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RECEIVED
JUN 16 2014
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Attorney for the Idaho Department of Fish and Game

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)
APPLICATIONS FOR PERMIT NO.) MEMORANDUM IN SUPPORT OF PETITION TO
37-22682 AND 37-22852 IN THE) INTERVENE
NAME OF: INNOVATIVE)
MITIGATION SOLUTIONS LLC)

COMES NOW, the Idaho Department of Fish and Game (“IDFG”), by and through the undersigned deputy attorney general and hereby petitions to intervene in the above-entitled matter pursuant to Rules of Procedure of the Idaho Department of Water Resources (“Department”) 350 through 354 (IDAPA 37.01.01.350-354).

The Department’s Rule of Procedure 350 provides that “[p]ersons not applicants, or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding.” IDAPA 37.01.01.350. A timely-filed petition for intervention shall be granted

if the petition “shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues...unless the applicant’s interest is adequately represented by existing parties.” *Id.* at 37.01.01.353. A petition is timely if it is filed “at least fourteen (14) days before the date set for the formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice.” *Id.* at 37.01.01.352.

On March 11, 2014, IDFG submitted protest letters to the Department and the applicant. However, the protest period had ended. A consolidated Pre-Hearing Conference is set for September 8, 2014.

The IDFG is a duly established executive department of the State of Idaho. Idaho Code §§ 36-101 and 67-2402(1). The statutory policy of the State of Idaho is to preserve, protect, perpetuate, and manage all fish and wildlife. Idaho Code § 36-103(a). The IDFG, acting under the supervision of the Idaho Fish and Game Commission, has the responsibility to carry out that policy. Idaho Code §§ 36-102(a) and -103(b).

The IDFG has a direct and substantial interest in this water right application due to potential effects on the local public interest, which include resident fisheries and forested riparian habitats associated with the Big Wood River drainage. It is not the purpose of IDFG to support or oppose the proposed project. The purpose of IDFG’s participation in this proceeding is to provide technical information addressing potential effects on fish and wildlife and how such effects might be mitigated.

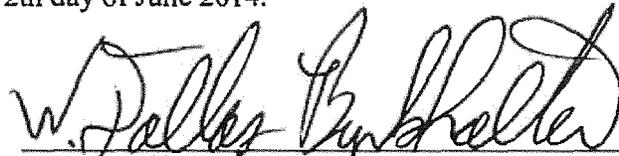
IDFG’s intervention will not disrupt the proceedings or cause delay because no hearing date has been set in this matter. Nor will IDFG’s intervention prejudice the existing parties or broaden the issues, as questions related to the source of water and the potential effects on fish and wildlife resources are known to the Department and to the applicant. While other parties may raise the issue

of potential impacts to fish and wildlife resources, IDFG is in the best position to provide technical information as to how such impacts may be mitigated. Granting the Petition will ensure that IDFG has an opportunity to participate in future proceedings.

The IDFG's Petition to Intervene meets the standards required by the Department's Rules, and therefore the IDFG respectfully requests an order granting intervention in this proceeding.

IDWR has advised that the filing fee for this Petition to Intervene is \$50.00 (\$25.00 for each petition). Please initiate the Interagency Billing Process. The PCA is 11406 and the ABC code is B7/TX. Please forward billing documents to Dr. Walt Poole, Idaho Department of Fish and Game, P.O. Box 25, Boise, Idaho 83707.

RESPECTFULLY SUBMITTED this 12th day of June 2014.

A handwritten signature in black ink, appearing to read "W. Dallas Burkhalter". The signature is written in a cursive style and is positioned above a horizontal line.

