

RECEIVED  
NOV 17 2009  
DEPT. OF WATER RESOURCES  
SOUTHERN REGION

Peter R. Anderson  
Trout Unlimited  
910 W. Main St., Ste 342  
Boise, ID 83702  
Telephone: (208) 345-9800  
Facsimile: (208) 345-6766  
Attorney for Trout Unlimited

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER )  
NO. 75342 IN THE NAME OF PETER )  
B. BRECK AND ANTONIA HUNTER )  
BRECK, TRUSTEES OF THE BRECK )  
FAMILY 1998 REVOCABLE TRUST )  
\_\_\_\_\_ )

**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 in the State of Idaho. TU's Hemingway chapter, primarily based in the Big Wood River Valley, has 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.

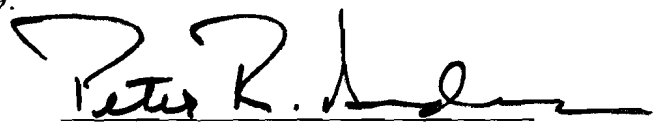
The Idaho Water Resource Board ("IWRB") filed a *Notice of Protest* in this matter on July 6, 2009, requesting that the "[t]ransfer should be denied to protect the Board's water rights." The IWRB's water rights, numbers 37-8258, 37-7919 and 37-8307, protect minimum stream flow in the Big Wood River and will be injured if the requested upstream transfer is approved without appropriate mitigating conditions. The minimum stream flows in the Big Wood River are critical for the protection and maintenance of the fisheries in the river. TU has a direct and substantial interest in supporting and defending the IWRB's *Protest*.

TU does not intend to introduce additional issues in this matter, but only seeks to protect its interests in the Big Wood River fisheries to the extent those interests are protected by the IWRB's water rights. 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 12<sup>th</sup> of November, 2009.

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

**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 12<sup>th</sup> day of November, 2009.

### **DOCUMENT SERVED:**

### **PETITION TO INTERVENE**

### **INDIVIDUALS SERVED:**

Peter B. Breck and Antonia Hunter Breck, Trustees  
Breck Family 1998 Revocable Trust  
P.O. Box 1604  
Ross, CA 94957

James P. Speck  
Speck & Aanestad  
Post Office Box 987  
Ketchum, ID 83340

Helen Harrington  
Idaho Water Resource Board  
P.O. Box 83720  
Boise, ID 83720

Albert P. Barker  
Barker, Rosholt & Simpson, LLP  
P.O. Box 2139  
Boise, ID 83701-2139

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

**Peter R. Anderson**  
**Trout Unlimited**