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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Idaho Power Company

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

IN THE MATTER OF THE PETITION
FILED BY ABERDEEN-SPRINGFIELD
CANAL COMPANY REGARDING
DISTRIBUTION OF NATURAL FLOW BY
WATER DISTRICT 01

Docket No. P-WRA-2017-001

**IDAHO POWER COMPANY'S
PETITION TO INTERVENE**

COME NOW, Idaho Power Company (hereafter referred to as "Company"), by and through their undersigned counsel of record, and, pursuant to the *Notice of Pre-Hearing Conference; Notice of Hearing; Order Setting Deadlines for Petitions to Intervene and Staff Memorandum* (the "Order") dated March 6, 2017, as well as the Department's Rules of Procedure 350 – 354 (IDAPA 37.01.01), hereby petitions to intervene in the above-captioned matter.

FACTS

In the late 1970s and early 1980s, the Idaho Department of Water Resources ("IDWR") developed a water rights accounting program to track and account for the distribution of water to water rights located in Water District 1. This program has been modified over the years with a major transition occurring in the 2008-2012 timeframe, as the software was updated. Following this update and beginning in 2013, the IDWR, with the assistance of Water District 1, initiated a series of meetings intended to educate water users on the present accounting concepts, practices

and procedures comprising the program and articulate those concepts, practices and procedures in a manual generated by the Water District and IDWR. These informational meetings were completed and a second phase, “phase 2” began where the Water District and IDWR addressed issues or questions raised in earlier discussions.

On January 13, 2017, IDWR and the Water District hosted a meeting to continue discussions regarding accounting concepts, practices and procedures currently embedded in the Water District 1 accounting program. The meeting was described as “an educational workshop on the quantification and distribution of the gains and losses in the Snake River below Blackfoot to the Snake River near Blackfoot reach.”

Shortly thereafter, Aberdeen-Springfield Canal Company (“ASCC”) submitted a demand letter to Lyle Swank, Water District 01 Water master, requesting relief from the historical accounting practice. ASCC seeks review of “the computation of natural flow for the Shelley to At Blackfoot reach that is diminished by loss in the At Blackfoot to Near Blackfoot reach” and certain relief described in the letter. On March 6, 2017, the Director issued the *Order*, setting deadlines and establishing a hearing on the matter. The *Order* set a deadline of March 21, 2017 for any petition to intervene.

STANDARD OF REVIEW

The Department’s Rules of Procedure provide the following for persons seeking to intervene in a proceeding:

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.

Further, 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. Finally, the Director may consider whether the petition would “unduly broaden the issues” and whether the petitioner is “adequately represented by existing parties.” *See* Rule 353.

ARGUMENT

I. The Company’s Petition is Timely.

This Petition has been filed within the timeframe identified in the *Order*. Accordingly, the Company’s petition is timely.

II. The Company’s Direct and Substantial Interest.

A. Name and Address

The name of the potential intervenor is Idaho Power Company (“the Company”). The address is:

Idaho Power Company
P.O. Box 70
Boise, Idaho 83707

B. Interest in Petition

The Company owns 17 hydroelectric projects on the Snake River and its tributaries, the upper most project located at American Falls Reservoir, within the administrative boundaries of Water District 1. The Company is also a spaceholder in Water District 1, having a spaceholder contract with the United States for approximately 44,275 acre feet of the Reservoir. While it is recognized that hydropower generation at American Falls and through the Company’s downstream projects is subordinated to upstream consumptive beneficial uses, the Company does have a direct and continuing substantial interest in the proper accounting of water rights. Like other spaceholders who are water users in the Water District, how reach gain losses/gains are calculated and apportioned could impact storage supplies and natural flow deliveries. Reach losses or gains are

directly attributed to the condition of the Eastern Snake Plain Aquifer (“ESPA”). Many of the Company’s projects are located in the Mid-Snake, receiving the benefits of spring discharges from the ESPA in the operation of those projects for power generation and other beneficial uses. Further, the Company has been an active participant in the above-described accounting review process, attending the meetings and providing input where necessary. The IDWR has strived for proper management of the water resource and the Company has supported that management consistent with protecting their water rights, the Swan Falls Settlement and water supply generally.

The Company believes that review and challenges to the Water District 1 accounting program, like the demand from ASCC, have the potential to impact every water user on the mainstem Snake River.

III. The Company’s Petition Does Not Unduly Broaden the Issues.

The Company seeks intervention to protect the interests described above. No substantive motions have been filed and no pre-hearing conferences have been held. As such, no issues have yet been defined. Accordingly, the Company’s petition does not unduly broaden the issues.

IV. The Company is Not Adequately Represented by Existing Parties


To date no other party has been identified as an intervenor. Further, no party has identified interests identical or similar to those identified above. As such, the Company has a right to intervene to ensure its interests are adequately protected and represented.

CONCLUSION

The Company has submitted this timely *Petition to Intervene* in the above-captioned matter so that it may protect its direct and substantial interest. Since the Petition will not unduly broaden the issues and there is no existing party that adequately represents the Company’s interests, intervention should be granted.

DATED this 20th day of March, 2017.

BARKER ROSHOLT & SIMPSON LLP



John K. Simpson
Attorneys for Idaho Power Company

CERTIFICATE OF SERVICE

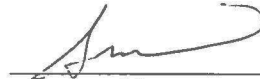
I hereby certify that on this 20th day of March, 2017, I served a true and correct copy of the foregoing **IDAHO POWER COMPANY'S PETITION TO INTERVENE** on the following by the method indicated:

Director Gary Spackman
c/o Kimi White
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kimi.white@idwr.idaho.gov
garrick.baxter@idwr.idaho.gov

*** service by U.S. and electronic mail

Aberdeen-Springfield Canal Co.
P.O. Box 857
Aberdeen, ID 83210

*** service by U.S. mail only



John K. Simpson

Idaho Department of Water Resources Receipt

Receipt ID: C103223

Payment Amount \$25.00 Date Received 3/20/2017 11:58 AM Region STATE

Payment Type Check Check Number 25195

Payer BARKER ROSHOLT & SIMPSON LLP

Comments PETITION TO INTERVENE FOR IDAHO POWER

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	56103	0229	21		1155

VC

Signature Line (Department Representative)