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Attorneys for Galena Ground Water District

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF BIG WOOD RIVER
GROUND WATER MANAGEMENT AREA

**GALENA GROUND WATER
DISTRICT’S PETITION TO
INTERVENE**

COMES NOW Galena Ground Water District (“Galena GWD”), by and through its counsel of record, and pursuant to the Idaho Department of Water Resources’ (the “Department”) Rules of Procedure 350-354 (IDAPA 37.01.01), hereby petitions (“Petition”) to intervene in the above-captioned matter.

FACTS

Galena GWD was formed in 2015 by the Blaine County Board of Commissioners to represent the interests of ground water users located in the Wood River Valley. Under Idaho law, a ground water district is authorized to be a party to suits, actions and proceedings. Ground water districts routinely appear in proceedings before the Department to protect the interests of their ground water users. This proceeding addresses the Department’s May 17, 2022 moratorium

order (“Moratorium Order”) on all applications to appropriate water in the Big Wood River Groundwater Management Area (“BWRGMA”). Galena GWD has an interest in this proceeding.

STANDARD OF REVIEW

The Department’s Rules of Procedure provide:

Petitions to intervene must comply with Rules 200, 300, and 301. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it.

Rule 351.

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. *See* Rule 352.

ARGUMENT

I. Galena Ground Water District’s Petition is Timely.

To date, a formal hearing has not been noticed and the prehearing conference is not scheduled to take place until October 17, 2022. Although the Order Granting Petition dated September 12, 2022 appears to create some ambiguity regarding whether an informal prehearing conference took place on August 15, 2022, even if it was started on that date, it was continued to October 17, 2022. Thus, Galena GWD’s Petition is timely.

Nonetheless, assuming, *arguendo*, that that is not the case, Rule 352 provides that the Department may grant petitions to intervene even if they are filed late if there is a substantial reason for delay. Here, Galena GWD only recently became aware of the City of Bellevue’s Motion for Clarification and Reconsideration and Request for Hearing as well as the Department’s Order Denying Request for Clarification and Reconsideration; Order Granting

Request for Hearing as it was not included on the Department's service list¹ even though it was clearly identified as a signatory on the March 30, 2022 Moratorium Petition that was submitted to the Department. Given the fact that the prehearing conference will not take place (or, at worst, is continued) until October 17, 2022, no scheduling order has been issued and a hearing has not been set, there would be no prejudice to the parties or the process by granting the Petition.

II. Interest in Proceeding.

Galena GWD has a direct and immediate interest in the proceeding because its members hold ground water rights that are all located within the BWRGMA, which is impacted by the Moratorium Order. The BWRGMA has a limited amount of water, and the scope of the Moratorium Order will likely impact the District's members, among others. Additionally, Galena GWD's members will be subject to any potential administrative actions relating to the Moratorium Order.

III. Galena Ground Water District's Petition Does Not Broaden the Issues.

Galena GWD only seeks to appear to protect the interests of its members who will be impacted by the Moratorium Order.

IV. Galena Ground Water District is Not Adequately Represented by Existing Parties.

Galena GWD seeks to represent the interests of its members, who will not need to participate in this proceeding if the Petition is granted. Notably, none of Galena GWD's individual members represent the entire membership of the Galena GWD.

CONCLUSION

Galena GWD's Petition is timely, demonstrates a direct and substantial interest, does not

¹ In fact, Galena GWD was not included in any of the petitioners' service lists. As such, to date, it has not been served with any of the filings in this proceeding.

broaden the issues, and demonstrates that no existing party adequately represents its interests. Therefore, Galena GWD requests an order from the Director granting intervention in this proceeding.

Dated: October 5, 2022

LAWSON LASKI CLARK, PLLC

By: /s/ Heather E. O'Leary
Heather E. O'Leary
Attorneys for Galena Ground Water District

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 5, 2022 he/she caused a true and correct copy of the foregoing instrument to be served by the method indicated below, and addressed to the following:

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