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DEPARTMENT OF
WATER RESOURCES

Jerry R. Rigby, ISBN 2470
RIGBY, ANDRUS & RIGBY LAW, PLLC
Attorneys at Law
25 North Second East
Rexburg, Idaho 83440
Telephone: 208-356-3633

Attorney for Fremont Madison Irrigation District, Madison Ground Water District and Idaho
Irrigation District

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

)	Docket No. AA-GWMA-2016-001
)	
IN THE MATTER DESIGNATING THE)	FREMONT MADISON
EASTERN SNAKE PLAIN AQUIFER GROUND)	IRRIGATION DISTRICT,
WATER MANAGEMENT AREA)	MADISON GROUND WATER
)	DISTRICT AND IDAHO
)	IRRIGATION DISTRICT'S
)	PETITION TO INTERVENE
)	
)	
)	

Fremont Madison Irrigation District (FMID), Madison Ground Water District (MGWD)
and Idaho Irrigation District (IID), acting for and on behalf of its members, hereby petitions to
intervene in this matter pursuant to Idaho department of water resources (IDWR) Rules of
procedures 350 through 354.

BACKGROUND

On November 4, 2016, the Director ("Director") of Idaho Department of Water Resources
("Department") issued an *Order Designating the Eastern Snake Plain Aquifer Ground Water*
Management Area (ESPA GWMA Order"). Several parties then filed petitions for

**Fremont Madison Irrigation District, Madison Ground Water District, and Idaho
Irrigation District's Petition to Intervene - Page - 1**

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reconsideration and also petitions requesting a hearing regarding the ESPA GWMA Order.

On December 2, 2016, the Director issued an *Order Granting Request for Hearing; Notice of Pre-Hearing Conference*, granting the request for hearing and scheduled a prehearing conference for January 12, 2017. At the prehearing conference, the parties and Director agreed that the prehearing conference should be continued to March 22, 2017. The parties and Director also agreed that proceedings in this matter should be stayed until March 22, 2017, except that the Director would extend the time for filing petitions to intervene to March 22, 2017, and would accept and potentially address such petitions during the stay which was incorporated in the Director's *Notice of Continued Pre-Hearing Conference; Order Staying Proceedings Except Intervention* on January 17, 2017.

At the prehearing conference held on this day, March 22, 2017, the parties and the Director agreed to continue the prehearing conference and to extend the time for filing petitions to intervene through April 20, 2017.

LEGAL STANDARDS

Rule 350 of the Department's Rules of procedure 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." Rule 353 states that a petition to intervene shall be granted 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."

ANALYSIS

1. FMID, MGWD and IID's Petition to Intervene is timely.

"Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing, or by the prehearing conference, whichever is earlier, unless a different time is provided by order or notice." Rule 352. A prehearing conference is now re-scheduled for April 20, 2017 and the Director has extended the time in which one must file a petition to intervene through April 20, 2017. Thus, this petition is timely.

2. FMID, MGWD and IID's claims a direct and substantial interest in the subject of the Petition.

FMID, MGWD and IID and their respective members (or "electors" as the case may be) include surface and ground water users who irrigate several thousands of acres from diversions in the upper reaches of the Snake River and Eastern Snake Plain Aquifer (ESPA). FMID, MGWD and IID's and their members' water rights will be significantly impacted by the outcome of the current Petitions and the ESPA GWMA Order. Furthermore, they each are involved with the significant effort and resources to mitigate injury to senior surface water rights and stabilize the ESPA, including providing surface water used for recharge as mitigation. As such FMID, MGWD and IID have a direct and substantial interest in the ESPA Ground Water Management Area, including but not limited to the issues asserted in the Petitions and the ESPA GWMA Order.

3. This Petition does not unduly broaden the issues.

FMID, MGWD and IID seek to intervene to advance legal argument related to the issue raised in the Petitions and the ESPA GWMA Order. Therefore, this Petition does not unduly broaden the issues.

