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Filed: 06/30/2021 9:53 AM
Fifth Judicial District, Blaine County
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**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)	CASE NO. CV07-21-00243
DISTRICT,)	
)	FIRST AMENDED PETITION FOR
Petitioners,)	JUDICIAL REVIEW, COMPLAINT
)	FOR DECLARATORY RELIEF,
vs.)	TEMPORARY RESTRAINING
)	ORDER AND PRELIMINARY
THE IDAHO DEPARTMENT OF WATER)	INJUNCTION, OR
RESOURCES and GARY SPACKMAN in his)	ALTERNATIVELY, WRIT OF
official capacity as Director of the Idaho)	PROHIBITION
Department of Water Resources,)	

Respondents.

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COMES NOW, the Petitioners, SOUTH VALLEY GROUND WATER DISTRICT, on behalf of its members, by and through counsel of record, BARKER ROSHOLT & SIMPSON LLP and GALENA GROUND WATER DISTRICT, on behalf of its members, by and through counsel of record, LAWSON LASKI CLARK, PLLC (collectively “Petitioners” or “Districts”), and hereby submits this *Amended Petition For Judicial Review, Complaint for Declaratory Relief, Writ of Prohibition, Temporary Restraining Order And Preliminary Injunction* (“Petition”) against the Idaho Department of Water Resources and Gary Spackman, in his official capacity as Director of the Idaho Department of Water Resources (collectively “IDWR” or “Department”). This Petition is supported by the Petitioners’ *Memorandum in Support of Amended Petition for Judicial Review, Complaint for Declaratory Relief, Temporary Restraining Order And Preliminary Injunction, or Alternatively, Writ of Prohibition, the Declaration of Travis T. Thompson* (previously filed on May 24, 2021), the *Declaration of Michael A. Short*, the *Declaration of Mark Johnson*, and all exhibits and attachments thereto.

PARTIES

1. Petitioner South Valley Ground Water District is a ground water district organized and existing pursuant to Idaho Code § 42-5201 et seq. The district includes ground water right priorities ranging from the 1930s and 1940s until about 1989. Most of the ground water development, based on priorities, occurred between 1954 and 1979. There are approximately 175 groundwater wells in the district and approximately 300 groundwater rights. These rights authorize irrigation of approximately 25,000 acres. Some of these

groundwater rights are used to supplement surface water rights from the Big Wood River and Silver Creek and its tributaries. Petitioner's members have planted crops and forage that are presently receiving groundwater delivery for the 2021 irrigation pursuant to their water rights.

2. Petitioner South Valley Ground Water District is organized and operates as a political subdivision of the state of Idaho pursuant to Idaho Code § 42-5224(6) and is authorized by law to represent district members with respect to their individual water rights in legal and administrative proceedings.
3. Petitioner Galena Ground Water District is a ground water district organized and existing pursuant to Idaho Code § 42-5201 et seq. This district has thirty-one (31) member water rights with approximately 10.5 CFS that are located within the Department's curtailment area.
4. Petitioner Galena Ground Water District is organized and operates as a political subdivision of the state of Idaho pursuant to Idaho Code § 42-5224(6) and is authorized by law to represent district members with respect to their individual water rights in legal and administrative proceedings.
5. Respondent Gary Spackman is the Director of the Idaho Department of Water Resources and is an Idaho resident.
6. Respondent Idaho Department of Water Resources is an executive department existing under the laws of the state of Idaho pursuant to Idaho Code § 42-1701 et seq.
7. Petitioners file this action in its representative capacity on behalf of individual members who own decreed and licensed ground water rights who are adversely affected by the

Director's final order requiring the total curtailment of Petitioners' water for the remainder of the 2021 irrigation season.

JURISDICTION AND VENUE

8. Jurisdiction is proper in this District Court pursuant to Idaho Code §§ 7-401 et seq. (writ of prohibition), 10-1201 (declaratory judgment), 67-5270 (judicial review), Idaho Rule of Civil Procedure 65 (injunctive relief), and its capacity to provide equitable relief.
9. Pursuant to the Idaho Supreme Court's Administrative Order issued on December 9, 2009, "all petitions for judicial review of any decision regarding administration of water rights from the Department of Water Resources shall be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District." This case has been properly reassigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District, and venue is therefore proper.

