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FEB 16 2023
DEPARTMENT OF
WATER RESOURCES

Attorneys for Intermountain Sewer & Water Corp.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 78356 (SHEKINAH INDUSTRIES); APPLICATION FOR TRANSFER NO. 78355 (ORCHARD RANCH); APPLICATION FOR PERMIT NO. 63-32499 (MAYFIELD TOWNSITE); APPLICATION FOR PERMIT NO. 61-12095 (NEVID-CORDER); APPLICATION FOR PERMIT NO. 63-32703 (ORCHARD RANCH); APPLICATION FOR PERMIT NO. 61-12256 (INTERMOUNTAIN SEWER AND WATER); APPLICATION FOR PERMIT NO. 63-33344 (ARK PROPERTIES-MAYFIELD TOWNSITE)

NOTICE OF APPEARANCE; AND RESPONSE TO MOTION TO DESIGNATE PRIOR APPROVALS FOR EXTENSION OF TIME IN THE I-84 CORRIDOR AS PRELIMINARY, RECOMMENDED, OR FINAL ORDERS; TO DENY SUBSEQUENT REQUESTS FOR EXTENSIONS OF TIME IN THE I-84 CORRIDOR; OR IN THE ALTERNATIVE TO PROVIDE A FORUM FOR CHALLENGING REQUESTS FOR EXTENSION OF TIME IN THE I-84 CORRIDOR

A. Notice of Appearance

COMES NOW Intermountain Sewer & Water Corp., by and through its attorneys, S. Bryce Farris and Katie L. Vandenberg-Van Vliet of Sawtooth Law Offices, PLLC, and hereby gives notice of appearance in said cause and controversy by said firm, and requests that all documents

and pleadings filed herein be duly and regularly served upon said attorneys at the address noticed above.

B. Response to Motion to Designate Prior Approvals for Extension of Time in the I-84 Corridor as Preliminary, Recommended, or Final Orders; to Deny Subsequent Requests for Extensions of Time in the I-84 Corridor; or in the Alternative to Provide a Forum for Challenging Requests for Extension of Time in the I-84 Corridor

Juniper Station Farms, LLC (hereinafter “Juniper Station”) filed the above-referenced Motion pursuant to Rule of Procedure 750, IDAPA 37.01.01.750, and moving the Director of the Idaho Department of Water Resources (“Director” or “IDWR”) to designate prior approvals of extension of time as either recommended, preliminary, or final orders of the agency,¹ to deny subsequent requests for extension of time or, in the alternative, to provide a forum to challenge requests for extensions of time (hereinafter “*Motion*”). While Intermountain Sewer & Water Corp. believes it understands Juniper Station’s intent behind the *Motion*, it is not clear procedurally whether there is a proper forum for the *Motion* at this time, whether the forum is the I-84 Corridor matter where the *Final Order* was issued nearly ten years ago² or whether Juniper Station is

¹ Juniper Station suggests that the extensions of time were granted without a recommended, preliminary or final order. However, Juniper Station is incorrect with respect to Intermountain Sewer & Water Corp.’s request for extensions because preliminary orders were in fact specifically issued by the Department (*See* water right backfile for 63-32225). In fact, Intermountain Sewer & Water Corp.’s most recent extension was approved and an approval letter dated June 21, 2022 was issued by the Department which provided that the approval was a: “PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department’s Rules of Procedure.” The Preliminary Order became a final order fourteen (14) days later. Thus, Juniper Station’s *Motion*, or at least the portion seeking to designate prior approvals, is moot as to the extensions granted to Intermountain Sewer & Water Corp.

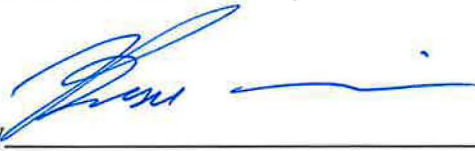
² For purposes of this Response, the *I-84 Corridor Final Order* refers to the *Final Order Regarding Water Sufficiency* issued by the Director on November 4, 2013.

attempting to establish a new contested case altogether. While the I-84 Corridor *Final Order* consolidated applications for purposes of evaluating the sufficiency of water supply, it does not appear the Director retained jurisdiction as an open contested case to address future applications or issues concerning future applications. In fact, future applications and transfers have been processed separately with the conclusions/direction provided in the *Final Order* as a basis of consideration by IDWR concerning the sufficiency of water supply and the processing of pending applications. In other words, the *Final Order* provided IDWR and applicants with the guidance or direction as the sufficiency of water supply and the processing of pending applications but such applications have been processed separately. Thus, Intermountain Sewer & Water Corp. contends that it is premature for it to have to respond to Juniper Station's *Motion* until the proper forum is addressed and a reasonable process for responding to the *Motion* is established.

While Rule of Procedure 220.02.b, IDAPA 37.01.01.220.02.b, provides that a response to a motion is due fourteen days from the date the motion is filed, again, it is unclear whether a proper motion has been filed and in which forum. Thus, without waiving its right to respond to the merits of the *Motion*, Intermountain Sewer & Water Corp. contends that it cannot properly respond, nor should it be required to respond, to the *Motion* at this time. Intermountain Sewer & Water Corp. requests that IDWR either schedule a status conference to discuss and determine how to procedurally proceed and/or provide guidance as to the forum and process for addressing Juniper Station's *Motion*. At said time Intermountain Sewer & Water Corp. will address the merits of the *Motion*.

DATED this 16th day of February, 2023.

SAWTOOTH LAW OFFICES, PLLC

By 

S. Bryce Farris
Katie L. Vandenberg-Van Vliet
Attorneys for Intermountain Sewer &
Water Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of February, 2023, I caused a true and correct copy of the foregoing **NOTICE OF APPEARANCE; AND RESPONSE TO MOTION TO DESIGNATE PRIOR APPROVALS FOR EXTENSION OF TIME IN THE I-84 CORRIDOR AS PRELIMINARY, RECOMMENDED, OR FINAL ORDERS; TO DENY SUBSEQUENT REQUESTS FOR EXTENSIONS OF TIME IN THE I-84 CORRIDOR; OR IN THE ALTERNATIVE TO PROVIDE A FORUM FOR CHALLENGING REQUESTS FOR EXTENSION OF TIME IN THE I-84 CORRIDOR** to be served by the method indicated below, and addressed to the following:

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