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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 DISTRICT,

Petitioners-Respondents-  
Cross Appellants,

vs.

THE IDAHO DEPARTMENT OF WATER  
RESOURCES and GARY SPACKMAN in  
his official capacity as Director of the Idaho  
Department of Water Resources,

**Supreme Court Docket No. 49632-2022**

Case No. CV07-2021-00243

**NOTICE OF CROSS APPEAL**

Filing Fee: \$129.00

Respondents-Appellants-  
Cross Respondents,

and

SUN VALLEY COMPANY, CITY OF  
BELLEVUE, BIG WOOD CANAL  
COMPANY, BIG WOOD & LITTLE  
WOOD WATER USERS ASSOCIATION,  
CITY OF POCA TELLO, CITY OF  
KETCHUM, and CITY OF HAILEY,

Intervenors-Respondents.

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

COME NOW, the Petitioner/Respondent/Cross Appellant, 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”), pursuant to Idaho Appellate Rule 15, and hereby file this Cross Appeal as follows.

1. The above-named Cross-Appellants SOUTH VALLEY GROUND WATER DISTRICT and GALENA GROUND WATER DISTRICT, cross-appeal against the above named cross-respondents to the Idaho Supreme Court from the District Court’s final *Memorandum Decision and Order*, entered in Case No. CV07-2021-00243 on February 10, 2022, Honorable Judge Eric J. Wildman, presiding.
2. The Cross-Appellants have a right to cross-appeal to the Idaho Supreme Court, and the *Memorandum Decision and Order* described in paragraph 1 above is an appealable order under and pursuant to Rule 11 (g), Idaho Appellate Rules.
3. Cross-Appellants intend to assert the following issue(s) on appeal:

- a. Whether the District Court erred in finding the Director was authorized to pursue conjunctive administration of water rights in Water District 37 under section 42-237.a.g and not chapter 6, title 42 and the Department's CM Rules;
- b. Whether the District Court erred by holding that when the Director relied on section 42-237a.g to initiate a proceeding to curtail junior groundwater rights to protect surface water rights that the Department's CM procedures and rules did not apply;
- c. Whether the District Court erred by holding that when the Director relied on section 42-237a.g to initiate a proceeding to curtail junior groundwater rights to protect surface water rights that the procedures for administration of adverse claims in section 42-237b *et seq.* did not apply, when those procedures were still in effect at the time of the hearing and had not been repealed;
- d. Whether the District Court erred by holding that the Director was free to rely on section 42-237a.g to initiate a proceeding to curtail junior groundwater rights to protect surface water rights and ignore the CM Rules when IDWR consistently advised the water users in Basin 37 that conjunctive administration in the Basin would be handled under the CM Rules;
- e. Whether the District Court erred in finding that the senior surface water users had not made a delivery call under the Department's CM Rules and that the Director's administrative proceeding was not in response to a delivery call, when the senior surface water users consistently and repeatedly demanded priority administration of water rights in the Basin;

- f. Whether the District Court erred in not finding the Director violated the Districts' right to due process by denying the mitigation plan and ordering curtailment without an opportunity for a hearing; and,
    - g. Whether the District Court erred in denying the Districts' request for attorney fees pursuant to Idaho Code § 12-117.
4. Cross-Appellants join in Appellant's request for the documents and transcripts described in paragraphs 5-7 of Appellant's *Notice of Appeal* to be made a part of the record on appeal.
5. Cross-Appellants request the following documents to be included in the Clerk's record, in addition to those documents described in paragraph 4 above and those automatically included in the Clerk's record pursuant to Rule 28, Idaho Appellate Rules:
  - a. None.
6. Cross-Appellants request that all exhibits included in the agency record be copied and sent to the Supreme Court.
7. I certify that:
  - a. That a copy of this notice of cross-appeal has been served on the reporter.
  - b. That the fee required for the preparation of the reporter's transcript was paid in conjunction with the District Court's review of this matter.
  - c. That the estimated fee for preparation of the clerk's record has been paid.
  - d. That the cross appellate filing fee has been paid.
  - e. That service has been made upon all parties required to be served pursuant to Rule 20, Idaho Appellate Rules.

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DATED this 14<sup>th</sup> day of April, 2022.

BARKER ROSHOLT & SIMPSON LLP

/s/ ALBERT P. BARKER  
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*Attorneys for South Valley Ground Water  
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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 14<sup>th</sup> day of April 2022, the foregoing was filed electronically using the Court's e-file system, and upon such filing the following parties were served electronically.

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          /s/ TRAVIS L. THOMPSON            
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