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WATER RESOURCES  
WESTERN REGION

*Attorneys for the City of Jerome*

**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**

Fee Category: Exempt (I.C. § 67-2301)

COMES NOW the City of Jerome (“Jerome”), by and through its counsel of record  
McHugh Bromley, PLLC, and pursuant to IDAPA 37.01.01.350 *et seq.*, hereby files this *Petition*  
*to Intervene* in the above-captioned matter.

**I. BACKGROUND**

On February 24, 2020, Riverside Irrigation District (“Riverside”) filed a *Petition for Declaratory Ruling Regarding Need for a Water Right to Divert Water Under Reuse Permit No. M-255-01* (“Petition”) with the Director of the Idaho Department of Water Resources (“Director” or “IDWR”). The Petition was filed in response to a water reuse permit issued by the Idaho Department of Environmental Quality (“DEQ”) authorizing the City of Nampa (“Nampa”) to discharge some amount of treated waste water into Pioneer Irrigation District’s (“Pioneer”)

Phyllis Canal, as opposed to Indian Creek. Riverside alleges the discharge of treated waste water into Indian Creek must continue unless Nampa and/or Pioneer obtain a water right from IDWR:

Pursuant to Idaho Code § 67-5232(1), Riverside hereby petitions the Department of a declaratory ruling as to the applicability of I.C. § 42-201(2) to Reuse Permit No. M-255-01. Specifically, and without limitation, Riverside seeks a declaratory ruling that:

a. Pioneer cannot divert or accept water from the City or apply any of that water to land in the Pioneer district boundaries under this Reuse Permit without first obtaining a water right.

b. Any attempt by Pioneer or the City to divert water under the Permit to Pioneer without applying for a water right is in contravention to Idaho Law.

*Petition at 3.*

The Petition was noticed by IDWR with a statement that petitions to intervene must be filed by April 23, 2020. *Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene* (March 16, 2020). A prehearing conference is scheduled to occur on April 30, 2020.

## II. ARGUMENT

In order to grant a petition to intervene, the moving party must demonstrate it is “timely” filed, IDAPA 37.01.01.352, and 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. Jerome meets these requirements.

First, Jerome’s petition to intervene is timely. A petition to intervene is timely if it is “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. Here, the Director has scheduled the prehearing conference to take place on April 30, 2020, with a deadline to intervene scheduled for April 23, 2020. *Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene*. Because Jerome is

petitioning the Director to intervene in the above-captioned proceeding prior to the April 23, 2020 deadline, Jerome's petition to intervene is timely, and intervention should be granted.

Second, Jerome has a direct and substantial interest in the outcome of this matter. Jerome is located in the Magic Valley and pumps ground water from the Eastern Snake Plain Aquifer to meet the needs the city's needs. Jerome holds National Pollutant Discharge Elimination System ("NPDES") Permit No. ID-0020168 for waste water discharge into the Northside Canal Company's J8 Canal. Jerome relies on the NPDES Permit to safely treat and dispose its waste water. Given its location and the terms of its NPDES Permit, only Jerome can represent its interests that allow it to discharge into the J8 Canal. Thus, based on Jerome's substantial interest, and the fact that it will not unduly broaden the issues, Jerome should be granted intervention.

### III. CONCLUSION

Jerome's petition to intervene is timely, with Jerome having a direct and substantial interest in the outcome of this matter. Therefore, based on the foregoing, Jerome's petition to intervene should be granted.

DATED this 23<sup>rd</sup> day of April, 2020.



Chris M. Bromley  
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*Attorneys for City of Jerome*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of April 2020, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

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