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WATER RESOURCES
WESTERN REGION

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DEPARTMENT OF
WATER RESOURCES

Attorneys for City of Eagle

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

IN THE MATTER OF TRANSFER
APPLICATION NO. 86546, IN THE NAME
OF STAR SEWER AND WATER DISTRICT

**CITY OF EAGLE'S PETITION TO
INTERVENE**

COMES NOW the City of Eagle ("City" or "Eagle"), by and through its undersigned counsel, Parsons Behle & Latimer, and hereby respectfully petitions to intervene in the above-entitled matter pursuant to the Rules of Procedure of the Idaho Department of Water Resources, specifically IDAPA 37.01.01.350–37.01.01.354, in order to represent and protect its interests.

I. BACKGROUND

Star Sewer and Water District filed Transfer Application No. 86546, seeking to add an additional point of diversion. The Application was protested by Veolia Water Idaho, Inc. The basis of the protest is that the Application "does not conform to applicable statutes and regulations and does not satisfy the criteria for transfer set forth in Idaho Code Section 42-222(1). Veolia is particularly concerned with the potential for injury to other water rights and the fact that the stated service area for Applicant overlaps with Veolia's service area." *Notice of Appeal* (March 20, 2023).

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SCANNED

AUG 21 2023

II. LEGAL STANDARD

A party may intervene in a proceeding under certain circumstances. IDAPA 37.01.01.350.

Rule 353 of the Idaho Department of Water Resources Rules of Procedure provides:

If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a contested case and does not unduly broaden the issues, the agency shall grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties.

IDAPA 37.01.01.353. Thus, the analysis of a petition to intervene requires consideration of: (a) whether it is timely, (b) the potential intervenor showing a "direct and substantial interest in any part of the subject matter" (c) a showing that the intervention would "not unduly broaden the issues," and (d) whether the potential intervenor's "interest is adequately represented by existing parties." *Id.*

III. ARGUMENT

A. The City's Petition Is Timely.

A petition to intervene is timely filed if it is "filed at least fourteen (14) days before the date set for formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice." IDAPA 37.01.01.352.

No formal hearing or prehearing conference has yet been held in this matter. Having been filed before any such setting, this Petition is timely.

B. Eagle Has a Direct and Substantial Interest in the Subject Matter of This Proceeding.

The City of Eagle is a municipal water provider and has an existing service area/place of use, recognized and approved by the Idaho Department of Water Resources. The previously recognized and approved service area for Star Sewer and Water District neighbors that of the City of Eagle. While Star Sewer and Water District's Transfer Application was filed for the purpose of adding an additional point of diversion, it also purports to update its service area/place of use, potentially infringing on the City of Eagle's already recognized and approved service area/place

of use.¹ Eagle seeks to intervene to protect its service area/place of use, including areas to be served under existing development agreements, from intrusion by Star Sewer and Water District. This constitutes a substantial interest in the Application.

C. Eagle's Intervention Will Not Unduly Broaden the Issues Involved in This Proceeding.

Veolia has filed a timely protest. Among the grounds for its protest are concerns about potentially overlapping service areas and failure to comply with existing statutes and regulations. The City of Eagle seeks to intervene regarding the same issues and will not unduly broaden the issues involved in this proceeding.

D. The City's Interests Are Not Adequately Represented by Existing Parties.

Star Sewer and Water District and Veolia Water Idaho cannot adequately represent the interests of the City of Eagle. The City seeks to protect its service area/place of use, including areas to be served under existing development agreements, from intrusion by Star Water and Sewer District. The District and Veolia are protecting their own interests in this proceeding, not the City of Eagle's interests. Only Eagle can adequately protect its own interests in this matter.

IV. CONCLUSION

For the foregoing reasons, the City of Eagle has satisfied the applicable rules regarding intervention, and its petition should be granted, thereby allowing it to intervene in this matter and participate fully in all proceedings.

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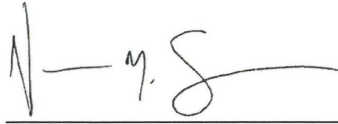
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¹ A map illustrating this overlap is attached hereto.

DATED this 9th day of August, 2023.

