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Attorneys for Juniper Station Farm, LLC

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 RAHCN); 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)

REPLY TO NEVID, LLC, ORCHARD RANCH, LLC, ARK PROPERTIES-MAYFIELD TOWNSITE, LLC, AND INTERMOUNTAIN SEWER & WATER CORP. RESPOSES 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

COMES NOW Juniper Station Farms, LLC (“Juniper”) by and through its attorneys of record, McHugh Bromley, PLLC, and pursuant to Rule of Procedure 220.02.c, IDAPA

REPLY TO NEVID, LLC, ORCHARD RANCH, LLC, ARK PROPERTIES-MAYFIELD TOWNSITE, LLC, AND INTERMOUNTAIN SEWER & WATER CORP. RESOPNSES 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

37.01.01.220.02.c, hereby replies to the February 16, 2023 responses filed by Nevid LLC, Orchard Ranch, LLC, Ark Properties-Mayfield Townsite, LLC (collectively “Nevid”), and Intermountain Sewer & Water Corp. (“Intermountain”).

1. IDWR Should Confirm That Approvals For Requests For Extension Of Time In The I-84 Corridor Are Preliminary Orders Of The Agency

Juniper concurs with Intermountain that at least one of IDWR’s approvals of a request for extension of time in the I-84 Corridor was issued as a preliminary order. *See Intermountain Response* at 1, fn. 1. If IDWR will confirm that it issues approvals for requests for extension of time in the I-84 Corridor as preliminary orders, Juniper’s first request for relief will be satisfied. To be clear, Juniper is not asking to challenge the previously issued approvals; rather, the purpose in asking IDWR to identify the type of order was to understand how to potentially challenge approvals in the future.

2. Juniper Disagrees That Notice Is Given Of Requests For Extension Of Time In The I-84 Corridor

Juniper is unclear what Nevid is attempting to argue when it says “Juniper is not a party to the extensions of time matters” *Nevid Reply* at 2. Assuming for the sake of argument that all previously issued approvals were preliminary orders, Juniper agrees it is not a party, nor can Juniper become a party because the time for challenging the approvals has run. Where it appears Nevid may be heading is to prevent Juniper from ever becoming a party in the future. Nevid argues, incorrectly, that notice has been given of requests for extension of time. Unlike applications for permit, applications for transfer, or applications for extension of time to avoid forfeiture of a water right, requests for extension of time are neither advertised in newspapers of

general circulation nor posted in a conspicuous location on IDWR’s website. To the extent that requests for extension of time are available for review, that wholly depends on whether IDWR scans and profiles each request for extension of time to the water right file, with third parties required to monitor each water right file on a daily basis.

It is precisely for this reason that Juniper has moved IDWR to create a forum in which requests for extension of time in the I-84 Corridor are made known. It is not unreasonable for Juniper to move IDWR to create a forum for addressing subsequently filed requests for extension of time in a previously identified area of limited water supply.

3. Juniper Concurs With Intermountain That A Status Conference Is Appropriate

Juniper concurs with Intermountain “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*.” *Intermountain Response* at 3. Holding a status conference would be in line with IDWR’s procedural rules: “The rules in this chapter will be liberally construed to ensure just, speedy and economical determination of all issues presented to the agency.” IDAPA 37.01.01.051. The issues framed in Juniper’s *Motion* are understandable, legitimate, and entitled to be heard.

RESPECTFULLY SUBMITTED this 23rd day of February, 2023.

MCHUGH BROMLEY, PLLC



CHRIS M. BROMLEY

Attorneys for Juniper Station Farms, LLC

CERTIFICATE OF SERVICE

I certify that on this 23rd day of February, 2023, I caused to be served a true and correct copy of the foregoing upon the following persons by the method(s) indicated:

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