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DEPARTMENT OF
WATER RESOURCES



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Attorneys for Aberdeen-Springfield Canal Company

**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

COMES NOW, Aberdeen-Springfield Canal Company ("ASCC"), by and through the law firm Parsons Behle and Latimer, pursuant to Rule 350 of the Rules of Procedure of the Idaho Department of Water Resources ("IDWR") and the *Amended Snake River Basin Moratorium Order* ("Order") issued by the Director of IDWR on November 4, 2022, and hereby petitions to intervene in the above-captioned matter.

I. LEGAL STANDARD

Rule 350 of the IDWR's Rules of Procedure states: "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. 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.

II. BACKGROUND

On October 21, 2022, the Director of the IDWR issued the *Amended Snake River Basin Moratorium Order* ("Amended Moratorium Order"). The *Amended Moratorium Order* re-established a moratorium on the issuance of permits for new consumptive uses from surface and ground water tributary to the Snake River upstream from Milner Dam to protect existing water rights. Following IDWR's issuance of the *Amended Moratorium Order*, multiple parties have filed challenges and requests for hearing on the *Amended Moratorium Order*.

III. ARGUMENT

A. Name and Address of Petitioner.

The name and address of the proposed intervenor is as follows:

Aberdeen-Springfield Canal Company
144 South Main Street
P. O. Box 857
Aberdeen, ID 83210

B. ASCC Has a Direct and Substantial Interest in This Matter.

ASCC desires to intervene in this matter because ASCC is a water user in the Snake River Basin and will be directly impacted by IDWR's decision in relation to multiple challenges and requests for hearing filed by parties stemming from the *Amended Moratorium Order*. ASCC holds

both surface water rights diverted from the Snake River and groundwater rights diverted from the Eastern Snake River Aquifer, as well as storage water rights in American Falls Reservoir and Palisades Reservoir. IDWR's decision in this matter stands to directly impact those rights. The addition of new tributaries under the *Amended Moratorium Order* also stands to impact ASCC as a holder of water rights and as a water user. As a result, ASCC has a direct and substantial interest in the above-captioned matter.

C. ASCC's Petition to Intervene Is Timely

The *Notice of Joint Prehearing Conference*, issued on December 6, 2022, sets a joint prehearing conference for March 10, 2023, in this proceeding and the Big Wood River Basin proceeding. ASCC's petition to intervene has been properly filed more than 14 days before the prehearing conference set in this matter. Therefore, the petition to intervene is timely.

D. ASCC's Petition Does Not Unduly Broaden the Issue

ASCC seeks to intervene to be heard on the same issues set forth in the *Amended Moratorium Order* and challenges and requests for hearing thereto. Therefore, ASCC's petition to intervene does not unduly broaden the issues before IDWR in this matter.

E. ASCC Is Not Adequately Represented by Existing Parties

ASCC cannot be adequately represented by other potential intervenors, who do not have the same interest in ASCC's multiple and varied water rights. ASCC has a unique portfolio of surface water rights, ground water rights, and storage water rights in the Snake River Basin. As a result, ASCC is not adequately represented by the existing parties in the above-captioned matter.

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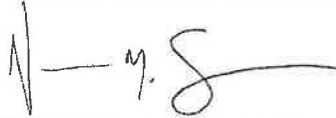
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IV. CONCLUSION

For the reasons set forth above, ASCC's petition to intervene should be granted, thereby authorizing ASCC to participate as a party in the above-captioned case.

DATED this 9th day of January, 2023.

PARSONS BEHLE & LATIMER



Norman M. Semanko

Attorneys for Aberdeen-Springfield Canal Company

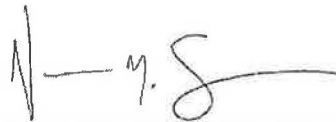
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following on this 9th day of January, 2023 by the following method:

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