

Michael P. Lawrence, ISB No. 7288  
GIVENS PURSLEY LLP  
601 West Bannock Street  
P.O. Box 2720  
Boise, Idaho 83701-2720  
Office: (208) 388-1200  
Fax: (208) 388-1300  
Email: mpl@givenspursley.com  
*Attorneys for City of Hailey*

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

IN THE MATTER OF BIG WOOD RIVER  
GROUND WATER MANAGEMENT AREA

**CITY OF HAILEY’S PETITION TO  
INTERVENE**

City of Hailey (“Hailey”), by and through its attorneys Givens Pursley LLP, pursuant to Rules 350 through 354 (IDAPA 37.01.01.350-354) of the Rules of Procedure of the Idaho Department of Water Resources (“IDWR”), hereby petitions to intervene in the above-captioned matter.

**BACKGROUND**

Hailey supplies water for municipal purposes, among others, under water rights authorizing the diversion and use of surface and groundwater within the Big Wood River Ground Water Management Area (“BWRGWMA”). Hailey is a participant in the BWRGWMA Management Plan (“Plan”) approved by the Director on May 4, 2022, and is a signatory to the term sheets included in Appendix D to the Plan. The “Cities/SVWSD/SVC Term sheet” in the Plan’s Appendix D contemplates, among other things, Hailey’s potential participation in recharge projects utilizing new appropriations of excess Big Wood River flows.

On March 5, 2022, Hailey (together with City of Bellevue and Sun Valley Company) submitted a letter (the “*City Letter*”) to IDWR asserting non-opposition to a BWRGWMA moratorium so long as it is limited to a period of three years (consistent with the Plan’s term) and is consistent with the 1991 BWRGWMA Management Policy.

On May 17, 2022, the Director of IDWR issued an *Order Establishing Moratorium* (“*Moratorium Order*”) imposing a moratorium on the processing and approval of new and pending applications for permits to appropriate water from surface and ground water sources in the BWRGWMA. The *Moratorium Order* declined to limit the moratorium to three years or make it consistent with the 1991 BWRGWMA Management Policy, as proposed in the *City Letter*.

On May 31, 2022, the City of Bellevue filed a *Motion for Clarification and Reconsideration and Request for Hearing*. On June 21, 2022, the Director issued an order granting the request for hearing, and giving notice that a prehearing conference will be held on August 15, 2022 at 2 p.m. (MT).

## **ARGUMENT**

Rule of Procedure 351 provides that a petition to intervene “must state the direct and substantial interest of the potential intervenor in the proceeding.” IDAPA 37.01.01.351. Rule 352 provides that petitions to intervene must be filed at least 14 days before the date set for the formal hearing, or by the date of the pre-hearing conference. IDAPA 37.01.01.352. And Rule 353 provides that a timely petition to intervene will be granted if it shows a direct and substantial interest and does not unduly broaden the issues, unless the petitioner’s interest is adequately represented by existing parties. IDAPA 37.01.01.353.

Hailey asserts that it should be allowed to intervene because its petition is timely and it has a direct and substantial interest in this proceeding. First, Hailey's petition is timely because it is being filed prior to the date of the initial prehearing conference. Second, Hailey has a direct and substantial interest in this proceeding because its ability to acquire additional water rights for municipal uses or to mitigate for depletions to surface water will be affected by the scope of the moratorium and IDWR's treatment of municipal water rights. Further, Hailey will be subject to potential administrative actions that result from the scope of the moratorium.

Hailey's intervention will not unduly broaden the issues because it seeks only to address issues related to the scope of the moratorium and IDWR's treatment of municipal water rights. Hailey's interests are not adequately represented by existing parties because Hailey's interests and municipal uses are specific to Hailey. No other water user or city can represent the interests of Hailey's citizens.

### **CONCLUSION**

In sum, Hailey's petition to intervene is timely, demonstrates a direct and substantial interest, does not broaden the issues, and demonstrates that no existing party adequately represents its interests. Accordingly, Hailey requests and order from the Director granting intervention in this proceeding.

DATED this 12th day of August 2022.

GIVENS PURSLEY LLP



By \_\_\_\_\_

Michael P. Lawrence  
*Attorneys for City of Hailey*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of August 2022, I caused to be served a true and correct copy of the foregoing document to the person(s) listed below by the method indicated:

Gary Spackman – Director  
IDWR  
P.O. Box 8370  
Boise, ID 83720  
[file@idwr.idaho.gov](mailto:file@idwr.idaho.gov)

U.S. Mail, postage prepaid  
 Express Mail  
 Hand Delivery  
 Facsimile  
 Email

COURTESY COPIES TO:

Garrick L. Baxter  
Deputy Attorney General  
IDWR  
PO Box 83720  
Boise, ID 83720-0098  
[garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@idwr.idaho.gov)

U.S. Mail, postage prepaid  
 Express Mail  
 Hand Delivery  
 Facsimile  
 Email

Candice McHugh  
MCHUGH BROMLEY, PLLC 380 South  
4<sup>th</sup> Street, Suite 103 Boise, ID 83702  
[cmchugh@mchughbromley.com](mailto:cmchugh@mchughbromley.com)

U.S. Mail, postage prepaid  
 Express Mail  
 Hand Delivery  
 Facsimile  
 Email

W. Kent Fletcher FLETCHER LAW  
OFFICE  
P.O. Box 248 Burley, ID  
83318 [wkf@pmt.org](mailto:wkf@pmt.org)

U.S. Mail, postage prepaid  
 Express Mail  
 Hand Delivery  
 Facsimile  
 Email

Sarah A Klahn  
Somach Simmons & Dunn 1155 Canyon  
Blvd, Ste. 110  
Boulder, CO 80302  
[sklahn@somachlaw.com](mailto:sklahn@somachlaw.com)  
[dthompson@somachlaw.com](mailto:dthompson@somachlaw.com)

U.S. Mail, postage prepaid  
 Express Mail  
 Hand Delivery  
 Facsimile  
 Email

Robert Harris  
Holden, Kidwell, Hahn & Crapo, PLLC  
PO Box 50130  
Idaho Falls, ID 83405  
[rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email

Chris Bromley  
MCHUGH BROMLEY, PLLC  
380 South 4th Street, Suite 103  
Boise, ID 83702  
[cbromley@mchughbromley.com](mailto:cbromley@mchughbromley.com)

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email

Matthew A. Johnson  
Brian O'Bannon  
WHITE PETERSON GIGRAY &  
NICHOLS, P.A.  
Canyon Park at the Idaho Center  
5700 E. Franklin Road, Suite 200  
Nampa, ID 83687-7901  
[mjohnson@whitepeterson.com](mailto:mjohnson@whitepeterson.com)  
[bobannon@whitepeterson.com](mailto:bobannon@whitepeterson.com)

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email

Evan Robertson Robertson & Slette PLLC  
PO Box 1906  
Twin Falls, ID 83303-1906  
[erobertson@rsidaholaw.com](mailto:erobertson@rsidaholaw.com)

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email

Dylan Lawrence  
Varin Wardwell  
PO Box 1676  
Boise, ID 83701  
[dylanlawrence@varinwardwell.com](mailto:dylanlawrence@varinwardwell.com)

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email

Jerry R. Rigby  
Rigby, Andrus, & Rigby Chartered  
25 North Second East  
Rexburg, ID 83440  
[jrigby@rex-law.com](mailto:jrigby@rex-law.com)

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email



Michael P. Lawrence