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DEPARTMENT OF
WATER RESOURCES

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DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF DESIGNATING)	Docket No. AA-GWMA-2016-001
THE EASTERN SNAKE PLAIN)	
AQUIFER GROUND WATER)	CITY OF POCATELLO'S
MANAGEMENT AREA)	PETITION TO INTERVENE
_____)	Fee Category: Exempt per I.C. § 67-2301

The City of Pocatello ("Pocatello" or "City") petitions to intervene in this matter pursuant to the Idaho Department of Water Resources ("Department") Rules of Procedure ("Rules" or "Rule") 350-354.

BACKGROUND

On November 2, 2016, the Department issued an *Order Designating the Eastern Snake Plain Aquifer Ground Water Management Area* ("Order") in this matter. The Order establishes a ground water management area ("GWMA") for the Eastern Snake Plain Aquifer ("ESPA").

Pocatello participated in several meetings regarding the Department's proposed ESPA GWMA and submitted comments to the Department regarding the same on September 2, 2016. Pocatello has water rights located within the newly designated ESPA GWMA.

ARGUMENT

I. Pocatello has a direct and substantial interest in this proceeding.

Rule 350 states 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.

A petition to intervene shall be granted if the petitioner “shows [a] 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.” IDAPA 37.01.01.353.

Pocatello is a municipal corporation of the State of Idaho which operates a municipal water system serving a population of approximately 50,000 residents in southeastern Idaho. The City’s primary water service area lies along the Portneuf River valley floor and the surrounding foothills, and is supplied water from numerous wells in the Lower Portneuf River Valley Aquifer (“LPRVA”) in addition to wells in the ESPA. The LPRVA is an alluvial aquifer that underlies the Portneuf River and extends from the Portneuf Gap south of the City to the intersection with the ESPA north of the City. The Director’s Order has included much of the LPRVA in the ESPA GWMA. Pocatello also owns and operates associated surface water rights, including rights to water stored in Palisades Reservoir.

The Director's designation of an ESPA GWMA that includes any of Pocatello's water rights means that the Director may "order those water right holders on a time priority basis . . . to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water." I.C. § 42-233b. Pocatello therefore has a direct and substantial interest in this proceeding, as the creation of a GWMA will impact Pocatello's ground water rights.

The designation of the ESPA GWMA will directly impact Pocatello's water rights diverting therein. "When a ground water management area is designated by the director of the department of water resources... the director may approve a ground water management plan... [which] shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water." I.C. Code §42-233b. The Director may also "require all water right holders within a designated water management area to report withdrawals of ground water and other necessary information." *Id.* As the holder of groundwater rights from the ESPA GWMA, Pocatello has a direct and substantial interest in this proceeding.

II. Pocatello's interests are not adequately represented by existing parties.

Pocatello's interests are specific and localized in nature, and cannot be adequately protected by the existing parties in these proceedings. IDAPA 37.01.01.353. There are presently no other parties in this matter, and Pocatello is not a member of Intervenor Idaho Ground Water Appropriators or Intervenor Surface Water Coalition. Intervention is necessary to protect Pocatello's water rights.

III. Pocatello's petition is timely.

Under Rule 352, petitions to intervene are timely if they are filed at least fourteen days before the date set for a formal hearing or prior to a prehearing conference. IDAPA 37.01.01.352. No hearing has been set in this matter, and Pocatello's Petition is timely.

IV. Pocatello's participation will not unduly broaden the issues before the Department.

Given Pocatello's demonstrated interests in this matter and the very early stage of the dispute, Pocatello's participation as a party in this matter will not unduly broaden issues before the Department. IDAPA 37.01.01.353.

CONCLUSION

Pocatello has met the standards set forth under Rules 352 and 353 and should be allowed to intervene in the above-captioned action for all purposes in all subsequent proceedings, including but not limited to any hearings, appeals, or related proceedings concerning implementation of a ground water management plan for the ESPA GWMA.

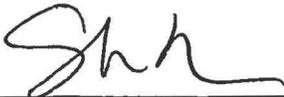
Respectfully submitted this __ day of November, 2016.

CITY OF POCA TELLO ATTORNEY'S OFFICE

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November, 2016 a true and correct copy of the foregoing **CITY OF POCA TELLO'S PETITION TO INTERVENE** in Docket Nos. AA-GWMA-2016-001 was served on the following by the method indicated below:



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