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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. CV07-21-00243

**STIPULATION AND JOINT MOTION
REGARDING MOTION TO AMEND**

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 *Motion to Amend Petition for Judicial Review, Complaint for Declaratory Relief, Temporary Restraining Order and Preliminary Injunction, or Alternatively, Writ of Prohibition* (June 30, 2021) (“*Motion to Amend*”) and the *First Amended Petition for Judicial Review, Complaint for Declaratory Relief, Temporary Restraining Order and Preliminary Injunction, or Alternatively, Writ of Prohibition* (June 30, 2021) (“*First Amended Petition & Complaint*”); and jointly move this Court for an order that grants in part and denies in part the *Motion to Amend*, as stipulated below.

STIPULATION

WHEREAS, the Court issued an *Order Granting Joint Motion to Stay Count I and Dismiss Remaining Counts Without Prejudice* on June 10, 2021; and

WHEREAS, the Director issued a *Final Order* on June 28, 2021, in the proceeding captioned “In the Matter of Basin 37 Administrative Proceeding” under Department Docket No. AA-WRA-2021-001; and

WHEREAS, Petitioners filed the *Motion to Amend* and the *First Amended Petition & Complaint*, along with other motions¹ on June 30, 2021, as well; and

WHEREAS, on July 2, 2021, the Court, after hearing, entered an *Order Denying Second Application for Temporary Restraining Order / Order Denying Second Motion for Preliminary Injunction*; and

¹ Petitioners also filed *Petitioners’ Motion to Stay During Consideration of Petition for Judicial Review* and a memorandum in support of the motion. The Petitioners and Respondents agree that the motion to stay is now moot because the Director subsequently stayed the curtailment ordered in the *Final Order*.

WHEREAS, the Respondents filed a *Response* opposing the *Motion to Amend*, in part, on July 9, 2021; and

WHEREAS, Count I of the *First Amended Petition & Complaint* is a petition for judicial review pursuant to the Idaho Administrative Procedure Act (“IDAPA”); and

WHEREAS, Counts II through VII of the *First Amended Petition & Complaint* are requests for declaratory relief, preliminary injunction, and writ of prohibition;

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

1. The *Motion to Amend* should be granted as to Count I;
2. The *Motion to Amend* should be denied as to Count VI because it has been decided by the Court’s July 2, 2021 Order; and
3. The *Motion to Amend* should be denied as to Count VII because it is moot; and
4. Claims and issues identified in Counts II – V of the *First Amended Petition & Complaint* may be raised by Petitioners pursuant to the “statement of issues” under Count I, including within the Petitioners’ opening brief to be filed in this matter, as arguments in support of the relief available under Idaho Code § 67-5279(3) rather than as separate causes of action for declaratory relief under Idaho Code §§ 10-1201—10-1217; and
5. Petitioners agree to withdraw their request to add Counts II-V as separate causes of action for declaratory relief under Idaho Code §§ 10-1201—10-1217;and
6. Petitioners retain their rights under IRCP 15 to seek leave to amend the *First Amended Petition & Complaint* to add the same, similar or additional counts depending on the progress or outcome of the administrative proceeding that may or may not resume after

December 1, 2021, and Respondents retain their rights to oppose any such amendments or seek dismissal of such counts; and

7. Petitioners reserve the right to seek other interim relief and Respondents reserve all rights to contest such applications; and
8. The Respondents and the Petitioners will jointly move the Court for an order, in the form attached hereto; and
9. The Respondents and the Petitioners will bear their own fees and costs in connection with this stipulation and the joint motion; and
10. 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 granting in part and denying in part the *Motion to Amend*, as stipulated above. A form of proposed order is attached.

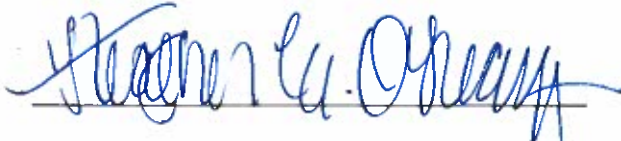
DATED this 23 day of July, 2021.

BARKER ROSHOLT & SIMPSON LLP



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IDAHO OFFICE OF THE ATTORNEY GENERAL



GARRICK L. BAXTER
Attorneys for Idaho Department of Water Resources and Gary Spackman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23 day of July, 2021, the foregoing was filed, served, and copied as shown below.

IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Hand Delivered Overnight Mail iCourt
Gary L. Spackman IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720-0098	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
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Candice McHugh Chris Bromley MCHUGH BROMLEY, PLLC 380 S. 4th St., Ste. 103 Boise, ID 83702	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
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Sarah A. Klahn SOMACH SIMMONS & DUNN 2033 11th St., #5 Boulder, CO 80302	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	U. S. Mail Overnight Mail iCourt
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/s/ Travis L. Thompson
Travis L. Thompson