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Attorneys for Petitioners

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF THE REQUEST	)	Case No. CM-DC-2015-002
FOR ADMINISTRATION OF WATER	)	
RIGHTS UNDER THE PRIOR	)	PETITIONER’S MOTION FOR
APPROPRIATION DOCTRINE BY	)	SCHEDULING ORDER AND MOTION
MEMBERS OF THE BIG & LITTLE	)	FOR PROTECTIVE ORDER
WOOD WATER USERS ASSOCIATION	)	( <i>IDAPA 37.01.01.521; IDAPA 37.01.01.510;</i>
DIVERTING FROM THE LITTLE	)	<i>IDAPA 37.01.01.532;</i> )
WOOD RIVER	)	

COME NOW, Petitioners, by and through their attorney, Joseph F. James, of Brown & James, and hereby request the Director of the Department of Water Resources (“Director”) issue an order establishing a pre-hearing schedule, including the establishment of the manner, scope and schedule for discovery, and protecting the parties from undue burden, undue expense or discovery causing unreasonable delay. Petitioners request the Director issue a scheduling order consistent with the Director’s intention to schedule a hearing in the above captioned matter during the period of October through December 2015. In support thereof, Petitioners state as follows:

1. That on or about April 29, 2015, a Motion for Order Authorizing Discovery was filed by Sun Valley Company.
2. That on or about May 20, 2015, the Director requested via correspondence that the Petitioners provide certain information relevant to the above captioned delivery call and the determination of material injury.
3. The Sun Valley Company’s First Set of Discovery Requests, to a large extent, seek the same information requested by the Director.

4. On June 1, 2015, Petitioner's counsel became aware that the Director had issued an Order Authorizing Discovery; Notice of Pre-Hearing Conference on or about May 13, 2015.

5. That on June 1, 2015, Petitioner's counsel became aware that the Director had entered an Order Concerning Participation on or about May 13, 2015.

6. That neither Petitioner's counsel, nor any of the Petitioners, were aware of the Director's orders in that they were not included on the certificates of service and did not receive notice.

7. The Director's Order Authorizing Discovery did not establish the manner, scope, and schedule for discovery, but rather simply stated that the parties were authorized to engage in discovery.

8. That in March, 2015, the Department of Water Resources mailed out 565 letters to water users, notifying them of the delivery calls and inviting them to file notice of their intent to participate in the status conference.

9. That the Department of Water Resources published notice of the delivery calls and status conference in March and April, 2015.

10. That the Director's Order Governing Participation instructed any individuals that had not previously filed a notice of intent to participate, but wished to actively participate in the contested case proceedings, to file written notice of intent to participate with the Department.

11. Petitioners do not know how many individuals have filed an intent to participate with the Department because neither the Director's March correspondence, the published notice, nor the Director's Order Governing Participation required individuals to provide Petitioners with a copy of their notice of intent to participate.

12. That the Petitioners believe, based upon the participation at the status conference, the Director's findings set forth in the Order Governing Participation, and the notices of intent to participate that Petitioners have received, that, excluding Petitioners, there will be well over one hundred participants in the above captioned delivery call.

13. A scheduling order establishing the manner, scope and schedule for discovery is necessary to protect the parties from undue burden, undue expense, or discovery causing unreasonable delay.

14. That until Petitioners have had an opportunity to collect and submit the information requested by the Director, in his correspondence dated May 20, 2015, discovery by the parties should not be allowed.

15. That prior to serving interrogatories, the proponent of interrogatories should obtain the Directors authorization by submitting the proposed interrogatories to the Director along with an explanation of the subject matter to be discovered and showing that the information cannot be obtained through other sources of information.

16. That not more than ten (10) interrogatories, with subparts of interrogatories counting as a separate interrogatory, should be served by one party on another party, and not more than ten (10) interrogatories outstanding against that party at any given time.

17. That the parties should be allowed to make a reasonable request for production of documents, that requests for admissions should not be authorized, and that depositions should be authorized and be taken in accordance with Idaho Rules of Civil Procedure.

18. That Director should enter an order setting forth a schedule and requiring disclosure of witnesses, expert witnesses, expert witness reports and exhibits.

DATED this 2<sup>nd</sup> day of June, 2015.

BROWN & JAMES

  
Joseph F. James

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of June, 2015, I caused to be served a true and correct copy of the above and foregoing document by U.S. Mail, and addressed to the following:

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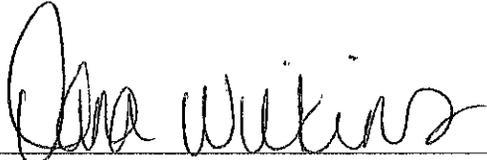
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A handwritten signature in black ink, appearing to read "Dana Wilkins", is written over a horizontal line.