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

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DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

SUN VALLEY COMPANY,

Petitioner,

vs.

GARY SPACKMAN, Director of the
Idaho Department of Water Resources,

Respondent.

Docket No. P-DR-2016-001

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) Rules of Procedure 350 through 354.

BACKGROUND

On July 29, 2016, Sun Valley Company ("Sun Valley") filed a Petition for Declaratory Ruling ("Petition") in this matter. On August 23, 2016, the Idaho Department of Water Resources ("Department") sent a letter under Rule 401 under the Department's Rules of Procedure providing notice of the Petition to persons likely to be interested in the Petition. IGWA received that letter and hereby petitions to intervene in this matter.

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. IGWA’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 date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice.” Rule 352. To date, a hearing has not been set, a prehearing conference has not been held, and the presiding officer has not otherwise established a deadline for petition to intervene. Thus, this petition is timely.

2. IGWA claims a direct and substantial interest in the subject of the Petition.

IGWA’s members include eight ground water districts¹ and two irrigation districts² whose members collectively irrigate nearly one million acres and several other beneficial uses under groundwater rights that divert from the Eastern Snake Plain Aquifer (ESPA). IGWA and its members have suffered through numerous water right delivery calls and curtailment orders stemming from declining groundwater levels in the ESPA, and they have expended significant effort and resources to mitigate injury to senior surface water rights and stabilize the ESPA. As such, IGWA has a direct and substantial interest in any proposed ESPA Ground Water Management Area, including but not limited to the issues asserted in the Petition.

3. This Petition does not unduly broaden the issues.

IGWA seeks to intervene to advance legal argument related to the issues raised in the Petition. Therefore, this Petition does not unduly broaden the issues.

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

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


The parties to this matter presently consist of SVC and the Camas Group, neither of whom represent the interests of IGWA or its members, particularly considering the mitigation obligations IGWA's members are under due to declining groundwater levels in the ESPA.

CONCLUSION

Based on the foregoing, IGWA respectfully requests that this petition to intervene be granted.


DATED this 26th day of August, 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 26th day of August, 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 PO Box 83720 Boise, ID 83720-0098 Deborah.Gibson@idwr.idaho.gov	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Scott L. Campbell MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED 101 S. Capitol Blvd., 10th Floor Post Office Box 829 Boise, Idaho 83701 slc@moffatt.com mjm@moffatt.com sam@moffatt.com	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile - (208) 385-5384 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Dylan B. Lawrence J. Will Varin VARIN WARD WELL LLC 242 N. 8 th Street, Suite 220 P.O. Box 1676 Boise, Idaho 83701-1676 dylanlawrence@varinwardwell.com willvarin@varinwardwell.com	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile – (208) 717-1758 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail