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Attorney for Petitioner

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE**

JOHN HASTINGS, Jr.

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES, a Political Subdivision of the
STATE OF IDAHO; MATHEW WEAVER,
Director and the IDAHO WATER
RESOURCES BOARD; JEFF RAYBOULD,
Chairman

Respondents.

Case No. CV07-26-00378

**PETITIONER'S MOTION TO
AUGMENT RECORD**

COMES NOW the above named Petitioner, by and through its attorney of record, J. Kahle Becker, and Pursuant to IRCP 84(l) IAR 30, I.C. §§ 67-5276, 67-5275(3), and Section 8 of the Court's June 18, 2026 Procedural Order and hereby Moves to Augment the Administrative Record on Appeal as follows:

This case concerns a river restoration project Respondent Idaho Department of Water Resources imposed on Petitioner as a result of his efforts to preserve his upland real property. The 2017-hundred-year flood event, which had been declared a state and

local emergency, had caused the River to cut directly into Petitioner's private upland property. *See* photos at R 467-468. Petitioner followed the emergency instructions of the City of Ketchum, who had concerns about the threat posed by the rapidly eroding riverbank to the Warm Springs Bridge, just downstream of Petitioners property. R 465 at ¶ 5. Instead of thanking Petitioner for his heroic efforts, which likely saved the bridge, IDWR staff elected to utilize the full weight of its regulatory machinery to exact revenge on Petitioner.

Petitioner and IDWR staff had a negative interaction on another property occupied by Petitioner, that had flooded in the same 100-year flood event (due to state's improper authorization of a bladder dam that directed the bulk of the floodwaters of Warm Spring Creek into the front door of a home Petitioner occupied). R 344. Promptly after this interaction, IDWR staff drove back over the Warm Springs bridge and took issue with emergency bank armoring the City of Ketchum itself had issued a permit (R 465-466) for Petitioner to install, directly above the Warm Springs Bridge. Upon receipt of a Notice of Violation (R 473-476), Petitioner immediately ceased work on the project, paid IDWR a \$10,000 fine, and followed IDWRs direction to apply for an after the fact permit.

It quickly became clear IDWR did not seek to follow its own Rules and instead sought to jerk Petitioner around in order to cause him to spend a significant amount of money attempting to comply with the Departments ever changing whims and irrational desires. Those shifting demands were ultimately revealed not to have been grounded in any administrative Rules or rationally related to the seemingly plain language of a Consent Order Petitioner signed. R 477-479. Instead, during discovery, the Department

admitted that the emergency bank armoring Petitioner installed complied with its Rules from the outset. R 743 (Golart Deposition Transcript p. 70-71). It became clear Department staff were simply abusing their authority to force Petitioner to “comply” with Rules which the Department itself could not identify. That is why the focus of this appeal addresses the mandate found in I.C. 67-5279(5). That statute requires a reviewing Court to interpret the Rules and Statutes at issue in this matter in favor of a reasonable interpretation that limits agency power and maximizes Petitioner’s individual liberty.¹

One particular issue of concern, which is the central focus of this Motion, is the existence of a well-known swimming hole, which is beloved by the residents of Ketchum. This swimming hole, known as Church Rock², is across and directly upstream of the location where the Department seeks to compel Petitioner to install several large root wads – a requirement found nowhere in the Consent Order. Petitioner signed a Declaration pointing out the danger of entrapment he perceived to children who get swept downstream and regularly exit the river from his property. (R 342-346 - Hastings Dec) The Department put no facts in the Record to disprove this point during the Hearing process. Unfortunately, the Department failed to consider this risk when it mandated Petitioner to install these child death traps.

The Hearing Officer then made the erroneous conclusion that this swimming hole may not even exist. R 733-34. This factually unsupported assumption was then adopted by the Water Resources Board. R 766- 767. Why factually unsupported positions of

¹ The Hearing Officer correctly noted that I.C. 67-5279(5) contains a mandate for a reviewing court, and that as an instrumentality of the Agency, he was bound to uphold the Agency’s preferred interpretation of its own Rules. R 587. However, it appears to be undisputed that Petitioner made his record of his preferred interpretation in order to preserve this issue for the present appeal.

