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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 73969 IN THE)
NAME OF ROBERT ROHE)
_____)

PETITION TO INTERVENE

Trout Unlimited ("TU"), by and through counsel, hereby petitions to intervene in the above-captioned proceeding pursuant to Rules 350 through 354 of the Rules of Procedure of the Idaho Department of Water Resources (IDAPA 37.01.01.350-354).

The Department's Rules of Procedure provide that "[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding." IDAPA 37.01.01.350. The petition must be filed "at least fourteen (14) days before the date set for the formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice." *Id.* at 37.01.01.352. A timely-filed petition for intervene shall be granted if the petition "shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, ... unless the applicant's interest is adequately represented by existing parties." *Id.* at 37.01.01.353.

TU is a non-profit membership organization dedicated to conserving, protecting and restoring North America's coldwater fisheries and their watersheds. TU has approximately 134,000 members nationally and approximately 1800 members in the State of Idaho. TU's Hemingway chapter, primarily based in the Big Wood River Valley, has approximately 175

members. TU, as an organization, and on behalf of its members, is concerned with and active in seeking to protect and maintain the coldwater fishery in the Big Wood River. TU and its staff and members enjoy the Big Wood River for fishing, ecological, aesthetic, business and other purposes. These fishing, ecological, aesthetic, business and other interests depend on adequate stream flows in the Big Wood River and are directly affected by the Idaho Department of Water Resource's decision in this transfer proceeding.

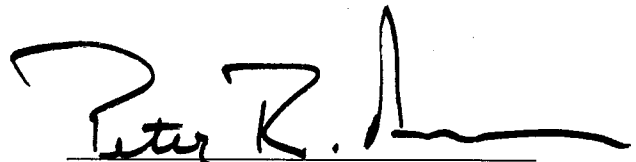
The minimum stream flows in the Big Wood River are critical for the protection and maintenance of the fisheries in the river. The Idaho Water Resource Board's ("IWRB") water rights, numbers 37-7919 and 37-8307, protect minimum stream flow in the Big Wood River and will be injured if the requested upstream transfer is approved without appropriate mitigating conditions. Condition 3 of the Department of Water Resources' transfer approval that is the subject of the hearing in this matter is designed to prevent injury to the IWRB's minimum stream flow water rights. TU has a direct and substantial interest in supporting and defending the minimum stream flows protected by the IWRB's water rights and this proceeding.

TU only seeks to be heard regarding Condition 3 of the transfer approval and does not intend to introduce additional issues in this matter. Therefore, TU will not unduly broaden the issues before the hearing officer. Additionally, there is no party who adequately represents TU's coldwater fisheries interests that is currently a party to this proceeding.

Because no formal hearing or prehearing conference has been set or held in this matter, TU's *Petition to Intervene* is timely as it is being filed more than fourteen (14) days before the date of the formal hearing or prehearing conference, as required by IDAPA 37.01.01.352.

TU meets all of the standards and requirements imposed by the Department's Rules, and therefore respectfully request an order granting its intervention in this matter.

DATED this 25th of June, 2010.

A handwritten signature in black ink, appearing to read "Peter R. Anderson", with a long horizontal flourish extending to the right.

Peter R. Anderson
Trout Unlimited

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the following described pleading or document on the parties listed below by mailing with first class postage thereon, a true and correct copy thereof on this 25th day of June, 2010.

DOCUMENT SERVED:

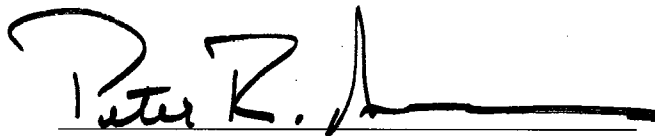
PETITION TO INTERVENE

INDIVIDUALS SERVED:

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A handwritten signature in black ink, appearing to read "Peter R. Anderson", written over a horizontal line.

Peter R. Anderson
Trout Unlimited