BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT HELD BY LYNCLIF FARMS, WATER RIGHT NO. 36-07875	))))))	Docket No. CM-DC-2003-001 **ORDER GRANTING PETITION TO INTERVENE**

On July 17, 2014, the Idaho Ground Water Appropriators, Inc. ("IGWA") timely filed *IGWA's Petition to Intervene* ("Petition"). The Petition requests that the Director grant IGWA's request to intervene in the above-referenced matter before the Department pursuant to the Department's Rules of Procedure 156 and 350 through 354 and in response to LynClif Farms' letter regarding water right no. 36-7875, received by the Department May 28, 2014 ("Delivery Call").[1]

A status conference was held on July 22, 2014, wherein Lynn Babington and Clifton Jensen, representatives for LynClif Farms, stated they do not oppose IGWA's Petition.

The Delivery Call asserts crops of sturgeon have been stocked in ponds at the LynClif Farms facility at forty percent capacity in the last ten years due to diminished water available to water right no. 36-7875, which has a priority date of October 24, 1979. The Delivery Call asserts material injury to water right no 36-7875 due to junior ground water pumping up gradient from springs supplying Billingsley Creek.

Rule 156 defines "Intervenors" as "[p]ersons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354. . . ." IDAPA 37.01.01.156. Rule 350 states:

> Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a 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. Rule 353 provides:

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[1] On December 18, 2003, LynClif Farms sent a letter to the Department requesting delivery of water by administration of water right no. 36-7875. The Department assigned the delivery call docket no. CM-DC-2003-001. The letter received by the Department on May 28, 2014, requested reactivation of the 2003 delivery call.

> If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding.

IDAPA 37.01.01.353.

IGWA represents Ground Water Districts whose members include irrigators, municipalities, and commercial and industrial entities who own water rights that divert from the Eastern Snake Plain Aquifer that may be subject to curtailment should the Delivery Call be successful. The Director concludes IGWA has a direct and substantial interest in the above-referenced matter that is not adequately represented by existing parties and the Petition does not unduly broaden the issues.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that *IGWA's Petition to Intervene* is GRANTED.

Dated this 23rd day of July, 2014.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 2014, a true and correct copy of the above and foregoing document described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Granting Petition to Intervene

LYNCLIF FARMS ATTN: LYNN BABINGTON 2825 SOUTH 1050 EAST HAGERMAN, IDAHO 83332	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivery ( ) E-mail
LYNCLIF FARMS ATTN: CLIFTON JENSEN P.O. BOX 201 HAGERMAN, IDAHO 83332	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivery ( ) E-mail
RANDY BUDGE TJ BUDGE RACINE OLSON P.O. BOX 1391 POCATELLO, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivery (x) E-mail
SARAH KLAHN MITRA PEMBERTON WHITE & JANKOWSKI 511 16TH ST., STE. 500 DENVER, CO 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivery (x) E-mail
A. DEAN TRANMER CITY OF POCATELLO P.O. BOX 4169 POCATELLO, ID 83205 dtranmer@pocatello.us	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivery (x) E-mail

Deborah J. Gibson

Deborah Gibson
Admin. Assistant for the Director