² The rock is known as “Church Rock” because local swimmers access the swimming hole (which contains a large rock utilized to dive into the swimming hole) from the Presbyterian Church of the Big Wood, located on property along the Eastern bank of the Big Wood River. Whereas Petitioner owns land across the River, along its Western bank.

governmental bureaucrats who have never laid eyes on this swimming hole took precedence over the Local Public Interest and human safety factors, has not been explained. R 743 (Golart Deposition Transcript p. 72-73).

To make matters worse, this particular section of the Big Wood River has a cloud on its title. The late author Ernest Hemingway quitclaimed the bed of the Big Wood River from himself, to himself. (R 129-131, 410) That property interest has passed through a series of non-profit organizations' hands. Currently, the Ketchum Community Library Association claims to "own" this section of the Big Wood River. R 353-358. The Nature Conservancy has a Conservation Easement over this section of the River as well. R 360-382. Despite these concurrent property interests, the state itself acknowledges that the Big Wood is state property, having been navigable at statehood. R 273-286 Yet the state has done nothing to clear title to this section of river. This failure has resulted in a demand by the Community Library for Petitioner to defend, indemnify, and it hold harmless as a condition of Petitioner installing the child entrapping root wads the State demands Petitioner install. (R 388- 389 Jennifer Emery Davidson Transcript). Petitioner seeks the assistance of this Court to prevent the State from shifting an uncapped liability to him in contravention of the recent US Supreme Court holding in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369(2024).

This Motion seeks to correct the factual record, establishing once and for all, the importance of the swimming hole at issue. Shortly after the Board adopted the Hearing Officer's erroneous conclusion on May 21, 2026, on July 17, 2026, the front page of the local newspaper, the Idaho Mountain Express, included a large photo of people recreating at the swimming hole. Members of the public can be seen downstream from the "Church

Rock” and Petitioner’s bank armoring is seen directly across from them. This evidence is material to the matters at issue before this Court and the Agency. Petitioner simply seeks to add this one-page newspaper photo and its caption to the Record on Appeal, along with a screenshot from Google Earth marking the swimming hole, Petitioner’s property, and the Church of the Big Wood - for the entire world to see, to support his local public interest arguments. *See* IDAPA 37.03.07.35 e, h, and l. Unfortunately, Respondents have indicated that they intend to object to Petitioner’s efforts to set the Record straight.

WHEREFORE, Petitioner prays that the Court:

- 1) Permit the addition of the Idaho Mountain Express Article and Photo, attached hereto as Aug p. 1, and the Google Earth screen shot attached hereto as Aug p. 2 be added to the Agency Record
- 2) Remand this matter to IDWR for the consideration of the information presented in Idaho Mountain Express Article and Photo, and Google Earth screen shot attached hereto as Aug p. 1 and Aug p. 2.

DATED this __3rd__ day of September, 2026.

LAW OFFICES OF J. KAHLE BECKER

/s/ J. Kahle Becker

By: _____
J. KAHLE BECKER
Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this __3rd__ day of August 2026, a true and correct copy of the foregoing was served by the Court's Electronic Filing System as follows:

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/s/ J. Kahle Becker

By: _____
J. KAHLE BECKER
Attorney for the Petitioner

Feedlot hearings set for next week
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Projects frustrate S. Leadville residents
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Rodeo queens crowned
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WEEKEND EDITION

SUN VALLEY • KETCHUM • HAILEY • BELLEVUE • CAREY



Idaho Mountain Express AND GUIDE

CABIN CREEK FIRE
Firefighters reach full containment
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RANKED NO. 1 FOR GENERAL EXCELLENCE BY THE NATIONAL NEWSPAPER ASSOCIATION



Express photo by Roland Lane

TAKING A DIVE

Swimmers cool off in the Big Wood River behind the Presbyterian Church of the Big Wood amid hot, sunny weather last weekend. The weather forecast for the coming days is not so swimmer-friendly. Rain showers and thunderstorms are possible Friday, Saturday, Monday and Tuesday, according to the National Weather Service. To top it off, the Weather Service on Thursday issued a red flag warning advising the public of increased fire danger. The warning, which was set to go into effect today, Friday, at noon and expire at 9 p.m., includes roughly the northern half of Blaine County in addition to areas north of the county. "Scattered thunderstorms can produce frequent lightning that may in turn produce wildfire starts in receptive fuels. ... Erratic winds suddenly gusting to 50 mph are possible," the Weather Service stated.

