

Robert L. Harris, Esq. (ISB #7018)
rharris@holdenlegal.com
HOLDEN, KIDWELL, HAHN & CRAPO,
P.L.L.C.
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

Attorneys for Karl T. Cook and Jeffrey M. Cook

RECEIVED

OCT 08 2015

**DEPARTMENT OF
WATER RESOURCES**

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

A&B IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MINIDODA
IRRIGATION DISTRICT, TWIN FALLS
CANAL COMPANY and NORTH SIDE
CANAL COMPANY,

Petitioners,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent.

Case No. CV-42-2015-2452

**APPLICANT'S NOTICE OF
APPEARANCE, OR ALTERNATIVELY,
UNOPPOSED MOTION TO INTERVENE
PURSUANT TO I.A.R. 7.1**

**IN THE MATTER OF APPLICATION FOR
PERMIT NO. 35-14402**

In the name of Jeffrey M. Cook

NOTICE IS HEREBY GIVEN, that Robert L. Harris of the firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C. hereby enters an appearance on behalf of the applicants Karl T. Cook and Jeffrey M. Cook (hereinafter collectively the "Applicant") in the above-entitled appeal. This notice is given pursuant to paragraph 3 of the *Procedural Order Governing Judicial Review of Final Order of Director of Idaho Department of Water Resources* dated July 1, 2015 (the "Procedural Order"). This notice is supported by the *Affidavit of Robert L. Harris* ("Harris Aff.") submitted contemporaneously herewith.

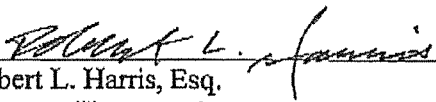
Paragraph 3 of the *Procedural Order* allows a person who was a party to the underlying administrative proceeding to file a notice of appearance within fourteen (14) days of the date of the *Procedural Order*, which will be treated as a motion to intervene. Counsel for the Applicant was served with the *Notice of Appeal & Petition for Judicial Review* dated June 26, 2015 as evidenced by the certificate of service for the appeal. *Affidavit of Robert L. Harris* ("Harris Aff.") at ¶2. However, counsel did not receive and was not listed on the certificate of service of the *Procedural Order*. *Id.* ¶3. Because counsel for the Applicant did not receive a copy of the *Procedural Order*, he did not file this notice of appearance until now.

The *Procedural Order* also provides that "[a] person or entity **not a party** to the underlying administrative proceeding who desires to participate in this action, and is not otherwise a Petitioner, must proceed in accordance with Idaho Appellate Rule 7.1." (emphasis added). Because the Applicant **was a party** to the underlying administrative proceeding, and was not served with the *Procedural Order*, it is not entirely clear if the Applicant must still proceed under I.A.R. 7.1 or whether the Applicant can simply file a notice of appearance. Nevertheless, in order to cover all avenues, and in the alternative to the notice, the Applicant

requests that the court consider this notice as a motion to intervene pursuant to Rule 7.1 of the Idaho Appellate Rules ("I.A.R.").

It is clear that the Applicant has an interest in the above-entitled appeal, and would like to brief the Applicant's position on the issues raised on appeal. Additionally, counsel for the Applicant has visited with counsel for the appellant who is handling the appeal for the Surface Water Coalition and counsel for the Department, and there are no objections to the motion. *Harris Aff.* ¶¶7-8. Therefore, this motion is unopposed. Additionally, the motion will not result in prejudice to any party because the Applicant will not request a change to the briefing schedule or the hearing date, and will timely submit a response brief on or before October 14, 2015. *Id.* ¶10. For these reasons, the Applicant requests that this court grant the motion to intervene pursuant to I.A.R. 7.1.

Dated this 8th day of October, 2015.


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the following described pleading or document on the parties listed below by hand delivery, email, mail, or by facsimile, with the correct postage thereon, on this 8th day of October, 2015.

**DOCUMENT SERVED: APPLICANT'S NOTICE OF APPEARANCE, OR
ALTERNATIVELY, UNOPPOSED MOTION TO
INTERVENE PURSUANT TO I.A.R. 7.1**

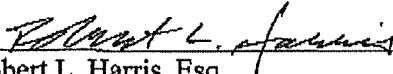
ORIGINAL BY FAX TO: Eric Wildman
District Judge
253 3rd Avenue North
Twin Falls, Idaho 83303-2707
Fax: 208-736-2121

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Paul L. Arrington () First Class Mail
Travis L. Thompson () Hand Delivery
Barker Rosholt & Simpson LLP (x) Facsimile
195 River Vista Place, Suite 204 () Overnight Mail
Twin Falls, ID 83301-3029 () Email
pla@idahowaters.com
Fax: 208-344-6034

W. Kent Fletcher () First Class Mail
Fletcher Law Office () Hand Delivery
P.O. Box 248 (x) Facsimile
Burley, ID 83318 () Overnight Mail
wkf@pmt.org () Email
Fax: 208-878-2548

Idaho Department of Water Resources () First Class Mail
Garrick L. Baxter () Hand Delivery
Deputy Attorney General (x) Facsimile
State of Idaho - IDWR () Overnight Mail
P.O. Box 83720 () Email
Boise, ID 83720-0098
Fax: 208-878-2548


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WP\DATA\URL\17330 Cook, Karl & Molly\00 Transfer\Appeal\NOA.docx