

RECEIVED

NOV 18 2016

DEPARTMENT OF
WATER RESOURCES

Randall C. Budge (ISB No. 1949)
Thomas J. Budge (ISB No. 7465)
RACINE OLSON NYE BUDGE & BAILEY, CHARTERED
201 E. Center St. / P. O. Box 1391
Pocatello, Idaho 83204-1391
(208) 232-6101 – Phone
(208) 232-6109 – Fax
rcb@racinelaw.net
tjb@racinelaw.net

Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF DESIGNATING
THE EASTERN SNAKE PLAIN
AQUIFER GROUND WATER
MANAGEMENT AREA

IGWA's Petition to Intervene

Idaho Ground Water Appropriators, Inc. ("IGWA"), acting for and on behalf of its members, hereby petitions to intervene in this matter pursuant to Idaho Department of Water Resources ("IDWR" or "Department") rules of procedure 350 through 354.

INTRODUCTION

On November 2, 2016, the Department issued an *Order Designating the Eastern Snake Plain Aquifer Ground Water Management Area* ("Order") in this matter establishing a ground water management area for the Eastern Snake Plain Aquifer ("ESPA"). The ESPA Ground Water Management Area encompasses nearly all of the Snake River Plain. (Order p. 25.) IGWA's members include eight ground water districts¹ and two irrigation districts² whose members collectively irrigate nearly one million acres and use water in several other beneficial ways under groundwater rights that divert from the ESPA Ground Water Management Area. The designation of the ESPA Ground Water Management Area and the pending development and implementation of a ground water management plan will directly impact IGWA's members. Therefore, IGWA respectfully petitions the Director for an order granting intervention in this matter.

¹ North Snake Ground Water District, Magic Valley Ground Water District, Carey Valley Ground Water District, Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District.

² Southwest Irrigation District, Fremont-Madison Irrigation District.

LEGAL STANDARDS

Rule 350 of the Department's rules of procedure provides that "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. "Petitions to intervene must be 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. If the petition "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." IDAPA 37.01.01.353.

ANALYSIS

1. IGWA claims a direct and substantial interest in the subject of this matter.

The designation of the ESPA Ground Water Management Area implicates actions that will directly affect IGWA's members and other holders of groundwater rights that divert from the ESPA. For instance, "When a ground water management area is designated by the director of the department of water resources, . . . the director may approve a ground water management plan [which] shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water." Idaho Code 42-233b. In addition, the director may "require all water right holders within a designated water management area to report withdrawals of ground water and other necessary information," and may "order those water right holders on a time priority basis, within the area determined by the director, to cease or reduce withdrawal of water." *Id.* As holders of groundwater rights from the ESPA, such actions will directly and substantially affect IGWA's members.

2. This Petition does not unduly broaden the issues.

IGWA seeks to intervene to address issues that are now present or may subsequently be raised in this matter. This Petition does not assert any new issues into this matter.

3. IGWA's interests are not adequately represented by existing parties.

There are presently no other parties to this matter; thus, IGWA's interests are not adequately represented by existing parties. Moreover, IGWA represents approximately ninety percent of all groundwater rights from the ESPA, and essentially all irrigators. As such, no other party is capable of adequately representing IGWA's interests.

4. This Petition is timely filed.

Rule 352 provides that "Petitions to intervene must be 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. No date has been set for a formal hearing or prehearing conference. Thus, This petition is timely filed.

CONCLUSION

Based on the foregoing, IGWA respectfully requests that this Petition to Intervene be granted for all purposes, including but not limited to proceedings on the Order, appeals from the Order, if any, and subsequent proceedings concerning the development and implementation of a ground water management plan for the ESPA Ground Water Management Area.

DATED this 16th day of November, 2016.

RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED

By: _____

Randall C. Budge

T.J. Budge

Attorneys for IGWA

CERTIFICATE OF MAILING

I certify that on this 16th day of November, 2016, the foregoing document was served on the following persons in the manner indicated.



Signature of person mailing form

Director Gary Spackman
Idaho Department of Water Resources
322 E. Front St. / P.O. Box 83270
Boise, Idaho 83720
Deborah.Gibson@idwr.idaho.gov

- ☒ U.S. Mail/Postage Prepaid
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-mail