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

IN THE MATTER OF REUSE PERMIT NO. M-  
255-01, IN THE NAME OF CITY OF NAMPA

Case No. P-DR-001-2020

**CITY OF BOISE'S PETITION  
TO INTERVENE**

COMES NOW, the city of Boise City, herein referred to as "Boise City," by and through its attorney, Abigail R. Germaine, and pursuant to Rules 350 through 354 of the Rules of Procedure of the Idaho Department of Water Resources ("Department") (IDAPA 37.01.01.350 – 37.01.0.354) and the Department's Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene, filed on March 16, 2020, hereby petitions the Department for leave to intervene herein and to appear and participate as a party, and as the basis therefore states as follows:

**I. BACKGROUND**

On January 21, 2020, the Idaho Department of Environmental Quality ("DEQ") issued Reuse Permit No. M-255-01 ("Permit") authorizing the City of Nampa's ("Nampa") construction, installation, and operation of a reuse facility. In response to the issuance of this Permit, Riverside Irrigation District ("Riverside") submitted a Petition for Declaratory Ruling Regarding Need for a

Water Right to Divert Water Under Reuse Permit No. M-255-01, filed on February 24, 2020 (“Petition”). Riverside seeks a declaratory ruling by the Department providing a finding that Pioneer Irrigation District must obtain a water right prior to accepting reuse water by Nampa and furthermore, that Nampa must apply for a water right before diverting water to Pioneer’s system.

Boise City requests to participate in these proceedings related to this Permit and Petition for Declaratory Ruling in order to be a part of these proceedings which may have a precedential effect on the interpretation of Idaho Code § 42-201(8) and future reuse permits within the State of Idaho. Boise City itself has proposed a reuse project similar to that of Nampa’s and the outcome of this case may dictate Boise City’s ability to pursue this reuse project in the future.

### **STANDARDS**

The Department’s Rule of Procedure 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. A petition to intervene must state, “the direct and substantial interest of the potential intervenor in the proceeding.” IDAPA 37.01.01.351. A petition to intervene shall be considered timely if “filed at least fourteen (14) days before the date set for formal hearing or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice.” IDAPA 37.01.01.352. A petition to intervene *will be* granted by the presiding officer, subject to reasonable conditioning, if the petition is timely filed, the petitioner shows a direct and substantial interest in the matter, and intervention does not unduly broaden the issues of the case. IDAPA 37.01.01.353 (emphasis added).

## II. DISCUSSION

### A. **Boise City's Petition to Intervene is Timely.**

The Department's Rule of Procedure 352 states that a petition to intervene will be considered timely if filed at least fourteen (14) days prior to the formal hearing, or by the date of the prehearing conference, whichever is earlier, or if it is filed by a different date as provided by the Department's IDAPA 37.01.01.352. On March 16, 2020, the Department issued a Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene ("Notice and Order"). Within that Notice and Order, the Department established a deadline for filing a petition to intervene of April 23, 2020. This Petition to Intervene if being filed in advance of that April 23, 2020, deadline. Furthermore, at the date of filing this Petition to Intervene, a prehearing conference has not taken place. Therefore, this Petition to Intervene is timely.

### B. **Boise City has a Direct and Substantial Interest in this Proceeding.**

Boise City owns and operates several publicly owned treatment works, or wastewater renewal facilities, pursuant to its National Pollutant Discharge Elimination System ("NPDES") permits which establish the parameters under which Boise City may discharge wastewater to the Boise River in conformance with the Clean Water Act. As a compliance strategy to meeting the requirements of its NPDES permit, Boise City has considered a reuse project similar to that of Nampa's Reuse Permit.

The Department's declaratory ruling and interpretation of Idaho Code § 42-201(8) pursuant to this Petition could affect Boise City's ability to pursue a reuse project in the future. Whether or not Boise City can pursue a reuse project will have significant impacts on Boise City's options to meet its NPDES permit requirements in the future as well as the ability to utilize highly treated

effluent for different purposes in the future. The inability to pursue a reuse project could have drastic effects on Boise City's water renewal facility planning, including requiring additional facility and system improvements to meet its NPDES permit requirements or prohibiting Boise City from using reuse water to address potential drought conditions in the future, thus costing the Boise City and its ratepayers more.

**C. The Interests of Boise City are not Represented by Other Parties.**

Boise City's interests are unique from that of Nampa or of other potential intervening parties as Boise City has a proposed project it intends to pursue in the future, and which is distinctively situated. It is important that Boise City be allowed to participate in this proceeding to address how the Department's decision could impact Boise City's ability to pursue this reuse project.

**D. Boise City's Involvement in this Proceeding will not Broaden the Issues before the Department.**

If Boise City is granted intervention, Boise City's involvement will not broaden the issues before the Department. The basis of Boise City's Petition to Intervene centers around the same issues brought by Riverside's Petition and answered by Nampa's Petition to Intervene and its Answer to Petition for Declaratory Ruling. These issues are already before the Department for determination as outlined in the Department's Notice and Order. Boise City does not intend to introduce new or different issues other than those related to Riverside's Petition and the Department's ultimate ruling on these issues.

**III. CONCLUSION**

Based on the foregoing, Boise City respectfully requests the Director and Presiding Officer, grant Boise City's Petition to Intervene and allow Boise City to fully participate in this proceeding.

Boise City has met the standards of intervention set forth in the Department's Rules of Procedure and Notice and Order. Boise City's Petition to Intervene is timely filed.

DATED this 16th day of April 2020.



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Abigail R. Germaine  
Deputy City Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 16th day of April 2020, served the foregoing documents on all parties of counsel as follows:

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