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DEPARTMENT OF  
WATER RESOURCES

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**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

**IN THE MATTERS OF THE BIG WOOD  
RIVER AND LITTLE WOOD RIVER  
DELIVERY CALLS**

**Docket No. P-DR-2016-001**

**CITY OF BELLEVUE'S  
PETITION TO INTERVENE**

COMES NOW the City of Bellevue (“Bellevue” or “City”) by and through its attorney of record, McHugh Bromley, PLLC, and moves to intervene in the above-captioned proceeding pursuant to IDAPA 37.01.01.350 -.354.

**I. INTRODUCTION**

On July 29, 2016, the Sun Valley Company (“Sun Valley”) filed an *Amended Petition for Declaratory Ruling* (“Petition”) with the Idaho Department of Water Resources (“IDWR” or “Department”). The Petition was filed in response to the Director’s July 7, 2016 letter in which he stated he “is considering creating a ground water management area for the Eastern Snake Plain Aquifer (ESPA),” and invited “[p]otentially affected water users” to attend one of more

than ten meetings scheduled throughout Eastern Idaho in late July 2016. On behalf of Bellevue, the undersigned counsel attended the meeting on July 25 in Hailey, Idaho. At the July 25, 2016 meeting, numerous questions were raised, including by Bellevue, regarding the Director's proposal to create an Eastern Snake Plain Aquifer Ground Water Management Area ("ESPA GWMA") that includes purported tributaries, such as the Big Wood River Basin. On September 1, 2016, Bellevue filed a letter in opposition to the ESPA GWMA. Bellevue has great concern regarding the creation of the ESPA GWMA and the impact such a designation would have on the City's water rights. The Director's idea to explore inclusion of the Big Wood River Basin within the proposed ESPA GWMA comes directly on the heels of the Fifth Judicial District Court's decision that the Conjunctive Management delivery call filed by the Big Wood and Little Wood Water Users Association was procedurally defective and could not proceed as filed.

*Memorandum Decision and Order*, CV-WA-2015-14500 (Fifth Jud. Dist. April 22, 2016). The Sun Valley Petition seeks a declaratory ruling regarding the process by which the Director is advancing the ESPA GWMA with the inclusion of the purported tributaries, such as the Big Wood River Basin.

## 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. Here, Bellevue meets both requirements.

First, Bellevue has a direct and substantial interest in the outcome. Bellevue owns ground water rights in the Big Wood River Basin that it uses to provide water to its citizens. If the ESPA GMWA is created, the Director will be allowed to "order those water right holders on

a time priority basis . . . to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water.” Idaho Code § 42-233b. If the proposed ESPA GWMA includes the Big Wood River Basin, it will have an impact on Bellevue’s ability to provide ground water to its citizens now and into the future. Based on the location of the Bellevue’s wells, and Bellevue’s unique needs, the City’s interests cannot be adequately represented by Sun Valley or any other party. Moreover, given the early stages of the proceeding and the scope of the issues raised, Bellevue’s participation will not broaden the issues. Therefore, Bellevue should be granted intervention.

Second, the filing of this *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, there has been no order establishing a prehearing or hearing date; therefore, Bellevue is timely, and intervention should be granted.

### III. CONCLUSION

Based on the foregoing, Bellevue meets the standards for intervention, and respectfully request that the Director grant its *Petition to Intervene* in this proceeding and fully participate in all matters that may arise.

DATED this 5<sup>th</sup> day of October, 2016

MCHUGH BROMLEY, PLLC



Chris M. Bromley  
*Attorneys for City of Bellevue*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 5<sup>th</sup> day of October 2016, I served a true and correct copy of the above and foregoing document by placing a copy of the same in the United States mail, postage prepaid and properly addressed and by e-mail to the following persons:

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