ALLEGATIONS COMMON TO ALL COUNTS

10. IDWR designated the Big Wood River Groundwater Management Area (BWRGWMA) on June 28, 1991. *See Ex. R of Thompson Decl.*
11. The order creating the groundwater management area included a "management policy," but did not determine "an area of common ground water supply," nor did it establish either a "reasonable groundwater pumping level" or a "reasonably anticipated rate of future natural recharge." *See Id.*
12. Since designation of the groundwater management area aquifer levels in the Big Wood River Basin have remained fairly stable and there is no evidence of aquifer mining. *See Ex. A of Thompson Decl.*

13. Two years later IDWR issued an *Amended Moratorium Order* affecting all applications for permit proposing a consumptive use of water within the trust water area.
14. Historically ground water rights in Basin 37 were not included within established water districts.
15. In 2013, IDWR proposed the combination of water districts within Basin 37. In its *Preliminary Order in the Matter of Proposed Combination of Water District Nos. 37 et al* (“*WD37 Order*”), the Department explained that, “The proposed combination of water districts and inclusion of surface water and ground water rights in one district will provide for proper conjunctive administration of surface and ground water rights and the protection of senior priority water rights. See Ex. B of *Thompson Decl.* (“*WD37 Order*”) at 3 (emphasis added).
16. When groundwater rights were brought into WD 37, that decision was based on the Department’s representation that conjunctive administration would be managed under the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources. See IDAPA 37.03.11 *et seq.* (“*CM Rules*”). Shortly after IDWR combined the various water districts and included ground water rights in WD 37, the Department addressed conjunctive administration and the formation of ground water districts at a public meeting in Hailey, Idaho on March 7, 2014. At this meeting, the Department posed the question of whether groundwater pumping causes injury to surface water diversions. The Department stated that “Idaho has a process to address this question”. The Department represented to the water users within WD 37 that conjunctive administration was to follow the CM Rules authorized by Idaho Code § 2-604, with a senior filing a petition, the Director

determining “material injury,” and a contested case that would be expected to last a year or more. *See Ex. C of Thompson Decl.*

17. On February 23, 2015, less than a year after IDWR’s presentation, members of the Big Wood and Little Wood River Water Users Association (“Association”) submitted letters to the Director requesting priority administration. *See Ex. D of Thompson Decl. (“Memorandum Decision and Order”).*
18. The Director created contested cases and proceeded to consider the Association’s request for conjunctive administration or delivery call under CM Rule 40.
19. Sun Valley Company (SVC) moved to dismiss the calls for the Association’s failure to comply with the procedure of CM Rule 30.
20. On appeal, the District Court set aside the Director’s decision to proceed under CM Rule 40 and remanded the case for proceedings consistent with the *Memorandum Decision and Order*, finding, *inter alia*, that because there was no defined “area of common ground water supply” IDWR was required to process the delivery call under CM Rule 30.
21. The Court further found that the determination of an “area of common ground water supply” had to be determined pursuant to CM Rules 30 and 31 with proper notice and service to all potential junior priority ground water right holders that might be affected.
22. On March 6, 2017, the Association filed a *Petition for Administration* with IDWR for WD 37. This petition was dismissed on standing grounds because the Association had no authority to present the claims of the individual water right holders. The Director also pointed out to the water users that CM Rules 30 and 42 require submittal of specific information unique to each individual senior surface water right holder, including water

right numbers, delivery systems, beneficial use, and alternate water supplies. Neither the Association nor the water users attempted to follow up on this direction.

23. In the fall of 2020 at the request of groundwater and surface water users, IDWR appointed an advisory committee for the Big Wood River Basin Groundwater Management Area.
24. At the April 7, 2021 meeting the Director told the groundwater and surface water users both that their proposals for 2021 were either inadequate or unreasonable. He further stated that he had asked the Attorney General's office to explore his legal options.
25. At the April 15, 2021 advisory committee meeting, the Director stated that he was "ready to act" and warned groundwater users that they may be required "to reduce pumping much more than the amounts identified by the groundwater districts." Association member stated at this meeting that they had been working with the Water Master to develop an injury determination, but had determined to reject the water masters' proposed conclusions. After the Director's pronouncement, the Association rejected the proposal from the ground water users.
26. The Association members have demanded conjunctive administration but have not filed a delivery call with the IDWR that complies with the requirements of CM Rule 30.
27. On May 4, 2021 the Director issued a *Notice of Administrative Proceeding, Pre-Hearing Conference, and Hearing*. The Director stated that he "believes that the withdrawal of water from ground water wells in the Wood River Valley south of Bellevue (commonly referred to as the Bellevue Triangle) would affect the use of senior surface water rights on Silver Creek and its tributaries during the 2021 irrigation season." *Notice* at 1 (emphasis added).

