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*Attorneys for the City of Post Falls*

**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 Post Falls (“Post Falls”), 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. Post Falls meets these requirements.

First, Post Falls’ 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, Post Falls’ petition to intervene is timely, and intervention should be granted.


Second, Post Falls has a direct and substantial interest in the outcome of this matter. Post Falls 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 Post Falls. Because of its unique location and water use, no currently named party in these proceedings is able to adequately represent Post Falls’ interests. Thus,

based on Post Falls' substantial interest, and the fact that it will not unduly broaden the issues, Post Falls should be granted intervention.

### III. CONCLUSION

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

DATED this 6<sup>th</sup> day of December, 2022.



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Chris M. Bromley  
McHugh Bromley, PLLC  
*Attorneys for City of Post Falls*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> 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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