

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF	)	Docket No. CM-DC-2014-002
WATER TO WATER RIGHT HELD BY	)	
ARK FISHERIES, INC., WATER RIGHT NO.	)	<b>ORDER GRANTING PETITION</b>
32-07278	)	<b>TO INTERVENE</b>
	)	
_____	)	

On July 17, 2014, the Idaho Ground Water Appropriators, Inc. (“IGWA”) timely filed *IGWA’s Petition to Intervene* (“Petition”). The Petition requests that the Director grant IGWA’s request to intervene in the above-referenced matter before the Department pursuant to the Department’s Rules of Procedure 156 and 350 through 354 and in response to ARK Fisheries Inc.’s letter regarding delivery of water to water right no. 36-7278, received by the Department May 28, 2014 (“Delivery Call”).

A status conference was held on July 22, 2014, wherein Lynn Babington, the representative for ARK Fisheries, stated that ARK Fisheries does not oppose IGWA’s Petition.

The Delivery Call asserts water right no. 36-7278, which has a priority date of February 14, 1973, is entitled to delivery of 4.69 cfs of water from Spring Creek Springs for fish propagation from January 1 through December 31. The Delivery Call also asserts ARK Fisheries, Inc. has received 4.69 cfs of water only two times since 1992. ARK Fisheries, Inc. demands that watermasters of water districts 120, 130, and 36A administer water rights by priority as required by Idaho Code § 42-607.

Rule 156 defines “Intervenors” as “[p]ersons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354. . . .” IDAPA 37.01.01.156. Rule 350 states:

Persons 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. Rule 353 provides:

If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the

presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding.

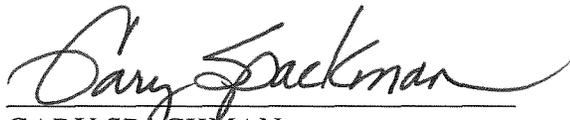
IDAPA 37.01.01.353.

IGWA represents Ground Water Districts whose members include irrigators, municipalities, and commercial and industrial entities who own water rights that divert from the Eastern Snake Plain Aquifer that may be subject to curtailment should the Delivery Call be successful. The Director concludes IGWA has a direct and substantial interest in the above-referenced matter that is not adequately represented by existing parties and the Petition does not unduly broaden the issues.

**ORDER**

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that *IGWA's Petition to Intervene* is GRANTED.

Dated this 23<sup>rd</sup> day of July, 2014.

  
\_\_\_\_\_  
GARY SPACKMAN  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of July, 2014, a true and correct copy of the above and foregoing document described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Granting Petition to Intervene

ARK FISHERIES  
ATTN: LYNN BABINGTON  
2825 SOUTH 1050 EAST  
HAGERMAN, IDAHO 83332

U.S. Mail, Postage Prepaid  
 Hand Delivery  
 E-mail

RANDY BUDGE  
TJ BUDGE  
RACINE OLSON  
P.O. BOX 1391  
POCATELLO, ID 83204-1391  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[tjb@racinelaw.net](mailto:tjb@racinelaw.net)

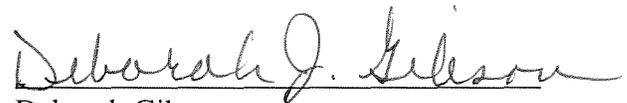
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Deborah Gibson  
Admin. Assistant for the Director