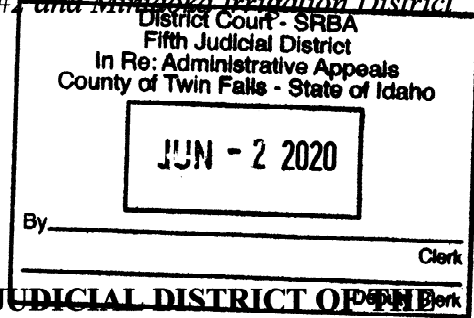


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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

BASIN 33 WATER USERS, a coalition of
 water right holders, and the UPPER VALLEY
 WATER USERS, a coalition of water right
 holders,

Petitioners,

vs.

SURFACE WATER COALITION, a coalition
 of water right holders,

Cross Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER
 RESOURCES,

Respondent.

) Case No. CV01-20-8069

) Fee Category L.3.a - \$221.00

) **SURFACE WATER COALITION'S CROSS-
 PETITION FOR JUDICIAL REVIEW**

IN THE MATTER OF DESIGNATING THE
 EASTERN SNAKE PLAIN AQUIFER
 GROUND WATER MANAGEMENT AREA

COMES NOW, A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, TWIN FALLS CANAL COMPANY, AMERICAN FALLS RESERVOIR DISTRICT #2, AND MINIDOKA IRRIGATION DISTRICT (hereinafter “Cross-Petitioner” or “Surface Water Coalition” or “Coalition”), by and through their attorneys of record, BARKER ROSHOLT & SIMPSON LLP, and FLETCHER LAW OFFICE, hereby file this Cross-Petition as follows:

CROSS-PETITION FOR JUDICIAL REVIEW

1. This Cross-Petition is filed pursuant to Idaho Code § 67-5273(2) and I.R.C.P. 84.
2. This Cross-Petition seeks judicial review of actions taken by the 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 Street, Boise, Ada County, Idaho 83720.
3. This Cross-Petition is taken to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada as a result of assignment pursuant to order of the Idaho Supreme Court and the Court. Venue is proper pursuant to Idaho Code § 67-5272.
4. The relevant case caption is In the Matter of Designating the Eastern Snake Plain Aquifer Ground Water Management Area; Docket No. AA-GWMA-2016-001.
5. On May 19, 2020, the Basin 33 Water Users and the Upper Valley Water Users (“Petitioners”) filed a *Joint Notice of Appeal and Petition for Judicial Review of Final Agency Action* pursuant to Idaho Code §§ 42-1701A(4), 67-5270 and 67-5279, seeking judicial review of the *Final Order on Fact Issue* issued by the Director of the Idaho Department of Water Resources (“IDWR”), Gary Spackman, on April 21, 2020 which made final a prior interlocutory

order issued by the hearing officer (IDWR Director Gary Spackman) entitled *Order on Legal Issues* dated January 9, 2020.

6. The Coalition is a party to this action and participated in the administrative proceedings and hearings leading to the IDWR Director's April 21, 2020 *Order* in response to the designation of the Eastern Snake Plain Aquifer ("ESPA") as a Ground Water Management Area ("GWMA").

7. The Cross-Petitioners do not request that a transcript of the hearing be made a part of the agency record for judicial review.

8. IDWR held a hearing in this matter on February 18, 2020, which was recorded and is in the Department's possession (c/o Kris Margheim, 322 E. Front Street, Boise, Ada County, Idaho 83720). The audio hearing recordings are also currently posted on the Department's website at <https://idwr.idaho.gov/legal-actions/administrative-actions/ESPA-GWMA-order.html> (audio hearings recordings link on this page). The clerk of IDWR has been paid the estimated fee for the preparation of the record at the request of the parties to this matter.

9. The Coalition anticipates that it can reach a stipulation regarding the agency record with the other parties and will pay its necessary share of the fee for preparation of the record as such time.

10. This Cross-Petition seeks judicial review of the Director's June 5, 2019 *Order on Briefing; Notice of Additional Prehearing Conference*. The Coalition intends to assert the following issues on judicial review:

a. Whether the Director erred in ruling that intervenors in the contested case remained parties to the pending action after the original petition filed by Sun Valley Company was withdrawn.

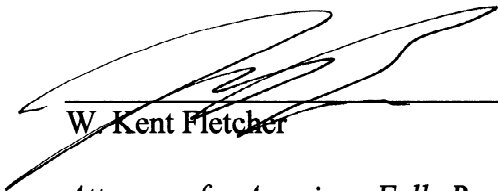
b. Whether the Director erred in ruling that intervenors remained parties to the pending action despite not requesting a hearing in the pending action.

11. Pursuant to I.R.C.P. 84(d)(5), the Coalition reserves the right to assert additional issues and/or clarify or further specify the issues for judicial review stated in this petition or which become later discovered.

12. We certify that service of this Cross-Petition for Judicial Review has been made on IDWR and on the other parties at the times of the filing of this Cross-Petition that no transcript has been requested and that the cost for the preparation of the record shall be paid as set forth above.

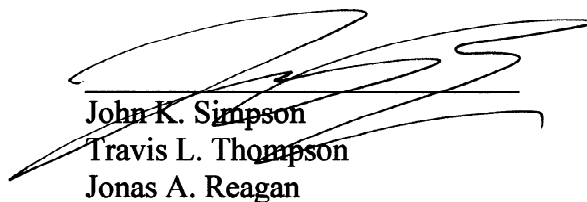
DATED this 2nd day of June, 2020.

FLETCHER LAW OFFICE



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of June, 2020, I served true and correct copies of the foregoing upon the following by the method indicated:

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Garrick Baxter Deputy Attorneys General Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
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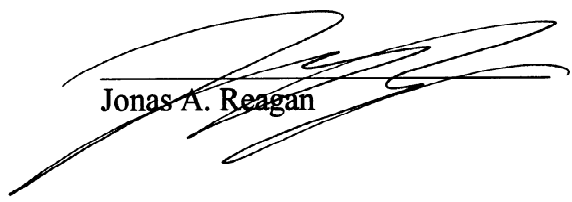
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