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Attorneys for the City of Boise

**BEFORE THE 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

Fee Category: Exempt (I.C. § 67-2301)

COMES NOW the City of Boise (“Boise”), by and through its counsel of record McHugh Bromley, PLLC, and pursuant to IDAPA 37.01.01.350 *et seq.*, hereby files this *Petition to Intervene* in the above-captioned matter.

I. BACKGROUND

On October 21, 2022, the Director of the Idaho Department of Water Resources (“IDWR” or “Director”) issued his *Amended Snake River Basin Moratorium Order* (“Order”). The *Order* states, without findings of fact, that: “Applications for municipal water use and for domestic use from community water systems shall be considered fully consumptive.” *Order* at 28 (emphasis added). The conclusion is made without recognizing the reality that all or nearly all water that is pumped returns to the waters of the state. Moreover, the Director’s conclusion is made even though on the same page he acknowledges that water for non-community water

systems “shall be evaluated on a case-by-case basis to determine whether the proposed use is non-consumptive.” *Id.* at 28. Even though the method of treatment may be exactly the same for community and non-community water systems, there are no findings of fact and no legal analysis as to why IDWR has decided to hold these systems to different standards.

A prehearing conference has not yet been scheduled in this matter.

II. ARGUMENT

In order to grant a petition to intervene, the moving party must demonstrate it is “timely” filed, IDAPA 37.01.01.352, and 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. Boise meets these requirements.

First, Boise’s petition to intervene is timely. A petition to intervene is timely if it is “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.” IDAPA 37.01.01.352. Here, the Director has not yet scheduled a prehearing conference in this matters. Because a prehearing conference has not yet been scheduled, Boise’s petition to intervene is timely, and intervention should be granted.

Second, Boise has a direct and substantial interest in the outcome of this matter. Boise is a municipal corporation that pumps and treats municipal water and may, in the future, need additional municipal water rights. If the newly described policy as to applications for permit for municipal water rights carries forward, regardless of the method of disposal, the outcome will prejudice Boise. Because of its unique location and water use, no currently named party in these proceedings is able to adequately represent Boise’s interests. Thus, based on Boise’s substantial

interest, and the fact that it will not unduly broaden the issues, Boise should be granted intervention.

III. CONCLUSION

Boise's petition to intervene is timely, with Boise having a direct and substantial interest in the outcome of this matter. Therefore, based on the foregoing, Boise's petition to intervene should be granted.

DATED this 6th day of December, 2022.



Chris M. Bromley
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of December 2022, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by electronic filing:

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