground Water District

¹ The Director granted the request for a hearing on the mitigation plan pursuant to I.C. § 42-1701A(3) but has only indicated that the “Department will work with the parties in this administrative proceeding to expeditiously schedule a hearing.” *See* Ex. B (*Order Denying Petition to Stay Curtailment*), at 2. Any hearing at this point would be futile since the mitigation plan has already been denied by a final order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2021, the foregoing was filed, served, and copied as shown below.

IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Hand Delivered Overnight Mail iCourt
Gary L. Spackman IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720-0098	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
James R. Laski Heather O’Leary LAWSON LASKI CLARK PLLC PO Box 3310 Ketchum, ID 83340	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
Candice McHugh Chris Bromley MCHUGH BROMLEY, PLLC 380 S. 4th St., Ste. 103 Boise, ID 83702	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
Sarah A. Klahn SOMACH SIMMONS & DUNN 2033 11th St., #5 Boulder, CO 80302	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
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/s/ Albert P. Barker
Albert P. Barker