PARSONS BEHLE & LATIMER



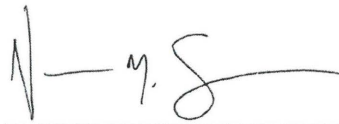
Norman M. Semanko

Attorneys for City of Eagle

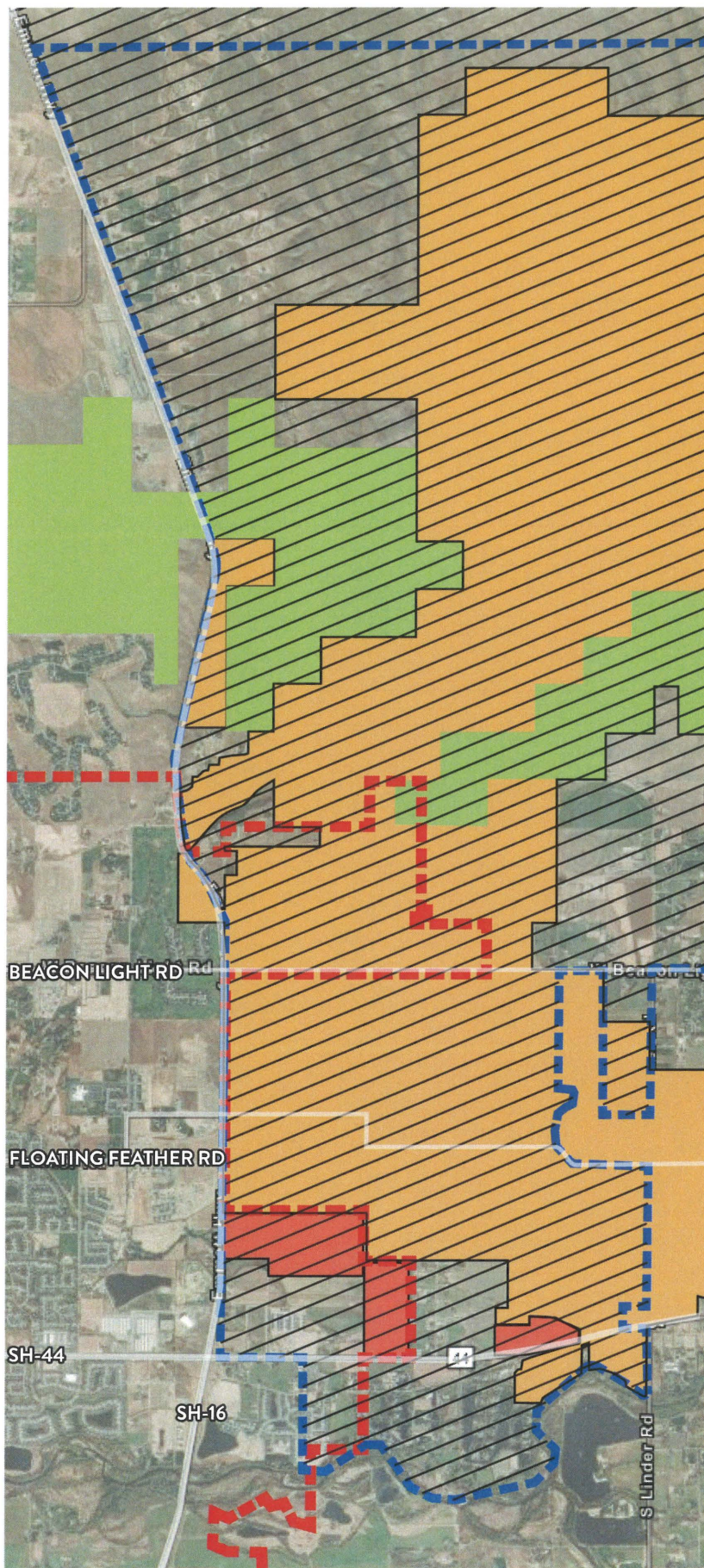
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of August, 2023, I served a true and correct copy of the foregoing document on the parties listed below by their designated method of service as indicated.

STAR SEWER AND WATER DISTRICT P. O. Box 400 Star, ID 83669	☒ U.S. First Class Mail, Postage Prepaid ☐ U.S. Certified Mail, Postage Prepaid ☐ Federal Express ☐ Hand Delivery ☒ Electronic Mail or CM/ECF: TEstrada@StarSWD.com
Michael P. Lawrence Charlie S. Baser GIVENS PURSLEY LLP P. O. Box 2720 Boise, ID 83701	☒ U.S. First Class Mail, Postage Prepaid ☐ U.S. Certified Mail, Postage Prepaid ☐ Federal Express ☐ Hand Delivery ☒ Electronic Mail or CM/ECF: mpl@givenspursley.com charliebaser@givenspursley.com



Norman M. Semanko



- EAGLE CITY -
CURRENT CITY LIMITS
- EAGLE CITY -
CURRENT DEVELOPMENT
APPLICATIONS
- BLM LAND
- EAGLE CITY - LIMITS OF
WATER RIGHT BOUNDARY
- EAGLE CITY - CURRENT
WATER SERVICE AREA
- STAR CITY -
PROPOSED FUTURE
WATER SERVICE AREA