4. FMID, MGWD and IID's interests are not adequately represented by existing parties.

None of the parties to this matter represent all of the interests of Petitioners FMID, MGWD and IID or their members. Furthermore, no other parties have the identical issues and impacts due to the unique characteristics of FMID's, MGWD's and IID's members, including the unique area covered by the newly ordered ESPA GWMA Order which includes areas not previously deemed included in the ESPA and also including the surface to ground water connections and associations entered into between these three Petitioners.

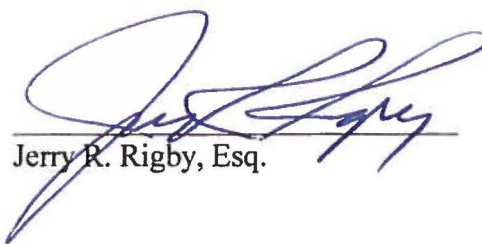
CONCLUSION

Based on the foregoing, FMID, MGWD and IID respectfully request that this petition to intervene be granted.

Dated this 22nd day of March, 2017.

RIGBY, ANDRUS & RIGBY LAW, PLLC

By:


Jerry R. Rigby, Esq.

CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY
OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the persons named below, at the addresses set out below their name, either by mail, hand delivery or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 22ND day of March, 2017.

RIGBY ANDRUS & RIGBY LAW, PLLC


Jerry R. Rigby

Director, Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
deborah.gibson@idwr.idaho.gov

☒ [X] Mail
☐ [] Hand Delivery
☐ [] Facsimile
☒ [X] Electronic Mail

Scott L. Campbell
Campbell Law, Chtd.
P.O. Box 170538
Boise, ID 83717
scott@slclexh20.com

☐ [] Mail
☐ [] Hand Delivery
☐ [] Facsimile
☒ [X] Electronic Mail

Dylan B. Lawrence
J. Will Varin
Varin Ward Well, LLC
P.O. Box 1676
Boise, ID 83701-1676
dylanlawrence@varinwardwell.com
willvarin@varinwardwell.com

☐ [] Mail
☐ [] Hand Delivery
☐ [] Facsimile
☒ [X] Electronic Mail

Randall C. Budge
TJ Budge
P.O. Box 1391
Pocatello, ID 83204
tjb@racinelaw.net
bjh@racinelaw.net

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Dean Tranmer
City of Pocatello
P.O. Box 4169
Pocatello, ID 83201
dtranmer@pocatello.us

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Sarah Klahn
Mitra Pemberton
WHITE & JANKOWSKI
Kittredge Building
511 16th Street, Ste. 500
Denver, CO 80202
sarahk@white-jankowski.com
mitrap@white-jankowski.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

John K. Simpson
Travis L. Thompson
Paul L. Arrington
Albert P. Bar
Barker, Rosholt & Simpson, LLP
195 River Vista Place, Ste. 204
Twin Falls, ID 83301
tlt@idahowaters.com
jks@idahowaters.com
pla@idahowaters.com
apb@idahowaters.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, ID 83318
wkf@pmt.org

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Joseph F. James
Brown & James
130 Fourth Ave. West
Gooding, ID 83330
joe@brownjameslaw.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Candice McHugh
Chris M. Bromley
McHugh Bromley, PLLC
380 S. 4th St., Ste. 103
Boise, ID 83702
cmchugh@mchughbromley.com
cbromley@mchughbromley.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Michael C. Creamer
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701-2720
mcc@givenspursley.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Garrick Baxter
IDWR
P.O. Box 83720
Boise, ID 83720-0098
garrick.baxter@idwr.idaho.gov

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Matthew J. McGee
Moffatt, Thomas, Chtd.
P.O. Box 829
Boise, ID 83701
mjm@moffatt.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

Robert L. Harris
D. Andrew Rawlings
Holden Kidwell
P.O. Box 50130
Idaho Falls, ID 83405
rharris@holdenlegal.com
arawlings@holdenlegal.com

☐ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail