DISTRICT COURT - CFPRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
NOV 13 2026
By _____ Clerk
Deputy Clerk

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Attorneys for City of Sandpoint

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN RE CFPRBA	SUBCASE NO 97-2020
CASE NO. 69576	CITY OF SANDPOINT'S MOTION TO PARTICIPATE AND MEMORANDUM IN SUPPORT

The City of Sandpoint, by and through its attorneys of record, submit this *Motion to Participate and Memorandum in Support* ("Motion") pursuant to Administrative Order 1 ("AO1"), ¶11.i, and I.R.C.P. 24 in the above-captioned subcase. As set forth in the AO1 said Motion shall be treated as a Motion to Intervene as set forth in I.R.C.P. 24.

I. MOTION TO PARTICIPATE

1. The City of Sandpoint sits on the shores of Lake Pend Oreille in North Idaho.

2. The economy of the City and the surrounding area depends heavily on the recreational experience provided by Lake Pend Oreille, its water levels and thus, the tributaries that supply the water to the Lake.

3. The Governor of the State of Idaho holds statutory water rights in both Priest Lake (Claim No. 97-2020) and Lake Pend Oreille (Claim No. 96-2167).

4. Because the Governor's water right in Priest Lake is proceeding prior to the right in Lake Pend Oreille it is possible that resolution of objections to that water right could have precedential effect on the recommendation of the Governor's right in Lake Pend Oreille.

5. This Motion to Participate is timely. While the initial hearing has been held, no substantive ligation or hearings have yet occurred. There was a September 22, 2026, Status Conference at 9:00 PST with a second status conference now set for January 2027.

6. The City's participation meets the requirements of intervention as of right under both AO1 ¶11.i, and I.R.C.P. 24(a) as set forth below.

7. Alternatively, the City satisfies the standard for permissive intervention under I.R.C.P. 24(b) as there is a common question of fact or law as to the impact of the litigation relating to claim no. 97-2020.

8. The City's participation will not cause undue delay or prejudice to the original parties as it agrees to accept the case as it is with the current schedule.

9. No other party protects City's interests in this matter.

III. ARGUMENT

1. The City is Entitled to Intervene/Participate as a Matter of Right under Both AO1 and the I.R.C.P.

AO1 ¶11.i states that "[a} Motion to Participate shall be treated like a motion to intervene under I.R.C.P. 24 …." Idaho Rules of Civil Procedure ("IRCP") provides that upon a timely motion, "the court must permit anyone to intervene who:

> (1) is given an unconditional right to intervene by an Idaho statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or

> impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

IRCP 24(a). The Idaho Supreme Court has directed that rules providing for intervention should be given liberal construction. See *City of Boise v. Ada County* (In re Facilities & Equip. Provided by the City of Boise), 147 Idaho 794, 803, 215 P.3d 514, 523 (2009)

A. Motion is Timely

Given the procedural history of his case with only the initial hearing held and a second status conference set September 22, 2026, the case is in the very beginning stages without any litigation schedule yet set.

B. Interests are Part of the Subject Matter

The City has an interest in the subject matter of the pending action given that it concerns a statutorily established lake level held by the Governor for the State of Idaho which is highly similar to the Governor's claim for the statutorily established lake level in Lake Pend Oreille. The City of Sandpoint has four claims to Lake Pend Oreille totaling 27.29 cfs for municipal purposes. The way in which Lake Pend Oreille is administered directly impacts the City's interests. Furthermore, the City's economy is recreational and tourism based, with large summer tourism tied directly to the recreational amenities offered by Lake Pend Oreille and its levels. Courts have defined an "interest" for purposes of Rule 24(a) as a "significant protectable interest." *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998). This action concerns how the Governor's lake level right in Priest Lake will be governed, modified or administered which will likely create a template if not precedent on how the Governor's lake level right in Lake Pend Oreille will be recommended and ultimately decreed.

Thus, the City meets the requirements for intervention as of right because of its interests to protect it water rights in Lake Pend Oreille and the interests in the region constituting a "direct and substantial" as well as a "significant and protectable" interest in this action.

C. Interest Will or May be Affected by the Outcome

As stated above, City's ability to protect and use its water rights will or may be "impaired or impeded" by the outcome of this action.

D. Other Parties Do Not Adequately Represent the Coalition of Cities' Interests

Finally, other parties to this action do not adequately represent the City's interests which are uniquely its own interests. There are four parties currently in this matter, the State of Idaho, the Kalispel Tribe of Indian, the United States as Trustee for the Kalispel Tribe of Indians and Avista Corp. The resolution of those interests involve factual and legal issues. It is the legal issues that may most directly impact the City of Sandpoint's interest insofar as the outcome of those legal issues could impact the Governor's right in Lake Pend Oreille, which unless the City is allowed to participate, the City cannot fully protect its interests as it relates to those issues because the legal issues are not yet fully known.

As set forth above, the City meets all the requirements under both AO1 and the Idaho Rule of Civil Procedure.

2. Alternatively, The City Meets Permissive Intervention Standards

In the event the that the Court denies intervention by right, the City alternatively requests permissive intervention under I.R.C.P. 24(b)(1) which provides that permissible intervention is allowed when the motion is timely and there is a conditional right under an Idaho statute or if the party has a claim or defense that shares a common question of law or fact.

While the City has a direct interest in the subject matter of the litigation, I.R.C.P. 24(b) does not require such an interest. see *Herzog v. City of Pocatello*, 82 Idaho at 509 (1960) (citing *Securities & Exchange Commission v. United States Realty & Imp. Co.*, 310 U.S. 434, 60 S.Ct.1044). Permissive intervention only requires that a claim or defense have a question of law or fact in common with the matter. See I.R.C.P. 24(b)(1)(B).

Thus, even if the Court should find that the City does not meet the intervention as of right, allowing them to intervene should be granted because the questions of law that govern a statutory lake level for the Governor's Right in Priest Lake a closely tied to the legal questions that govern the statutory lake for the Governor's Right in Lake Pend Oreille; and the City relies on Lake Pend Oreille in part for its municipal supply as well as the other amenities the lake level provides for the City's economic viability.

VI. CONCLUSION

Based on the foregoing, the interest of the City of Sandpoint in this proceeding is sufficient to meet the standards for intervention as of right or alternatively for permissive intervention.

DATED this 9th day of October 2026.

Candice McHugh
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of October, 2026 I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by electronic service:

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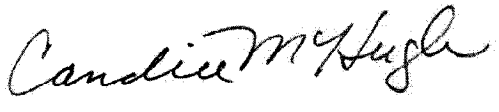
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