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WATER RESOURCES
WESTERN REGION
Receipt #: W048224
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Attorney for Idaho Power Company

**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-2020-001

PETITION TO INTERVENE

COMES NOW, Idaho Power Company ("Company"), by and through its attorneys of record, and hereby petitions to intervene in this matter pursuant to rules 350 through 354 of the Rules of Procedure of the Idaho Department of Water Resources ("IDWR").

I. BACKGROUND

Riverside Irrigation District ("Riverside") is an irrigation delivery entity which has a number of water rights in Indian Creek and irrigates lands west of Nampa, Idaho on the southside of the Boise River. A portion of the water supply in Indian Creek comes from water that the City of Nampa ("City") discharges under a discharge permit and a permit issued by DEQ which allows for the reuse of water from the City's facilities. Under this reuse permit, the City intends to change its historical discharge of water into Indian Creek and instead divert and deliver approximately 20 cfs to Pioneer Irrigation District ("Pioneer") into Pioneer's Phyllis Canal. Pioneer would utilize this additional water for the delivery to Pioneer water users.

In response to the City's proposed re-diversion, under Reuse Permit No. M-255-01, Riverside filed a Petition for Declaratory Ruling seeking a determination that:

1. Pioneer cannot divert or accept reuse water from the City or apply the City's reuse water to land in the Pioneer boundaries under the reuse permit without first obtaining a water right.
2. Any attempt by Pioneer or the City to divert water under the permit to Pioneer without first applying for a water right is in contravention to Idaho law.

The City of Nampa filed an Answer to the Petition denying numerous counts and denying that it had to file and obtain a water right. The Director has issued an order setting an April 23, 2020 deadline to intervene and a prehearing conference on that date.

II. LEGAL STANDARD

In order to grant a petition to intervene, the moving party must first demonstrate that the petition is "timely" filed, that is "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. Additionally, the moving party must show that it has a "direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues" IDAPA 37.01.01.353. The Company satisfies these requirements.

III. ARGUMENT

First, the Company's petition to intervene is timely. Here, the Director has set a deadline to intervene for April 23, 2020 in the April 30, 2020 prehearing conference. *Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene* dated March 16, 2020. Given that this filing pre-dates the April 23rd deadline, the petition is timely. Second,

the Company has a direct and substantial interest in the outcome of this matter.

- Company has 17 hydroelectric facilities in the Snake River Basin with water rights to generate power at each of the facilities. A number of these facilities are downstream of the Boise River Basin.
- Additionally, the Company has other water rights throughout its service territory which aid in the delivery of electricity and in operations.
- While the water rights at those hydroelectric facilities are subordinated, the Company does depend upon reach gains in the source identified in the water rights to generate power.
- Many of these water rights are downstream of municipal, industrial and irrigation returns to the water source similar to the discharge described in the Riverside petition.
- Further, while the source (Indian Creek) raised in the Riverside petition is not tributary to the Snake River above Swan Falls Dam, similar discharges are present upstream of Swan Falls Dam and may trigger some analysis of the minimum flows pursuant to the Swan Falls Settlement depending upon the outcome of the issues raised in the present proceeding.
- A determination of the legal issues described in the petition or other determinations by the Director may impact the Company's generation and planning.

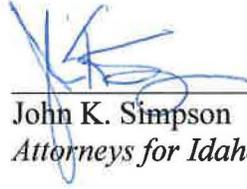
IV. CONCLUSION

Since the Company meets the requirements as specified in the Department's Rules, the Hearing Officer should enter an order granting intervention.

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DATED this 22nd day of April, 2020.

BARKER ROSHOLT & SIMPSON LLP



John K. Simpson
Attorneys for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of April, 2020, I caused a true and correct copy of the foregoing **PETITION TO INTERVENE** to be served on the following parties by the following methods:

Original to:

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John K. Simpson

Idaho Department of Water Resources Receipt

Receipt ID: W048224

Payment Amount	\$25.00	Date Received	4/22/2020	Region	WESTERN
Payment Type	Check	Check Number	27008		
Payer	BARKER ROSHOLT & SIMPSON LLP				
Comments	PETITION TO INTERVENE FROM IDAHO POWER COMPANY REUSE PRMT NO: M-255-01				

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	62103	0229	21		1155



Signature Line (Department Representative)