28. The attached cover letter to the *Notice* stated, in part, that “the Director of the Department has initiated an administrative proceeding to determine if the surface water rights in the Little Wood-Silver Creek drainage will be injured in the 2021 irrigation season by pumping from junior-priority ground water rights in the Wood River Valley south of Bellevue.” While the cover letter purports to address conjunctive administration of surface water rights in the “Little Wood” drainage, the formal *Notice* was limited to impacts to “senior surface water rights on Silver Creek and its tributaries.”
29. The *Notice* included a service list of some 40 pages of addresses. *See Thompson Declr.* ¶ 28. These addressees were all selected by the Director and/or the Department, just as the Notices were selected in the 2015 delivery call proceedings. The original service list contained mistakes. As a result, IDWR created a new service list with the correct addresses and re-mailed the *Notice* out on May 7, 2021. Several members of Petitioner did not receive the *Notice* until the week of May 10th – 14th, 2021.
30. The *Notice* does not identify which surface or groundwater water rights are affected or by how much. The *Notice* attached a map described as “potential area of curtailment” but did not explain how the area was arrived at by the Director. The *Notice* provides no indication of or reference to any injury standard, including “material injury” under the CM Rules (Rule 42).
31. The *Notice* only references potential impacts on “senior surface rights on Silver Creek and its tributaries during the 2021 irrigation season.”
32. The *Notice* makes no reference whatsoever to senior surface water rights on the Little Wood or Big Wood Rivers.

33. On May 11, 2021, the Director issued a *Request for Staff Memorandum*, requesting information regarding sixteen different subjects and subparts. *See* Ex. N of *Thompson Decl.*
34. In response to the Director’s request, IDWR posted four different staff reports on its website. *Thompson Decl.*, ¶ 23. The reports total over 150 pages. Although the Director requested staff to provide this information “on or before May 17, 2021,” the reports were not posted online until the afternoon of May 18, 2021. A file containing what was described as back up information for Jennifer Sukow’s report was dated May 17, 2021, but it was not posted to the website under the late afternoon of May 19, 2021. The original file with background information was corrupt and the correct information was not made available to counsel for Petitioner until late in the morning on May 21, 2021. The reports have not been formally served on any participant in the administrative proceeding.
35. At least forty-one (41) individuals and entities filed notices of intent to participate in the administrative proceeding. *See* Ex. T to *Thompson Decl.* Information contained in the Staff Reports addresses ground and surface water use beyond the Silver Creek area identified in the *Notice*, including the Big Wood River, and groundwater use outside the area of proposed curtailment attached to the *Notice*, it is unclear what water rights will be affected by the proceeding, including any resulting curtailment orders. Despite only identifying the “Bellevue Triangle” and “senior surface water rights to Silver Creek and its tributaries,” the information contained in the Staff Reports goes far beyond that limited designation and notice.
36. On May 13, 2021 Petitioner South Valley Ground Water District filed the following with the Director: 1) *Motion to Dismiss*; 2) *Motion for Continuance*; 3) *Motion to Appoint Independent Hearing Officer*; 3) *Motion for Order Authorizing Discovery*; and 4) *Request*

- for Production*. The Director denied the first three motions, authorized limited discovery, and did not responded to the requests for production. *Thompson Decl.*, ¶¶ 18-20.
37. On May 19, 2021 Petitioner Galena Ground Water District filed a Joinder in and Support of South Valley Ground Water District’s Motions.
 38. In denying the *Motion for an Independent Hearing Officer* the Director admitted that what he intends to do in this proceeding is “water right administration” and further admitted that this proceeding “is the first time that the Director has sought to invoke Idaho Code §42-237a.g for water right administration” in the 60 years since the Groundwater Act was passed by the legislature. *See Ex. P of Thompson Decl.* at 2.
 39. On May 22, 2021, Petitioner South Valley Ground Water District moved the Director to designate his dismissal of Petitioner’s *Motion to Dismiss* as final under the Idaho Administrative Procedure Act. *See Thompson Decl.*, ¶ 24.
 40. On May 24, 2021, the Director held a pre-hearing conference. The Director denied Petitioner’s motion to designate his dismissal of Petitioner’s *Motion to Dismiss* as final. *See Thompson Decl.*, ¶ 25.
 41. Beginning on May 27, 2021, until June 2, 2021, the parties to the proceedings conducted twenty-two depositions, including IDWR staff members, experts from the parties, and senior surface right holders.
 42. On June 7-12, 2021, the Director conducted a hearing in which testimony and evidence was presented by IDWR staff, experts from the parties, senior surface right holders, and junior priority ground water users and their operators.
 43. At the conclusion of the hearing, the Director instructed the parties to submit post-hearing memorandums by June 18, 2021. The deadline was extended to June 21, 2021 after IDWR

was closed along with other state agencies on June 18, 2021 to observe a new federal holiday.

