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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 DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY MEMBERS OF THE BIG WOOD & LITTLE WOOD WATER USERS ASSOCIATION DIVERTING FROM THE BIG WOOD RIVER	Docket No. CM-DC-2015-001
IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY MEMBERS OF THE BIG WOOD & LITTLE	Docket No. CM-DC-2015-002

WOOD WATER USERS ASSOCIATION DIVERTING FROM THE LITTLE WOOD RIVER	**JOINT MOTION FOR STAY OF DELIVERY CALLS**

The City of Hailey ("Hailey"), the City of Bellevue ("Bellevue"), Sun Valley Company ("SVC"), the Big & Little Wood Water Users Association ("WUA"), the City of Ketchum ("Ketchum"), and the City of Fairfield ("Fairfield") (collectively, the "Movants"), by and through their respective attorneys of record, jointly file this *Joint Motion for Stay of Delivery Calls* ("*Joint Motion*") requesting the Director ("Director") of the Idaho Department of Water Resources ("Department") stay all further proceedings in the above-captioned matters (the "Delivery Calls") for the reasons and upon the terms set forth herein.

RECITALS

1. The WUA, through their attorney, initiated proceedings before the Department seeking administration of junior ground water rights in Water Districts 37 and 37B alleging that diversions of water under such junior ground water rights cause material injury to the surface water rights of the WUA's members.

2. On August 18, 2015, Hailey and Bellevue filed their *Petition for Judicial Review of Agency Action* ("*Cities' Petition*") in Ada County District Court, Case No. CV-OC-1514419, seeking judicial review of the July 22, 2015, *Order Denying Joint Motion to Designate ACGWS by Rulemaking and to Dismiss Delivery Calls* ("*ACGWS Order*") issued by the Director.

3. On August 19, 2015, SVC filed its *Petition for Judicial Review* ("*SVC Petition*") in Ada County District Court, Case No. CV-OC-1514500, seeking judicial review of the July 22, 2015, *Order Denying Sun Valley Company's Motion To Dismiss* ("*Sun Valley Order*") issued by the Director.

4. The *Cities' Petition* and the *SVC Petition* (together the "*Petitions*") have been reassigned from the Fourth District to the Snake River Basin Adjudication District Court of the Fifth Judicial District. The *Cities' Petition* was renumbered by the Court from CV-OC-1514419 to CV-WA-2015-14419. The *SVC Petition* was renumbered by the Court from CV-OC-1514500 to CV-WA-2015-14500.

5. Concurrent with the execution of this *Joint Motion*, the Movants and the Department entered into a *Stipulation* in which they agreed: (a) that Hailey, Bellevue, Ketchum, Fairfield and SVC would file a motion requesting the Director designate the *ACGWS Order* and *Sun Valley Order* as final orders pursuant to the Department's Rules of Procedure 710 and 750 subject to judicial review under the Idaho Administrative Procedure Act, Idaho Code § 67-5270(3); (b) that the Movants would file this *Joint Motion* requesting that the Director stay all administrative proceedings on the Delivery Calls, including without limitation all discovery and motion practice, until the District Court issues Rule 54 final and appealable judgments on the *Cities' Petition* and the *SVC Petition*; and (c) that the terms and conditions of the stay would be set forth in this *Joint Motion*.

JOINT MOTION

6. The Movants hereby move the Director to:

a. Order the stay of all administrative proceedings on the Delivery Calls, including without limitation all discovery and motion practice, until the District Court has issued Rule 54 final and appealable judgments on both the *Cities' Petition* and the *SVC Petition* (the "*Stay*"); and

b. Order that, following issuance of Rule 54 final and appealable judgments by the District Court on both the *Cities' Petition* and the *SVC Petition*, whichever is later, the Department will promptly notice scheduling of a status conference at which the parties to the

Delivery Calls and the Department will consult concerning the procedural steps required to give effect to the District Court's decisions, including without limitation, dismissal of the contested cases, or establishing a hearing schedule. Any further proceedings shall be consistent with the time frames set forth in the *Stipulation*.

7. The Movants further agree as follows:

a. All rights to further administrative and judicial proceedings are reserved to the parties of such proceedings, and the *Stay* shall not affect such rights, including without limitation the right of any party or the Department to seek reconsideration or appellate review of the District Court's decisions on the *Cities' Petition* and the *SVC Petition*, or any other relief provided by law;

b. Nothing herein precludes any party or person from seeking a stay or any other relief provided by law in any administrative and judicial proceeding; and

c. No party or person agrees to any stay of proceedings except as expressly provided herein.

DATED this 17th day of September 2015.

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By: Susan E. Buxton
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 17th day of September 2015, I served a true and correct copy of the foregoing document to all parties listed on the Combined Certificate of Services List posted on the Department's website at http://idwr.idaho.gov/legal-actions/delivery-call-actions/big-wood-river.html and http://idwr.idaho.gov/legal-actions/delivery-call-actions/little-wood-river.html updated the 19th day of August2015, by the following method:

☐ Placing a copy of the document in the United States mail, postage prepaid and properly addressed.

☒ Emailing only to parties who have consented to service by email as indicated on the above-described Certificate of Service List; placing a copy of the document in the United States mail, postage prepaid and properly addressed, to parties who have not consented to service by email; and emailing to parties who provided e-mail addresses to the Department but have not consented to service by email.

Michael C. Creamer
Attorneys for City of Hailey