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DEPARTMENT OF
WATER RESOURCES

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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS
FOR PERMITS FOR THE DIVERSION
AND USE OF SURFACE AND GROUND
WATER WITHIN THE SNAKE RIVER
BASIN

**CITY OF HAILEY’S CHALLENGE
AND REQUEST FOR HEARING**

City of Hailey (“City”), pursuant to I.C. § 42-1701A(3), hereby files this *Challenge and Request for Hearing* in the above-captioned matter.

On October 21, 2022, the Director of the Idaho Department of Water Resources (“IDWR” or “Department”) issued the *Amended Snake River Basin Moratorium Order* (“*Amended Moratorium Order*”). The *Amended Moratorium Order* extends into the “Big Wood River Ground Water Management Area” (*Amended Moratorium Order* at 28), which area also is subject to the Director’s May 17, 2022 *Order Establishing Moratorium In the Matter of the Big Wood River Ground Water Management Area* (“*Big Wood Moratorium Order*”). The *Big Wood Moratorium Order* was challenged by the City of Bellevue, with petitions to intervene filed by a number of water users within Basin 37, including the City of Hailey.

The City holds water rights, and may seek additional water rights, for municipal use within the areas purportedly affected by both the *Amended Moratorium Order* and the *Big Wood Moratorium Order*. The *Amended Moratorium Order* and *Big Wood Moratorium Order* are not

identical and therefore subject the City to two overlapping moratorium orders that may be in conflict with each other.

According to the *Amended Moratorium Order* and *Big Wood Moratorium Order*: “Applications for municipal water use and for domestic use from community water systems shall be considered fully consumptive.” *Amended Moratorium Order* at 28; *Big Wood Moratorium Order* at 8 (emphasis added). The *Amended Moratorium Order* contains no findings of fact or conclusions of law to support this statement. The Director’s purported factual and legal contentions supporting this statement are at issue in the City of Bellevue’s challenge to the *Big Wood Moratorium Order*. The *Amended Moratorium Order*’s and the *Big Wood Moratorium Order*’s assertions that domestic and municipal water use “shall be considered fully consumptive” are contrary to the reality that such water use is only potentially fully consumptive, and in practice is rarely (if ever) fully consumed. In short, the Department’s position is unsupported by fact and contrary to law.

Based on the foregoing, and because the only relief allowed for in the *Amended Moratorium Order* is to contest this action by requesting a hearing, the City hereby requests a hearing in this matter pursuant to I.C. § 42-1701A(3). The City reserves the right to supplement this filing.

DATED this 7th day of November 2022.

GIVENS PURSLEY LLP



By _____

Michael P. Lawrence
Attorneys for City of Hailey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 2022, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

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