W. Dallas Burkhalter
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this 12th day of June 2014, I caused to be served the original and/or copy of the MEMORANDUM IN SUPPORT OF PETITION TO INTERVENE on the following persons:

1. One Original to:

Allen Merritt, PE, Southern Region
Manger
Idaho Department of Water Resources
Southern Region
650 Addison Ave W, Suite 500
Twin Falls, Idaho 83301-5851

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
Facsimile: 208-736-3037
- Statehouse Mail

2. Copies to:

Innovative Mitigation Solutions
2918 N El Rancho Pl
Boise, ID 83704

Walker Sand & Gravel Ltd. Co.
Attn: Brad Walker
PO Box 400
Bellevue, ID 83313

Dry Lot LLC
116 Valley Club Dr
Hailey, ID 83333

Office of the Attorney General
Attn: Harriet Hensley
PO Box 83720
Boise, ID 83720-0010

Heart Rock Ranch LLC
PO Box 3724
Hailey, ID 83333

Dry Lot LLC
c/o Barker Rosholt & Simpson
195 River Vista Pl, Ste 204
Twin Falls, ID 83301

Trout Unlimited Inc.
Attn: Peter Anderson
910 W. Main St, Suite 342
Boise, Idaho 83702

Peter Trust LP
2300 W Sahara Ave, Ste 530
Las Vegas, NV 89102

Joyce Gordon & Eric Remais
c/o Barker Rosholt & Simpson
195 River Vista Pl, Ste 204
Twin Falls, ID 83301

Valley Club Owners Assoc.
PO Box 6733
Ketchum, ID 83340

Idaho Power Company
c/o Barker Rosholt & Simpson
Attn: John K. Simpson
PO Box 2139
Boise, ID 83701-2139

Frank Erwin
711 East Ave N
Hagerman, ID 83332

Valley Club Owners Assoc.
c/o Barker Rosholt & Simpson
Attn: Travis Thompson
195 River Vista Pl, Ste 204
Twin Falls, ID 83301

Idaho Rivers United
Attn: Kevin Lewis
PO Box 633
Boise, Idaho 83701

Harry S. Rinker
PO Box 7250
Newport Beach, CA 92658-7250

Idaho Conservation League
c/o Bryan Hurlbutt
Advocates for the West
PO Box 1612
Boise, ID 83701

Redstone Partners LP
1188 Eagle Vista Ct
Reno, NV 89511

Big Wood Canal Company
c/o Craig Hobdey
PO Box 176
Gooding, ID 83330

Blaine County Commissioners
Attn: Larry Schoen
206 1st Ave South, Suite 300
Hailey, ID 83333

Redstone Partners LP
c/o Barker Rosholt & Simpson
Attn: Michael Lawrence
PO Box 2720
Boise, ID 83701-2720

Bureau of Land Management
Attn: Fred Price
1387 Vinnel Way
Boise, ID 83709-1657

Western Watersheds Project
Attn: Jon Marvel
PO Box 1770
Hailey, ID 83333

Peter L. Sturdivant
PO Box 968
Hailey, ID 83333-0968

USDA Forest Service
Attn: Steve Spencer
1805 Hwy 16, Rm 5
Emmett, ID 83617

Lane Ranch H.O.A.
Golden Eagle H.O.A.
c/o Sun Country Mgmt.
PO Box 1675
Sun Valley, ID 83353

Eccles Flying Hat Ranch LLC
Eccles Window Rock Ranch
PO Box 3028
Salt Lake City, UT 84110

Lower Snake River Aquifer
Recharge District
c/o Barker Rosholt & Simpson
195 River Vista Pl, Ste 204
Twin Falls, ID 83301

The Valley Club, Inc.
c/o Givens Pursley LLP
Attn: Michael Cramer
PO Box 2720
Boise, ID 83701-2720

Thomas M. O'Gara Family Trust
c/o Barker Rosholt & Simpson
Attn: Paul Arrington
195 River Vista Pl, Ste 204
Twin Falls, ID 83301

Brockway Engineering
2016 N Washington St, Ste 4
Twin Falls, ID 83301

City of Hailey
c/o Givens Pursley LLP
Attn: Michael Creamer
PO Box 2720
Boise, ID 83701-2720

Wood River Land Trust
Attn: Patti Lousen
119 E Bullion St
Hailey, ID 83333



W. Dallas Burkhalter
Deputy Attorney General