Sawtooth Valley trail plan in early development

Abandoned trails could be reopened and some new trails could be created as part of concept

By NOAH FISHMAN
Express Staff Writer

David Tedesco, majority owner of the Smiley Creek Lodge and Outfitters, and CEO, is creating a proposal to reopen abandoned trails and create new single-track trails in the southern end of the Sawtooth Valley.

Tedesco and others are working on the idea in a group unofficially called the Sawtooth Valley Trails Coalition.

He said that these trails are "designed with mountain bike use in mind" but would also be open for pedestrian use. When applicable, these trails would be closed to motor vehicle use. He also said that the trails would most likely be entirely within the bounds of the Sawtooth National Recreation Area. The goal is to create connections through the existing trail system with low environmental impact.

"All conceptualized routes sit within a few miles of Highway 75, make essentially no new inroads into remote parts of the forest, avoid Wilderness completely, and stay away from private property and communities," states a draft shared with the Express of the Sawtooth Valley Trails Coalition's website, which is not yet live.

Tedesco told the Express that unlike the accessible and user-friendly trails in Ketchum, the Sawtooth Valley's mountain biking options are very difficult, even for experienced bikers. The goal of the new system is to create shorter, less strenuous options in the area.

To do this, Tedesco is working alongside Brian Vaughan from trail-building company Tinas Trails.

Tedesco does not have mileage estimates for the trail system yet, as he wants to first see how the public and the U.S. Forest Service respond to the idea.

"The idea is to present a menu of options to the Forest Service and community for feedback and then tailor a plan," Tedesco said.

He told the Express on Tuesday that he hoped to have this informal menu available by the end of July. Tedesco plans to take feedback and use it to inform the mileage and exact areas of trail locations, and to synthesize and analyze feedback to further develop the concept and see if it is viable. Tedesco said it is not yet clear if the idea will make it to the official proposal stage and be submitted to the U.S. Forest Service.

The Sawtooth City Association held a meeting on June 3, and Suzi Hayes, the association's president, said in an interview that the majority of the roughly 20 attendees were against the concept.

The Sawtooth City Association subsequently

Blaine County pushes forward on budget

Spending plan evolving as commissioners review requests

By GREG FOLEY
Express Staff Writer

Blaine County elected officials and staff this week continued to work through the complex process of setting the county's annual budget.

After reviewing budget requests from several county departments and outside agencies, the three-member Board of County Commissioners was scheduled Thursday to discuss a funding plan for the county's corner and the Blaine County Sheriff's Office.

The ongoing discussions are part of setting a spending plan for the 2027 fiscal year, which will start Oct. 1.

The county's working budget started at approximately \$44.9 million in June, including requests from all county departments, such as the

Sheriff's Office, Land Use and Building Services and Road and Bridge. By July 8 that figure had been reduced to approximately \$42.7 million, a report from County Clerk Stephen Graham indicates.

Graham was scheduled to deliver a new "top line" total budget figure to commissioners on Thursday and would again have to alter the number after commissioners' Thursday deliberations. He is scheduled to deliver a "tentative budget" to commissioners for their approval next Thursday, July 23. If the document is approved, it will represent a "rolling" number that the county cannot exceed if more changes are made before approval of a final budget later in the summer.

On Wednesday, Graham told the Express that the figure for the total

county budget will continue to fluctuate, as the commissioners set forth spending plans for the departments they haven't yet reviewed. One department of particular importance will be the county coroner, he noted, with significant potential for change.

For some 40 years, Coroner Russ Mikel has served in the role, working under contract with the county from his private mortuary business, the Wood River Chapel in Hailey. Blaine County does not have a morgue or dedicated facilities and equipment—such as vehicles and gurneys—for the coroner. Now, with Mikel retiring, longtime paramedic and EMS worker Eric Demment was effectively elected to fill the position in May, after winning the

See BUDGET, Page 8

See TRAILS, Page 8

