

**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

**SECOND ORDER GRANTING  
PETITIONS TO INTERVENE**

**BACKGROUND**

On October 21, 2022, the Director of the Idaho Department of Water Resources (“Department”) issued the *Amended Snake River Basin Moratorium Order* (“Moratorium Order”) in the above captioned matter. The order established a moratorium on the processing and approval of new and pending applications for permits to appropriate water from the Snake River upstream from Swan Falls Dam and all surface and ground water sources in the trust water area and the non-trust water area, subject to certain conditions. *Moratorium Order* at 27.

Between November 4 and 7, 2022, multiple parties filed challenges or objections to the Moratorium Order and requested a hearing. On December 6, 2022, the Director issued an order authorizing informal proceedings on issues related to the consumptive nature of municipal water use or domestic water use from a community system. The same order set a prehearing conference for March 10, 2023.

Nine petitions to intervene have been filed in the above captioned matter to date. On December 6, 2022, the Director issued an order granting five of the petitions to intervene. The following four petitions to intervene remain pending: on November 29, 2022, Idaho Power Company timely filed its *Petition to Intervene*; on December 6, 2022, the City of Boise (“Boise”), the City of Post Falls (“Post Falls”), and the Surface Water Coalition (“SWC”)<sup>1</sup> each timely filed a *Petition to Intervene* (collectively, “Petitions to Intervene”). No objections were filed with the Department within the timeframe established by IDAPA 37.01.01.354.

**PETITIONS TO INTERVENE**

The Department’s Rule of Procedure 350 addresses who may file a petition to intervene in an administrative case: “A person who is not already a party to a contested case and who has a direct and substantial interest in the proceeding may petition for an order granting intervention as a party to the contested case.” IDAPA 37.01.01.350. A petition to intervene must comply with the Department’s basic form and content rules for all pleadings and “state the direct and substantial interest of the potential intervenor in the proceeding.” IDAPA 37.01.01.351. A petition must also “be filed at least fourteen days before the date set for formal hearing, or by the date of the initial prehearing conference, whichever is earlier, unless a different time is provided by order or notice.” IDAPA 37.01.01.352. Once a petition to intervene is filed with the Department, an opposing party

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<sup>1</sup> The SWC consists of A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, Northside Canal Company, and Twin Falls Canal Company.

has seven days to file an objection. IDAPA 37.01.01.354.

The standard for deciding a timely-filed petition to intervene is as follows: “If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a contested case and does not unduly broaden the issues, the agency shall grant intervention, subject to reasonable conditions, unless the applicant’s interest is adequately represented by existing parties.” IDAPA 37.01.01.353.01.

The Director concludes the Petitions to Intervene are timely and satisfy the standard in IDAPA 37.01.01.353.01. There are no objections to the Petitions to Intervene. Based on the Petitions to Intervene, the Director concludes that Idaho Power Company, Boise, Post Falls, and the SWC have a direct and substantial interest in this matter, will not unduly broaden the issues, and are not adequately represented by existing parties. Therefore, the Director concludes all five Petitions to Intervene should be granted.

**ORDER**

IT IS HEREBY ORDERED that the petitions to intervene filed by Idaho Power Company, Boise, Post Falls, and the SWC are GRANTED.

Dated this 23<sup>rd</sup> day of December 2022.



A handwritten signature in blue ink that reads "Gary Spackman". The signature is written in a cursive style and is positioned above a horizontal line.

GARY SPACKMAN  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of December 2022, the above and foregoing, was served by the method indicated below, and addressed to the following:

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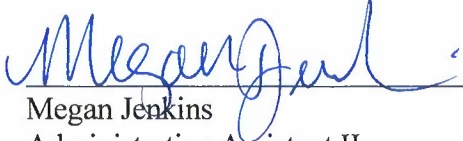
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