44. On June 28, 2021, the Director issued a final order (“*Curtailment Order*”), in which he ordered the curtailment of Petitioners’ members’ ground water rights, effective at 12:01 a.m. on July 1, 2021 for the remainder of the 2021 irrigation season. *Declaration of Michael A. Short* (“*Short Decl.*”), ¶ 15; *see also Short Decl.*, Ex. S.

COUNT I
PETITION FOR JUDICIAL REVIEW

45. This matter concerns the Director’s *Curtailment Order*, as well as judicial review of due process violations occurring as a result of the Director’s truncated hearing process.
46. Petitioners seek judicial review of the Director’s actions in excess of his authority, the Director’s *Curtailment Order* which is arbitrary and capricious, and other violations of Petitioners’ constitutional rights to due process.
47. Petitioners are entitled to judicial review of this matter because the Director has issued a final order in the underlying administrative matter. Idaho Code § 67-5270(3) (“A party aggrieved by a final order in a contested case...is entitled to judicial review under this chapter”).
48. Petitioners therefore, have a right to immediate judicial review pursuant to I.C. §§ 67-5270(3) and 67-5273(1) as a final agency action has been ordered.

JUDICIAL REVIEW I.R.C.P. 84(c) INFORMATION

49. **Name of Agency for Which Judicial Review is Sought:** Idaho Department of Water Resources, an executive department existing under the laws of the state of Idaho pursuant to Idaho Code § 42-1701 et seq., with its state office located at 322 E. Front St., Boise, Ada County, Idaho 83720.

50. **Title of District Court to Which Petition is Taken:** In the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine.
51. **Case Caption and Action for Which Judicial Review is Sought:** In the Matter of Basin 37 Administrative Proceeding; Docket No. AA-WRA-2021-001.
52. **Hearing Recording:** The hearing was held from June 7-12, 2021 and was recorded by the Department and is in the Department's possession (c/o Kris Margheim, 322 E. Front St., Boise, Ada County, Idaho 83720)..
53. **Statement of Issues of Judicial Review:** Whether the Director erred in proceeding with conjunctive administration in Basin 37 without following the CM Rules; whether the Director exceeded his statutory authority for conjunctive administration; whether the Director violated the due process rights of Petitioner in his *Notice* and proposed hearing; additional issues identified below in other counts.
54. **Designation of Whether a Transcript is Required:** No transcript is requested. Petitioners are in possession of the transcript of the hearing that was transcribed by a court reporter.
55. **Attorney Certification:** I, Albert P. Barker, counsel for the Petitioner, certify the following: 1) service of this petition has been made upon the Department; and 2) that the clerk of the agency has been paid the estimated fee for the preparation of record after I contacted Garrick Baxter of the Department, who provided an estimate of \$20.00, which I then paid by hand delivering a check for the amount to the Department's state office located at 322 E. Front St., Boise, Idaho 83720.

COUNT II
REQUEST FOR DECLARATORY RELIEF:

**THE DIRECTOR WAS WITHOUT AUTHORITY TO EMPLOY THE
ADMINISTRATIVE PROCEEDING AND PROCESS**

56. Petitioners re-allege and incorporates the preceding paragraphs by reference as though set forth fully herein.
57. Idaho's Rules for Conjunctive Management of Surface and Ground Water Resources are the tools by which to determine how the various ground and surface water sources are interconnected, and, how, when, where and to what extent the diversion and use of water from one source impacts others within Water District 37.
58. The CM Rules integrates all elements of the prior appropriation doctrine as established by Idaho law.
59. All hydrologically connected surface and ground waters in Idaho must be managed conjunctively.
60. The Director cannot conjunctively administer surface and ground water rights within Water District 37 without first determining an "area of common ground water supply" as prescribed by CM Rule 30.
61. The CM Rules delineates the process to determine "areas of common ground water supply."
62. Conjunctive administration of junior ground water and senior surface water rights within Water District 37 must proceed under the CM Rules.
63. The Director's *Notice*, the subsequent hearing process, and the Director's *Curtailment Order*, were conducted for the purpose of conjunctive administration of ground water rights

in the Bellevue Triangle area of Water District 37 outside the mandated structure and procedure of the CM Rules.

