BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 83543	)	**ORDER GRANTING**
IN THE NAME OF JARRED HOLZ	)	**PETITION TO INTERVENE**
AND JESSICA HOLZ	)	

BACKGROUND

On May 20, 2019, Jarred and Jessica Holz ("Holz") filed Application for Transfer 83543, proposing to make changes to water rights 85-15799 and 85-15800 on Little Canyon Creek. The Department published notice of the application and established a protest deadline of December 9, 2019. A timely protest was filed by Jim and Nancy Miller ("Miller"). The Department received a separate protest and fee from Dave Renberg ("Renberg") on December 12, 2019. The Department rejected Renberg's protest for not being timely received by the Department. On January 31, 2020, Dave Renberg ("Renberg") filed a *Petition to Intervene* ("Petition") in the contested case. Holz did not respond to the *Petition*.

APPLICABLE RULES OF PROCEDURE

Rule 352 of the Department's Rules of Procedure (IDAPA 37.01.01.352) states:

> Petitions to intervene must be 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. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition.

Rule 353 of the Department's Rules of Procedure (IDAPA 37.01.01) states:

> 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.

Rule 354 of the Department's Rules of Procedure (IDAPA 37.01.01.354) states:

> No order granting a petition to intervene will be acted upon sooner than seven (7) days after its filing, except in a hearing in which any party may be heard or except where no objection to the intervention is made. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene.

CONCLUSIONS

Renberg's *Petition* is timely because it was filed prior to the pre-hearing conference. Renberg has demonstrated a direct and substantial interest in the subject matter of the proceeding. He lives adjacent to Little Canyon Creek and shares a domestic water system with Miller. Because Renberg and Miller have identified similar concerns with the proposal, Renberg's participation in the matter will not unduly broaden the issues of the contested case. Therefore, Renberg's *Petition* should be granted.

ORDER

IT IS HEREBY ORDERED that Renberg's *Petition* is GRANTED. Pursuant to Rule 710 (IDAPA 37.01.01), this order granting intervention is an Interlocutory Order.

Dated this 24th day of February, 2020.

Douglas Jones
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of February, 2020, I mailed a true and correct copy of the foregoing ORDER GRANTING PETITION TO INTERVENE, with the United States Postal Service, postage prepaid and properly addressed to the person(s) listed below:

RE: Application for Transfer 83543

JARRED & JESSICA HOLZ
501 S WICKHAM FEN WAY
BOISE, ID 83709

NANCY MILLER
40880 LITTLE CANYON RD
PECK, ID 83545

DAVE RENBERG
40826 LITTLE CANYON RD
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Tammy Alle

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Administrative Assistant