

**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 TO DIVERT WATER UNDER
REUSE PERMIT NO. M-225-01

Docket No. P-DR-2020-001

**NOTICE OF PREHEARING
CONFERENCE; ORDER SETTING
DEADLINE FOR PETITIONS TO
INTERVENE**

BACKGROUND

On February 24, 2020, Riverside Irrigation District (“Riverside”) submitted a *Petition for Declaratory Ruling Regarding Need for a Water Right to Divert Water Under Reuse Permit No. M-255-01* (“Petition”) to the Idaho Department of Water Resources (“Department”). Riverside petitions the Department for a declaratory ruling as to the applicability of Idaho Code § 42-201(2) to Reuse Permit No. M-255-01 (“Permit”). *Petition* at 3. The Permit was issued by Idaho Department of Environmental Quality to the City of Nampa¹ (“City”) on January 21, 2020. The Petition alleges that under the Permit, the City intends to deliver reuse water to Pioneer Irrigation District (“Pioneer”) and that Pioneer intends to supply the reuse water to its patrons. *Id.* at 2. Riverside seeks a declaratory ruling that:

- 1) Pioneer cannot divert or accept reuse water from the City or apply the City’s reuse water to land in the Pioneer boundaries under the reuse permit without first obtaining a water right.
- 2) Any attempt by Pioneer or the City to divert water under the permit to Pioneer without first applying for a water right is in contravention to Idaho law.

Petition at 3.

ANALYSIS

The Department’s Rule of Procedure 400 (“Rule 400”) states that any person may petition the Department “for a declaratory ruling on the applicability of a statute, rule or order administered by the agency.” IDAPA 37.01.01.400. Rule 400 requires that a petition for declaratory ruling must identify the petitioner and state the petitioner’s interest in the matter,

¹ The Director designates the City of Nampa a respondent in this matter.

state the declaratory ruling the petitioner seeks, and indicate the order and factual allegations upon which the petitioner relies to support the petition. *Id.* Riverside's Petition meets the requirements of Rule 400.

The Department's Rule of Procedure 401 ("Rule 401") requires the Department issue notice of the Petition "in a matter designed to call its attention to persons likely to be interested in the subject matter of the petition." IDAPA 37.01.01.401. The Department is in the process of publishing notice in the Times News, Post Register, Lewiston Tribune and Idaho Press Tribune. Idaho Code § 67-5232 states "[a] petition for declaratory ruling does not preclude an agency from initiating a contested case in the matter."

The Director will address Riverside's Petition through a formal contested case proceeding. The Director will schedule a prehearing conference for purposes identified in the Department's Rule of Procedure 510. *See* IDAPA 37.01.01.510. The Director will also require that petitions to intervene be filed by April 23, 2020, in accordance with the Department's Rules of Procedure 351 and 352. *See* IDAPA 37.01.01.350 & 352.

NOTICE OF PREHEARING

A prehearing conference will be held in the above-captioned matter on **April 30, 2020, at 2:00 p.m.** at the Department's state office, located at 322 E. Front Street, 6th Floor Conference Rooms, Boise, Idaho. The presiding officer at the hearing will be the Director, Gary Spackman. The purpose of the prehearing conference will be to discuss hearing dates and other items listed in the Department's Rules of Procedure 510. *See* IDAPA 37.01.01.510.

Riverside and those seeking to intervene must be represented at the prehearing conference in person or by telephone. If participating by telephone, **please dial 1-720-279-0026 and enter the following guest code when prompted: 234278#.**

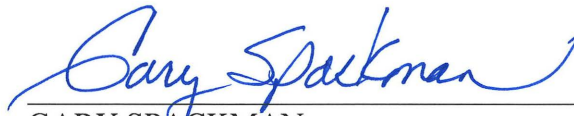
The prehearing conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The prehearing conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please contact Kimberle English at (208) 287-4815, no later than five (5) days prior to the conference.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that petitions to intervene must be filed with the Department by **April 23, 2020**, in accordance with the Department's Rules of Procedure 350-352. *See* IDAPA 37.01.01.350-352. A \$25.00 filing fee per person seeking to intervene must be submitted at the time of filing a petition to intervene with the Department. *See* Idaho Code § 42-221.L.

DATED this 16th day of March, 2020.



GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of March 2020, I served a true and correct copy of the foregoing document on the following by the method(s) indicated:

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Kimberle English