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DEC 11 2019

WATER RESOURCES
WESTERN REGION

Attorney for Prospective Intervenor
City of Meridian and City of Caldwell

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

_____	)	
IN THE MATTER OF APPLICATION FOR	)	
PERMIT NO. 63-34769 IN THE NAME OF	)	PETITION TO INTERVENE
KNIFE RIVER CORPORATION -	)	
MOUNTAIN WEST	)	
_____	)	

COMES NOW, Petitioners City of Meridian and City of Caldwell (hereinafter collectively "Petitioners") by and through their counsel Honsinger Law, PLLC and, in conformance with and pursuant to IDAPA 37.01.01.350, hereby petition for intervention as a party in the Matter of Application for Permit No. 63-34769 filed by Knife River Corporation-Mountain West.

SUMMARY

The application proposes the diversion of groundwater for commercial and irrigation purposes within Canyon County. The application was protested by Pioneer Irrigation District on grounds that the "[a]pplicant seeks to appropriate groundwater which may injure neighboring unlined Pioneer surface water facilities . . . in derogation of I.C. § 42-203A(5)." Pioneer states

other grounds for its protest, but the issue raised by Pioneer that Petitioners are concerned with is its statement that the appropriation of groundwater may injure Pioneer's unlined surface water facilities.

STANDARDS

Entities not applicants or protestants in a proceeding before the Idaho Department of Water Resources ("IDWR") who claim a "direct and substantial interest may petition for an order from the presiding officer granting intervention to become a party." IDAPA 37.01.01.350. "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." IDAPA 37.01.01.352. A petition to intervene showing "a direct and substantial interest in any part of the subject matter of a proceeding" that "does not unduly broaden the issues" is generally granted by the presiding officer "unless the applicant's interest is adequately represented by existing parties." IDAPA 37.01.01.353.

DISCUSSION

Petitioners have a direct and substantial interest in this proceeding. They own water rights that are diverted from groundwater within the general area of the diversion proposed under this application. Petitioners divert this groundwater for delivery to municipal customers within their respective service areas for various purposes, including domestic in-home use, irrigation of homes and public spaces, commercial use, industrial use, and aesthetic use, among others. Collectively these are described as municipal uses under Petitioners' water rights.

Protestant Pioneer Irrigation District raises the preliminary argument that the diversion

and groundwater pumping proposed under this application may injure its water rights, presumably by inducing seepage from its unlined surface water facilities (or some such similar causation). Such an argument may result in a finding that protestant's canals are directly connected to groundwater and that its water rights are injured by diversions from such groundwater. This argument and potential resolution is of great concern to Petitioners because canals criss-cross the areas throughout which they divert groundwater through their own wells.

If the finding is made that applicant's groundwater pumping induces seepage from protestant's canals, such a precedent could be turned against Petitioners in a proceeding involving one of their applications for a groundwater right. Additionally, such a finding could also potentially be used to assert that groundwater pumping pursuant to Petitioners' existing water rights and wells is similarly detrimental to surface water facilities. Petitioners would be significantly impacted by any such decision or finding, and have thus established a "direct and substantial interest" in this proceeding.

Petitioners do not seek to in any way broaden the issues in this proceeding - they are concerned with the issues of alleged injury to surface water rights as a result of a potential connection of unlined surface water facilities to ground water. These issues are existing and present in this proceeding. Moreover, Petitioners do not seek to add other issues to the proceeding. Accordingly, Petitioners do not seek to broaden the scope of the proceeding beyond these issues in which they are substantially interested.

Applicant is unable to adequately represent the Petitioners' interests because Petitioners divert and pump far more ground water than that sought by applicant; and do so as the providers

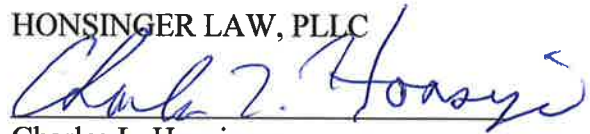
of municipal water to many residents within the Treasure Valley rather than as a business using a comparatively small amount of groundwater for commercial and irrigation uses only as is the case with Applicant. Additionally, Petitioners collectively have many wells that might be subject to a finding that injury to unlined surface water facilities is caused by groundwater pumping. In short, applicant is not well-placed to adequately represent Petitioners' policy concerns regarding the issues raised in this proceeding.

This Petition to Intervene is submitted prior to any formal hearing. Indeed it is submitted prior to the scheduling of any prehearing conference. Accordingly it is timely.

There appears to be no reason to deny this Petition for Intervention. Accordingly, Petitioners respectfully requests that IDWR issue an order granting it intervention in this matter.

Dated this 11th day of December, 2019.

HONSINGER LAW, PLLC



Charles L. Honsinger
Attorney for City of Meridian

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on December 11, 2019, he caused a true and correct copy of the within and foregoing document to be transmitted by U.S. mail to the following:

Knife River Corporation - Mountain West
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