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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 94-07423 IN THE NAME OF) **PETITION TO INTERVENE**
CONNIE DOUGALL)
_____)

The Idaho Water Resource Board (IWRB), by and through the undersigned deputy attorney general, hereby petitions the Presiding Officer for an order granting the IWRB permission to intervene in the above-captioned proceedings. This *Petition to Intervene* is based upon the following grounds:

1. The IWRB has a direct and substantial interest in these proceedings: (a) where the IDWR is the holder of minimum stream flow right (no. 94-07341) on the Coeur d'Alene River; (b) where the application for permit in these proceedings seeks to divert water from the North Fork of the Coeur d'Alene River upstream from the location of the IDWR's minimum stream flow right; (c) where recent water data measurements indicate a likelihood that the diversion sought pursuant to

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the application for permit in these proceedings will injure the IDWR's minimum stream flow right; and (d) where there is no applicable exception set forth in the IDWR's minimum stream flow right that subjects it to the type of diversion sought pursuant to the application for permit in these proceedings.

2. The reasons for the delay in the filing of this *Petition to Intervene* are as follows: (a) that the IWRB is a governmental entity that does not have an office located within the county subject to the public notice procedures; (b) that the undersigned deputy attorney general was not fully aware of the IWRB's interest in these proceedings until the time of the pre-hearing conference or just prior thereto; and (c) that the IWRB was not aware of these proceedings until informed by the undersigned deputy attorney general.

3. Petitioner's intervention at this time in the proceedings will neither disrupt the proceedings, prejudice the existing parties, nor broaden the issues: (a) where the issue of a potential conflict with the IDWR's minimum stream flow right (no. 94-07341) was discussed at the pre-hearing conference; (b) where the IWRB's attorney was present at the pre-hearing conference on behalf of the Idaho Department of Fish and Game; and (c) where intervention will cause no delay in the proceedings because no hearing date has been set in this matter.

4. While other parties may raise the issue of a potential conflict with the IDWR's minimum stream flow right (no. 94-07341), the holder of that right is in the best position of defending its own right.

5. This *Petition to Intervene* is supported by the Affidavit of David I. Stanish.

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PRAYER FOR RELIEF

1. That the Presiding Officer grant the IWRB's *Petition to Intervene*;
2. That the Presiding Officer enter an order permitting the IWRB to intervene in the above-captioned proceedings; and
3. That the Presiding Officer grant such other or further relief as it deems proper.

RESPECTFULLY SUBMITTED this 23rd day of January, 2009.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division



DAVID I. STANISH
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on the 23rd day of January, 2009, I caused to be served the original and/or copy of this PETITION TO INTERVENE on each of the following persons by the indicated method.

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1. Original to:

Keith Franklin
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____

2. Copies to

Connie Dougall
219 S. Laurel Street
Post Falls, ID 83854

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____

Idaho Department of Fish and Game
Panhandle Region
Attn: Mary Terra-Berns
2885 West Kathleen Avenue
Coeur d'Alene, ID 838315

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____
☐ Email: _____

Walt Poole
Idaho Department of Fish and Game
600 S. Walnut
Boise, ID 83712

- ☐ U.S. Mail, postage prepaid
☒ Statehouse Mail
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: _____



DAVID I. STANISH
Deputy Attorney General

PLEASE CONFORM THE ENCLOSED COPY/COPIES TO
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AND
RETURN TO US IN THE SELF-ADDRESSED, STAMPED
ENVELOPE
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Done and Returned
on 1/26/09. 148

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