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DEPARTMENT OF
WATER RESOURCES

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Attorneys for City of Nampa

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

IN THE MATTER OF RIVERSIDE'S
PETITION FOR DECLARATORY RULING
REGARDING NEED FOR A WATER
RIGHT UNDER REUSE PERMIT NO.
M-255-01

Docket No. P-DR-2020-01

PETITION TO INTERVENE

The City of Nampa ("City"), by and through its counsel of record, hereby submits this *Petition to Intervene* in response to the *Petition for Declaratory Ruling Regarding Need for a Water Right to Divert Water Under Reuse Permit No. M-255-01* ("*Riverside's Petition*") filed by Riverside Irrigation District ("*Riverside*") in the above-captioned matter.

The City's *Petition to Intervene* is submitted pursuant to the rules of the Idaho Department of Water Resources ("IDWR" or "Department"), IDAPA 37.01.01.350 to 37.01.01.354 (the "Rules").

Earlier today, the Department issued a *Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene* ("*Notice*").

Neither the *Notice* nor any statute or regulation of which the City is aware expressly states that the City is automatically a party and does not need to file a petition seeking intervention.

In a separate pleading, the City has filed its *Answer to Petition for Declaratory Ruling*. The City is not aware of regulations definitively addressing whether it is necessary to intervene before filing an answer. In order to moot any argument on that procedural question or on the City's status as a party, the City is submitting this *Petition to Intervene*.

In support of its *Petition to Intervene*, the City states as follows:

1. Historically, water from the City's wastewater treatment plant has been discharged into Indian Creek, which flows to the Boise River. These discharges are regulated under the federal Clean Water Act.
2. In light of temperature concerns, total phosphorus limits, and other permit requirements, after discussions with regulatory officials and stakeholders, the City planned and began implementing upgrades to its wastewater treatment plant. The upgrades were expected to occur in three phases at substantial cost to sewer ratepayers. The final phase of the upgrades was designed to reduce the water temperature of wastewater discharged to Indian Creek.
3. As an alternative to the final wastewater treatment upgrade, the City applied for and received *Reuse Permit No. M-255-01* ("*Reuse Permit*") from the Idaho Department of Environmental Quality ("*IDEQ*"). Under the *Reuse Permit*, the City is authorized to direct its wastewater stream to the Phyllis Canal, owned operated by Pioneer Irrigation District ("*Pioneer*") for irrigation use when the temperature of treated wastewater may adversely impact Indian Creek. Seasonal (*i.e.*, during the irrigation season) City wastewater discharge to the Phyllis Canal also yields phosphorus limit flexibility (discharge to the canal can occur at higher

numeric limits than would be the case with discharges to Indian Creek), also saving City ratepayer money through avoided additional treatment costs. Because higher water temperatures and higher nutrient limits are allowed under the *Reuse Permit* for irrigation water flowing in the Phyllis Canal, the final wastewater upgrade, among other operational requirements, is no longer necessary. Consequently, the City and Pioneer partnership effectively achieves water quality objectives more efficiently and at substantially lower cost.

4. On February 24, 2020, Petitioner Riverside Irrigation District, Ltd. (“Riverside”) filed a *Petition for Declaratory Ruling Regarding Need for a Water Right to Divert Water Under Reuse Permit No. M-255-01* challenging the ability of the City and/or Pioneer to undertake the actions contemplated under the *Reuse Permit* without first obtaining a new water right, or seeking changes to existing water rights.

5. Under the Department’s Rules, “Persons . . . who claim a direct and substantial interest in a proceeding may petition” to intervene. IDAPA 37.01.01.350.

6. Because the City is the holder of the *Reuse Permit* whose use is challenged in this proceeding, it has a direct and substantial interest in the proceeding.

7. The City’s interests are not represented by any party in this proceeding.

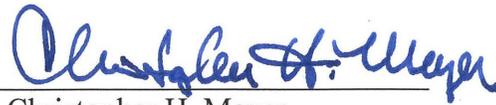
8. The City’s intervention will not unduly broaden the issues, and will not cause delay or prejudice to Riverside.

9. Accordingly, the City is entitled to intervene as a matter of right under IDAPA 37.01.01.353.

For these reasons, the City requests the Department to grant intervention status to the City as a full party in this matter.

Respectfully submitted this 16th day of March, 2020.

GIVENS PURSLEY LLP



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of March, 2020, the foregoing was filed, served, and copied as shown below.

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