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Attorneys for Respondents

**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
DISTRICT,

Petitioners,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES and GARY SPACKMAN in his
official capacity as Director of the Idaho
Department of Water Resources,

Respondents.

CASE NO. CV07-2021-00243

**STIPULATION AND JOINT MOTION
TO STAY PETITION FOR JUDICIAL
REVIEW PETITION and DISMISS
WITHOUT PREJUDICE
COMPLAINT FOR DECLARATORY
RELIEF, TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION, OR
ALTERNATIVELY WRIT OF
PROHIBITION**

RESPONDENTS, the Idaho Department of Water Resources and Gary Spackman, in his official capacity as the Director of the Department (respectively, the “Department” and the “Director”; collectively, the “Respondents”), and PETITIONERS, South Valley Ground Water District and Galena Ground Water District (respectively, “South Valley” and “Galena”; collectively, the “Petitioners”), by and through counsel of record, hereby enter into the stipulation set forth below regarding the *Petition for Judicial Review, Complaint for Declaratory Relief, Temporary Restraining Order and Preliminary Injunction, or Alternatively Writ of Prohibition* (May 24, 2021) (“*Petition & Complaint*”); and jointly move this Court for an order that: (1) stays Count I of the *Petition & Complaint*’s for judicial review pursuant to the Idaho Administrative Procedure Act (“IDAPA”); and (2) dismisses without prejudice Counts II through V of the *Petition & Complaint*.

STIPULATION

WHEREAS, on May 4, 2021, the Director issued a *Notice of Administrative Proceeding, Pre-Hearing Conference and Hearing*, under the caption “In the Matter of Basin 37 Administration,” and Department Docket No. AA-WRA-2021-001 (“Notice”); and

WHEREAS, the Petitioners filed notices of intent to participate in the above-referenced administrative proceeding on May 10 and May 13, 2021; and

WHEREAS, South Valley filed a motion to dismiss the administrative proceeding on May 13, 2021, and also filed an alternative motion for continuance of the hearing in the administrative proceeding on the same date; and

WHEREAS, Galena filed a joinder in South Valley’s motions on May 19, 2021; and

WHEREAS, the Director issued an order denying South Valley’s motion to dismiss and alternative motion for a continuance on May 22, 2021; and

WHEREAS, South Valley filed a motion requesting the Director to designate the order denying South Valley's motion to dismiss as a final order on May 22, 2021; and

WHEREAS, the Director issued an order denying South Valley's motion to designate the order denying South Valley's motion to dismiss as a final order on May 24, 2021; and
The Petitions filed the *Petition & Complaint* on May 24, 2021; and

WHEREAS, Count I of the *Petition & Complaint* is a petition for judicial review pursuant to IDAPA; and

WHEREAS, Counts II through V of the *Petition & Complaint* are requests for declaratory relief, preliminary injunction, and writ of prohibition regarding the administrative proceeding; and

WHEREAS, the *Petition & Complaint's* prayer for relief requests that the petition for judicial review be granted, that declaratory judgments, a writ of prohibition, and a temporary restraining order be entered, that an order compelling the Respondents to appear and show cause why a preliminary injunction should not be issued, for entry of an order awarding attorneys' fees and costs against the Respondents, and for further relief; and

WHEREAS, this Court issued an *Order Denying Application for Temporary Restraining Order* on May 27, 2021; and

WHEREAS, the Respondents filed the *Respondents' Motion to Dismiss Petition for Judicial Review, Complaint for Declaratory Relief, Temporary Restraining Order and Preliminary Injunction, or Alternatively Writ of Prohibition* on May 28, 2021;

WHEREAS, the Parties agree to preserve and stay the Petition for review pursuant to IDAPA contained in Count I, pending the outcome of the administrative proceeding and to dismiss Counts II through V without prejudice to Petitioners' right to amend the complaint to

add the same, similar or additional counts, depending on the progress or outcome of the administrative proceeding;

NOW, THEREFORE, the Respondents and Petitioners stipulate and agree as follows:

1. Count II, Count III, Count IV, and Count V of the *Petition & Complaint*, and the corresponding requests for relief, should be dismissed without prejudice; and
2. Petitioners retain their rights under IRCP 15 to file or seek leave to file amendments to the Complaint to add the same, similar or additional counts depending on the progress or outcome of the administrative proceeding, and Respondents retain their rights to oppose any such amendments or seek dismissal of such counts; and
3. Petitioners reserve the right to seek other interim relief and Respondents reserve all rights to contest such applications; and
4. Any and all further proceedings on Count I of the *Petition & Complaint*, including the requirements of and deadlines in the Court's scheduling order, should be stayed pending the issuance of a final order in the above-referenced administrative proceeding; and
5. Following issuance of a final order in the administrative proceeding, then both or either of the Petitioners may file an amended petition for judicial review of the Director's actions in the administrative proceeding pursuant to IDAPA and Rule 84 of the Idaho Rules of Civil Procedure in the above captioned-matter; and
6. Any such amended petition for judicial review shall be governed by Rule 84(b)(1)(A) of the Idaho Rules of Civil Procedure, by IDAPA, Rule 84, and any orders issued by the Court; and

7. The Respondents and the Petitioners will jointly move the Court for an order, in the form attached hereto, that stays Count I of the *Petition & Complaint* as stipulated above, and dismisses without prejudice Counts II through V of the *Petition & Complaint* as stipulated above; and
8. The Respondents and the Petitioners will bear their own fees and costs in connection with this stipulation and the joint motion; and
9. This stipulation is made and entered into for the purpose of compromising pending litigation, and does not constitute an admission by the Respondents or the Petitioners of any assertion of fact or law in this or any other or future administrative or judicial proceeding; and the Respondents and Petitioners expressly reserve all of their procedural and substantive rights, claims, defenses under Idaho law to the extent consistent with the terms of this stipulation.

JOINT MOTION

Pursuant to the Idaho Rules of Civil Procedure and the stipulation set forth above, the Respondents and Petitioners, through counsel of record, hereby move this Court for an order dismissing without prejudice Count II, Count III, Count IV, and Count V of the *Petition & Complaint*, and staying Count I of the *Petition & Complaint* under the terms set forth above. A form of proposed order is attached.

DATED this 7th day of June, 2021.

BARKER ROSHOLT & SIMPSON LLP



AL BARKER
Attorney for SVGWD

LAWSON LASKI CLARK PLLC



JAMES LASKI
Attorney for Galena Ground Water District

IDAHO OFFICE OF THE ATTORNEY GENERAL

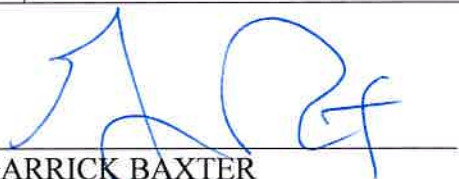


GARRICK BAXTER
Attorney for IDWR and Gary Spackman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of JUNE, 2021, I caused to be served a true and correct copy of the foregoing document by ICourts e-filing delivery to each party listed as following:

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