

Nov 29, 2022

DEPARTMENT OF  
WATER RESOURCES

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*Attorneys for Idaho Power Company*

**BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS  
FOR PERMITS FOR THE DIVERSION  
AND USE OF SURFACE AND GROUND  
WATER WITHIN THE SNAKE RIVER  
BASIN

**PETITION TO INTERVENE**

COMES NOW, Idaho Power Company (“Company”), by and through its attorneys of record, and hereby petitions to intervene in this matter pursuant to rules 350 through 354 of the Rules of Procedure of the Idaho Department of Water Resources (“IDWR”).

**I. BACKGROUND**

On October 21, 2022, the Director of the Idaho Department of Water Resources (“IDWR”) issued an Amended Snake River Basin Moratorium Order (“Order”). The Order (1) expands the existing Eastern Snake Plain Moratorium; (2) modifies certain exceptions to domestic uses; (3) clarifies the non-consumptive use exception to municipal and domestic uses;

and (4) re-establishes a moratorium on surface and ground water tributary to the Snake River upstream of Milner Dam, including the processing of applications currently pending.

Prior to November 7, 2022, a number of Objections/Challenges were filed in response to the Order requesting a hearing asserting various legal and factual issues associated with the Order.

## **II. LEGAL STANDARD**

In order to grant a petition to intervene, the moving party must first demonstrate that the petition is “timely” filed, that is “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.” IDAPA 37.01.01.352. Additionally, the moving party must show that it has a “direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues . . .” IDAPA 37.01.01.353. The Company satisfies these requirements.

## **III. ARGUMENT**

First, the Company’s petition to intervene is timely. Here, the timing for filing of Objections/Challenges to the Order just recently passed and no pre-hearing dates have been scheduled. Given this fact, this petition is timely. Second, the Company has a direct and substantial interest in the outcome of this matter.

- The Company has 17 hydro facilities with water rights to generate power throughout the Snake River Basin from surface and ground water sources.
- Although many of the Company’s water rights are subordinated, all water rights depend upon spring discharges from the Eastern Snake Plain Aquifer (ESPA), and natural flow and reach gains in the Snake River as sources to generate power.
- A determination of the issues described in the Objections/Challenges or other

determinations by the Director may impact the Company's generation and planning.

### **CONCLUSION**

Since the Company meets the requirements as specified in the Department's Rules, the Hearing Officer should enter an order granting intervention.

DATED this 29<sup>th</sup> day of November, 2022.

**BARKER ROSHOLT & SIMPSON LLP**



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John K. Simpson  
*Attorneys for Idaho Power Company*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of November 2022, I caused a true and correct copy of the foregoing **PETITION TO INTERVENE** to be filed with the Court and served on the following parties by the indicated methods:

Original to:

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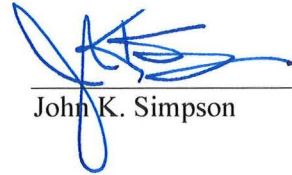
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