64. Although the Director cites Idaho Code § 42-602 as a basis for his administration, he wholly ignored Idaho Code § 42-603 and the CM Rules promulgated thereunder. *See Curtailment Order* at 19; Ex. A to *Short Dec.*
65. The Director proposed to administer water in this matter solely under the authority of Idaho Code §42-237a.g.
66. Idaho Code §42-237a.g does not authorize the Director to unilaterally administer ground water rights in the present case, and The Director has failed to employ the proper CM Rules procedure for administration of ground water rights within Water District 37.
67. Because of The Director’s lack of authority under Idaho Code § 42-237a.g., and its failure to employ proper procedure, the *Curtailment Order* is without a valid legal basis.
68. The *Curtailment Order* will result in immediate, irreparable and direct harm to Petitioners and their members by depriving water to approximately 23,000 acres of land in Blaine County as well as to livestock beginning at 12:01 a.m. on July 1, 2021.

COUNT III
REQUEST FOR DECLARATORY RELIEF:

**THE DIRECTOR’S ADMINISTRATIVE PROCEDURE VIOLATED SVGWD’S DUE
PROCESS RIGHTS**

69. Petitioners re-allege and incorporate the preceding paragraphs by reference as though set forth fully.
70. Water rights are real property rights that come with entitlements to due process before they are administered, curtailed, or taken.

71. Procedural due process requires The Director provide a process so that an individual is not arbitrarily deprived of his or her rights.
72. Idaho law clearly prescribes the proper process to be used in the administration or curtailment of ground water rights.
73. Proper process requires the application and use of the CM Rules.
74. The Director conducted water administration proceedings that do not follow, or satisfy the procedural requirements and safe-guards provided in the CM Rules.
75. The Director's truncated hearing schedule did not provide Petitioners an adequate time to prepare for a hearing such that Petitioners had a meaningful opportunity to be heard.
76. The Director's truncated hearing schedule did not provide adequate time for discovery and created a substantial risk of an erroneous deprivation.
77. The Director has failed to follow the proper, prescribed procedures for administration and curtailment of water rights in Basin 37.
78. The Director's procedural violations deprived Petitioners of a meaningful opportunity to be heard and to participate in the process that resulted in the *Curtailment Order*, and the taking of its members' water rights.
79. The Director's procedural violations created a likelihood that Petitioners' members are erroneously deprived of their water rights, and immediate, irreparable, and direct harm will occur.
80. The Districts further filed a *Proposed Mitigation Plan* on June 23, 2021 to avoid curtailment. *See Ex. T to Short Decl.*
81. The Districts requested the Director review the effectiveness of the *Curtailment Order* pending a hearing on the mitigation plan. *See Ex. V. to Short Dec.*

82. The Director has not taken any action with respect to the Districts' mitigation plan or petition to stay curtailment as of the filing of this *Amended Petition and Complaint*.

COUNT IV
REQUEST FOR DECLARATORY RELIEF:

THE DIRECTOR'S FINAL ORDER IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD, AND IS ARBITRARY AND CAPRICIOUS

83. Petitioners re-allege and incorporates the preceding paragraphs by reference as though set forth fully herein.

84. The Director's *Curtailment Order* is not supported by substantial evidence in the record justifying curtailment of Petitioners' ground water rights.

COUNT V
REQUEST FOR DECLARATORY RELIEF:

THE CURTAILMENT ORDER IS IN VIOLATION OF PUBLIC POLICY

85. Petitioners re-allege and incorporates the preceding paragraphs by reference as though set forth fully herein.

86. Idaho has articulated a clear public policy for the optimum development and use of Idaho's waters.

87. The *Curtailment Order* threatens curtailment of ground water rights to 23,000 acres of irrigated land with the hope that it will free up water for only 615 acres of irrigated land for senior surface water holders.

88. The *Curtailment Order* will lead to waste of water, considerable and disproportionate harm to surface water rights, and will preclude the beneficial use of nearly 67% of available ground water.

89. The *Curtailment Order* is therefore, in violation of Idaho's public policy for the optimum development and use of Idaho's waters.

