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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

IN THE MATTER OF BIG WOOD RIVER GROUND WATER MANAGEMENT AREA

CITY OF POCATELLO, CITY OF IDAHO FALLS, CITY OF BOISE, CITY OF MERIDIAN, CITY OF POST FALLS, COALITION OF CITIES¹, CITY OF HAILEY, AND VEOLIA WATER IDAHO, INC. MOTION TO CLARIFY SCOPE OF HEARING; MOTION TO AUTHORIZE DISCOVERY AND HEARING SCHEDULE

Fee Category: Exempt
Idaho Code § 67-2301

COME NOW the CITY OF POCATELLO; CITY OF IDAHO FALLS; CITY OF BOISE; CITY OF POST FALLS; CITY OF MERIDIAN; CITIES OF BLISS, BURLEY, CAREY, DECLO, DETRICH, GOODING, HEYBURN, HAZELTON, JEROME, PAUL, RICHFIELD, RUPERT, SHOSHONE AND WENDELL (“Coalition of Cities”); CITY OF HAILEY; and VEOLIA WATER IDAHO, INC. (collectively, the “Municipal Providers”), to move the Director to clarify, for purposes of any hearing(s) in this matter, the relationship between the Big Wood River Ground Water Management Area (“BWRGMA”) Moratorium and the Eastern Snake Plain Aquifer (“ESPA”) Amended Moratorium (collectively “Moratoria”); for an order authorizing discovery generally, and for a hearing schedule. As grounds therefore, the Cities would show the Director:

I. Motion to Clarify the Scope of Hearing to Be Conducted:

The Amended ESPA Moratorium overlaps geographically with the BWRGMA Moratorium; further, the two Moratoria include the Director’s finding that any new municipal appropriations in the moratoria areas would be assumed to be 100% consumptive (the

¹ The Coalition of Cities are made up of the cities of: Bliss, Burley, Carey, Declo, Detrich, Gooding, Heyburn, Hazelton, Jerome, Paul, Richfield, Rupert, Shoshone and Wendell.

“municipal provision”). Many parties filed requests for hearing (or moved to intervene) in either or both Moratoria to challenge or support the Director’s municipal provision. On November 15, 2022, the City of Bellevue sought consolidation of the two hearings. To date, the Director has not clarified whether the matters will be formally consolidated or not.

The Cities suggest a limited consolidation for purposes of hearing on common issues in dispute, namely the Director’s municipal provision, together with any ancillary legal issues. The City of Bellevue’s counsel will be prepared at the prehearing conference to discuss an approach to handle remaining issues raised in Bellevue’s October 31, 2022 filing, *List of Issues for Hearing*.

II. Motion to Authorize Discovery and Proposed Schedule.

The Cities request an order authorizing discovery pursuant to IDAPA 37.01.01.520 and propose the following schedule:

March 10	Discovery opens, written discovery may begin
March 31	The Department discloses: <ul style="list-style-type: none"> • all documents in the record of decision leading up to the ESPA Amended Moratorium and the BWRGWMA Moratorium; and • all individuals involved in the drafting of the two Moratorium Orders and their respective areas of involvement.
April 30	Parties exchange lists of possible witnesses and relevant documents, including identities of expert witnesses and general summary of testimony, subject to a duty to supplement with the identity of individuals or documents that become relevant as discovery proceeds, similar to the obligation under I.R.C.P., Rule 26(a)(4)
May 31	Deadline for expert reports from opponents of the municipal provision


June 1	Depositions of experts representing opponents of the municipal provision may begin
June 30	Deadline for expert reports from supporters of the municipal provision
July 5	Depositions of experts representing supporters of the municipal provision may begin
August 14	Parties exchange witness lists and exhibit lists; pretrial briefs are due
August 22	Three day hearing begins (hearing to be conducted August 22-24)

Respectfully submitted this 10th day of March, 2023.

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By /s/ Chris Bromley
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HOLDEN, KIDWELL, HAHN & CRAPO,
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By /s/ Michael P. Lawrence
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2023, a true and correct copy of the foregoing document was served by email and addressed to the following:

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