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RECEIVED
AUG 28 2013
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION) FOR PERMIT NO. 21-13160 IN THE) NAME OF THE IDAHO WATER) RESOURCE BOARD) _____)	**PETITION TO INTERVENE**

Trout Unlimited ("TU"), by and through counsel, hereby petitions to intervene in the above-captioned proceeding pursuant to Rules 350 through 354 of the Rules of Procedure of the Idaho Department of Water Resources (IDAPA 37.01.01.350-354).

The Department's Rules of Procedure provide that "[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding." IDAPA 37.01.01.350. The petition must be filed "at least fourteen (14) days before the date set for the formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice." *Id.* at 37.01.01.352. A timely-filed petition for intervene shall be granted if the petition "shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, ... unless the applicant's interest is adequately represented by existing parties." *Id.* at 37.01.01.353.

TU is a non-profit membership organization dedicated to conserving, protecting and restoring North America's coldwater fisheries and their watersheds. TU has approximately 146,000 members nationally and approximately 2,100 members in the State of Idaho. TU

has chapters in the Pocatello area, the South East Idaho Fly Fishers, and the Idaho Falls area, the Snake River Cutthroats, whose members fish and recreate along the Henrys Fork of the Snake River and its tributaries (the "Henrys Fork). TU participated in the development of the Eastern Snake Plain Aquifer Comprehensive Aquifer Management Plan (ESPA CAMP) with a seat on the advisory committee, and currently has a seat on the inactive ESPA CAMP implementation committee. TU, as an organization, and on behalf of its members, is concerned with and seeks to protect and maintain the coldwater fishery in the Henrys Fork. TU and its staff and members enjoy the Henrys Fork for fishing, ecological, aesthetic, business and other purposes. These fishing, ecological, aesthetic, business and other interests depend on adequate stream flows in the Henrys Fork and are directly affected by the Idaho Department of Water Resource's decision in this proceeding.

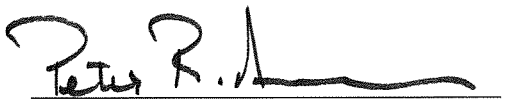
TU will not unduly broaden the issues before the hearing officer. TU simply contends that for the Applicant to meet its burden to establish those facts necessary for the approval of this application under Idaho Code § 42-203A(5) and the Water Appropriation Rules, IDAPA 37, Title 03, Chapter 08, appropriate conditions and/or enforceable agreements are necessary to avoid or mitigate the fisheries and other environmental impacts of this proposed water use. Specifically, but without limitation, the provisions of the ESPA CAMP should be implemented in conjunction with this proposed water use.

There is no other party who adequately represents TU's focused interest in coldwater fisheries that is currently a party to this proceeding.

Because no formal hearing or prehearing conference has been set or held in this matter, TU's *Petition to Intervene* is timely as it is being filed more than fourteen (14) days before the date of the formal hearing or prehearing conference, as required by IDAPA 37.01.01.352.

TU meets all of the standards and requirements imposed by the Department's Rules, and therefore respectfully request an order granting its intervention in this matter.

DATED this 27th of August, 2013.



Peter R. Anderson
Trout Unlimited

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above pleading or document on the parties listed below by mailing it with first class postage on the 28th day of August, 2013.

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c/o Travis Thompson
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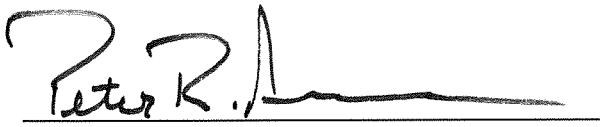

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