COUNT VI
PRELIMINARY INJUNCTION

90. Petitioners re-allege and incorporates the preceding paragraphs by reference as though set forth fully herein.

91. The Director has issued a final order in this matter which will cause immediate and irreparable harm to Petitioners.

92. Petitioners have no other adequate remedy at law.

93. If permitted, enforcement of the *Curtailment Order* will cause Petitioners immediate and irreparable harm by:

- a. Causing the unlawful curtailment of ground water rights;
- b. Causing the destruction of already planted crops;
- c. Causing the death and destruction of livestock;
- d. Causing grave economic loss to Petitioners.

94. If permitted, the *Curtailment Order* will cause Petitioners additional irreparable harm by depriving them of their property right to divert ground water essential to its lawful agricultural and beneficial uses.

95. The economic impact of the *Curtailment Order's* curtailment could approach a loss of \$12 million to Petitioners, in addition to substantial economic loss to the surrounding communities and the State of Idaho, for which there is no adequate remedy at law.

96. Based on the foregoing and pursuant to I.R.C.P. 65, Petitioners and its ground water user members are entitled to the entry of a Temporary Restraining Order pending hearing and, following hearing, a Preliminary Injunction precluding enforcement pursuant to the Director's *Curtailment Order*, from unlawful curtailment of Petitioners' ground water

rights, and ordering The Director to maintain the status quo and prevent irreparable harm and injury to Petitioners.

COUNT VII
WRIT OF PROHIBITION

97. Petitioners re-allege and incorporates the preceding paragraphs by reference as though set forth fully.
98. The Director's *Curtailment Order* exceeds his statutory authority as it is not based on substantial evidence in the record, is arbitrary and capricious, and is the result of administrative proceedings which violated Petitioners' due process rights.
99. Petitioners lack a plain, speedy, and adequate remedy in the ordinary course of law, which would protect them from the immediate resulting harm if the Director enforces the *Curtailment Order* and curtails Petitioners' ground water rights in the Bellevue Triangle.
100. Pursuant to Idaho Code §§ 7-401 *et seq.*, Petitioners are entitled to a writ of prohibition that restrains the Director from enforcing the *Curtailment Order* until further order from the Court.

REQUEST FOR ATTORNEYS' FEES AND COSTS

101. The Director's proposed actions are without reasonable basis in law or fact.
102. Petitioners have retained counsel to prosecute this action on its behalf and request that the Court award them reasonable attorneys' fees and costs pursuant to Idaho Code §§ 12-117, 12-120, and 12-121, or other applicable law.

PRAYER FOR RELIEF

WHEREFORE, Petitioners request the following relief:

- A. Grant Petitioners' request for judicial review over The Director's *Curtailment Order*, as well as judicial review of due process violations occurring as a result of the Director's truncated hearing process.
- B. For the entry of a Declaratory Judgment that the Director was without authority to unilaterally conjunctively administer ground water rights in Basin 37 without following and applying the procedures set forth in the CM Rules.
- C. For the entry of a Declaratory Judgment that the Director's administrative process was improper, violated Petitioners' right to due process rights, and the resulting *Curtailment Order* will cause immediate, irreparable, direct harm to Petitioners that is a taking of their property rights.
- D. For the entry of a Declaratory Judgment that the Director's *Curtailment Order* is not based on substantial evidence from the record, and is arbitrary and capricious.
- E. For the entry of a Declaratory Judgment that the Director's *Curtailment Order* is against Idaho public policy.
- F. For the entry of a Writ of Prohibition restraining Defendants from enforcing the *Order*.
- G. For the immediate entry of a Temporary Restraining Order restraining Defendants from enforcing the *Curtailment Order* and curtailing Petitioners' ground water use.
- H. For the issuance of an order compelling Defendants to appear and show cause why a Preliminary Injunction should not be issued enjoining Defendants enforcing the *Curtailment Order*, and to maintain the status quo and prevent irreparable harm and injury by curtailing Petitioners' ground water right.

- I. For the entry of an Order awarding attorneys' fees and costs.
- J. For such further relief as the Court determines is just and proper under the circumstances.

DATED this 29th day of June, 2021.

BARKER ROSHOLT & SIMPSON LLP

/s/ ALBERT P. BARKER
Albert P. Barker

*Attorneys for South Valley Ground Water
District*

LAWSON LASKI CLARK, PLLC

/s/ HEATHER E. O'LEARY
Heather E. O'Leary

Attorneys for Galena Ground Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2021, the foregoing was filed, served, and copied as shown below.

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/s/ Albert P. Barker
Albert P. Barker