

Travis L. Thompson, ISB #6168
Jonas A. Reagan, ISB #10566
BARKER ROSHOLT & SIMPSON LLP
163 Second Avenue West
P.O. Box 63
Twin Falls, Idaho 83303-0063
Telephone: (208) 733-0700
Facsimile: (208) 735-2444
Email: tlt@idahowaters.com
jreagan@idahowaters.com

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JUN 20 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION

Attorneys for Gerald Sievers and Greg Sievers

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 81943

In the name of Double Eagle Properties LLLP

**GERALD SIEVERS AND GREG SIEVERS
PETITION TO INTERVENE**

COME NOW, Gerald Sievers and Greg Sievers (hereafter collectively referred to as "The Sievers"), by and through counsel of record, and pursuant to the Department's Rules of Procedure 350 – 354 (IDAPA 37.01.01 *et seq.*), hereby petition to intervene in the above-captioned matter.

FACTS

Double Eagle Properties LLLP ("Applicant") filed the above-referenced application for transfer on September 7, 2017. The transfer was later amended on March 5, 2018. The transfer proposes to create a permissible place of use for several water rights and add points of diversion to certain ground water rights within a critical groundwater area. The transfer was protested by

the Milner Irrigation District and Twin Falls Canal Company on May 21, 2018. No other protests were filed and no pre-hearing conference has been scheduled yet.

STANDARD OF REVIEW

The Department's Rules of Procedure provide the following for persons seeking to intervene in a proceeding:

Petitions to intervene must comply with Rules 200, 300, and 301. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it.

Rule 351.

Further, petitions to intervene must be filed at least 14 days before the date set for the formal hearing, or by the date of the pre-hearing conference. *See* Rule 352. Finally, the Hearing Officer may consider whether the petition would "unduly broaden the issues" and whether the petitioner is "adequately represented by existing parties." *See* Rule 353.

ARGUMENT

I. The Sievers' Petition is Timely.

No pre-hearing conference or hearing has been set in this matter. The protest deadline recently expired about a month ago. Since the Sievers' petition is filed by the date of the pre-hearing conference it is timely according to Rule 352.

II. The Sievers' Direct and Substantial Interest.

A. Name and Address

Gerald Sievers
105 Gem Dr.
Kimberly, Idaho 83341-1924

Greg Sievers
3024 N 4600 E
Murtaugh, Idaho 83344

B. Interest of Intervenor.

The Sievers own and use ground water rights (water right nos. 45-02215B and 45-02216A) that are located in the area of the proposed transfer. Historically, wells in this area typically lose capacity in the mid-summer and experience significant groundwater level drops. The transfer proposes to add wells to existing ground water rights and potentially change aquifer sources in the area. The Sievers are particularly concerned about the application for transfer and how new wells in the area injure their existing water rights. Changes to the hydrology of groundwater in the area and the irrigation of different lands with the ground water rights as proposed may injure the Sievers' ground water rights.

Further, the transfer proposes new wells in a critical groundwater area. The transfer could change the groundwater source and impact the critical groundwater area in the same way that a prohibited new application for permit would.

The transfer application, if approved, could detrimentally affect the Sievers' and other area ground water right holders' interests. Therefore, the Sievers have a direct and substantial interest in this proceeding.

III. Sievers' Petition Does Not Unduly Broaden the Issues.

The Sievers seeks intervention in this matter to protect its interests, most importantly its existing groundwater rights. Since no contested matters have been addressed and the pre-hearing conference has not been scheduled yet, the proceeding is in a very early stage. Accordingly, the Sievers' petition does not unduly broaden the issues that have yet to be defined.

IV. The Sievers Are Not Adequately Represented by Existing Parties.

Presently, the only parties to this proceeding are the Applicant and Protestants Milner Irrigation District and Twin Falls Canal Company. None of these entities represent the Sievers'

individual groundwater right interests in this matter, which include unique property right interests. The Protestants do not have ground water rights located in the near vicinity that stand to be injured by approval of the transfer. Consequently, the Sievers a right to intervene to ensure their interests are adequately protected and represented.

CONCLUSION

The Sievers' petition is timely, demonstrates a direct and substantial interest, does not unduly broaden the issues, and further demonstrates that no existing party adequately represents its interests. Therefore, the Sievers respectfully request an order from the Hearing Officer (when appointed) to grant intervention this proceeding. *See* Rule 354.

DATED this 20th day of June, 2018.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Attorneys for Gerald Sievers and Greg Sievers

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2018, I served a true and correct copy of the foregoing *Sievers' Petition to Intervene* on the following by the method indicated:

Idaho Dept. of Water Resources Southern Regional Office 550 Addison Ave. West, Suite 500 Twin Falls, Idaho 83301 *** service by hand delivery	Double Eagle Properties LLLP 3173 N 4900 E Murtaugh, Idaho 83344-5359	Brockway Engineering, PLLC 2016 Washington St. N, #4 Twin Falls, Idaho 83301 Applicant's engineer
Travis L. Thompson P.O. Box 63 Twin Falls, Idaho 83303-0063 <i>Attorneys for Protestants Milner Irrigation District and Twin Falls Canal Company</i>		



Travis L. Thompson

FOR OFFICE USE ONLY:

Fees paid: \$50.00
Receipt No. S036811

Date: 6/20/2018
By: 