

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE INVESTIGATION</b>	)	<b>CASE NO. RED-W-24-01</b>
<b>INTO RED PHEASANT HOLDINGS, LLC-</b>	)	
<b>OWNER OF A WATER SUPPLY AND</b>	)	
<b>DISTRIBUTION SYSTEM</b>	)	<b>ORDER NO. 36604</b>
	)	

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On November 20, 2024, the Idaho Public Utilities Commission (“Commission”) issued Order No. 36392, finding it reasonable to direct Commission Staff (“Staff”) to investigate Red Pheasant Holdings, LLC (“Company”) to determine whether the Company should be a regulated utility pursuant to the Commission’s authority under Idaho Code. The Commission also provided notice that, at the conclusion of the investigation, Staff would recommend: (1) whether the Company should be deemed a regulated public utility; (2) whether a Certificate of Public Convenience and Necessity (“CPCN”) was required; and (3) whether any further action related to the adequacy of service or rate setting was necessary. Order No. 36392.

The Company is a water utility located in Nez Perce County, Idaho near Lewiston. The Company provides water to 165 connections. The Company is not currently regulated by the Commission and does not possess a CPCN.

On January 24, 2025, the Commission issued a Notice of Modified Procedure, establishing public comment and Company reply deadlines. Order No. 36448. Staff filed comments on February 21, 2025. No comments were filed by the public or the Company.

Having reviewed the record, the Commission issues this Final Order finding that the Company is a public utility, issuing it a CPCN, and directing it to submit additional documentation as described below.

### STAFF COMMENTS

Based on its investigation, Staff believed that the Company should be regulated under Title 61 of the Idaho Code, and Staff recommended that the Commission issue the Company a CPCN. Staff Comments at 2. In reaching its recommendation, Staff used the following non-exclusive list of criteria:

- a. Is the Company a Non-Profit or a Co-op?
- b. Does the Company operate for the service of the customers and not for profit?
- c. Is the Company owned by its customers?

- d. Do the customers have control of the rates that the Company charges?
- e. Do the customers have control of the operations and capital expenditures of the Company?

*Id.* at 3.

In its evaluation, Staff learned that the Company is a multi-member limited liability company organized in the State of Idaho, which Staff believed did not qualify as an exception to the Commission's regulation under *Idaho Code* § 61-104. *Id.* Additionally, Staff believed that customers had no say in the operations of the Company, including ownership of the water system and control of rates for water service. *Id.* Therefore, Staff believed that the Company is a public utility operating and maintaining the water system for compensation. *Id.*

Staff evaluated the Water Resource Permit to Appropriate Water No. 85-15772 ("Permit"), provided by the Company, to determine the Company's service territory. *Id.* Staff stated that the municipal place-of-use boundary defined by the Permit was much larger than the area currently serviced by the Company, and Staff believed that the authorized service territory should be limited to the area the Company is currently serving. *Id.* at 3-4. Staff recommended that the Company provide maps and legal descriptions for the territory it actually serves through a compliance filing with the option to apply for an amendment to its service area through a separate filing should the Company expand its service territory in the future. *Id.*

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter and the issues in this case under Title 61 of Idaho Code. The Commission regulates "public utilities," including "water corporations" that serve the public or some portion thereof for compensation. *Idaho Code* §§ 61-125, -129, and -501. The term "public utility" includes "water corporations." *Idaho Code* § 61-129. A "water corporation" is "every corporation" that owns, controls, operates or manages a water system for compensation. *Idaho Code* § 61-125. "The term 'corporation' . . . does not include . . . mutual nonprofit or cooperative . . . water . . . corporation or any other public utility organized and operated for service at cost and not for profit . . . ." *Idaho Code* § 61-104.

*Idaho Code* § 61-104 provides three exceptions to the Commission's regulatory authority over "corporations." The Commission does not regulate "mutual nonprofits," "cooperative corporations," or "any other public utility organized and operated for service at cost and not for profit." *Idaho Code* § 61-104. Pursuant to *Idaho Code* § 61-104, to be excluded from regulation a

company may show that it is both “organized” for service at cost and not for profit, and that it is “operated” for service at cost and not for profit.

Having reviewed the record, all submitted materials, and all comments, we find that the Company is a corporation operating and managing a water system for compensation in Idaho and is, therefore, a public utility subject to Commission regulation under Idaho Code.

### **1. CPCN**

As a public utility, the Company must have a CPCN from the Commission. *See Idaho Code* § 61-526. We find it reasonable to issue the Company a CPCN. We also find that Staff’s recommendation to collect more documentation to establish the initial service area is reasonable. The Company shall submit: (1) the county-approved plat maps that include legal descriptions of all subdivisions the Company is currently serving; and (2) parcel legal descriptions for any parcels not covered by the plat maps. The Company shall provide copies of the approved legal descriptions filed with Nez Perce County, or a combination of the following preferred legal description formats: (1) rectangular survey; metes and bounds; and/or (3) lot and block as a compliance filing in this case within 45 days of the service date of this Order.

Moreover, as a regulated utility, the Company is required to adopt the Commission’s Utility Customer Relations Rules (IDAPA 31.21.01 *et seq.*) and Utility Customer Information Rules (IDAPA 31.21.02 *et seq.*). We direct the Company to work directly with Staff as needed to adopt the previously stated rules following issuance of this order.

### **2. Tariff and Other Documents**

As a regulated entity, the Company must also submit certain documentation required under the UCRR for Commission review and approval, including a tariff, various customer notices, and an annual rules summary. We direct the Company to work directly with Staff as necessary prepare the required documentation following issuance of this order. The Company shall submit these required documents as a compliance filing in this case within 45 days of the service date of this Order.

### **3. Rates and Charges**

We direct the Company to maintain its current rates. Staff shall open a separate docket to evaluate whether the Company’s rates are fair, just, and reasonable.

## **ORDER**

IT IS HEREBY ORDERED that the Company is a public utility and is granted a CPCN consistent with this Order.


IT IS FURTHER ORDERED that the Company shall submit a compliance filing within 45 days of the service date of this Order providing: (1) the county-approved plat maps that include legal descriptions of all subdivisions the Company is currently serving; and (2) parcel legal descriptions for any parcels not covered by the plat maps. The Company shall provide copies of the approved legal descriptions filed with Nez Perce County, or a combination of the following preferred legal description formats: (1) rectangular survey; metes and bounds; and/or (3) lot and block.

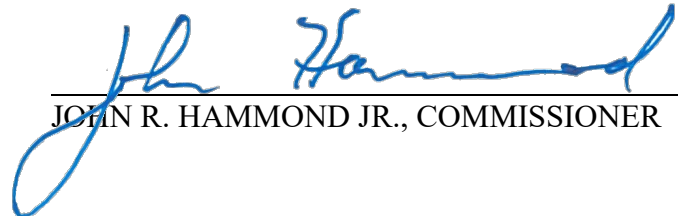
IT IS FURTHER ORDERED that the Company shall submit a compliance filing within 45 days of the service date of this Order providing: (1) tariffs; (2) a notice to customers regarding regulation; (3) a billing statement; (4) an initial disconnection notice; (5) a notice of procedure for reconnection; and (6) a summary of rules.

IT IS FURTHER ORDERED that the Company shall maintain its current rates, and Staff shall open a separate docket to evaluate whether the Company's rates are fair, just, and reasonable.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within 21 days of the service date of this Order. Within 7 days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

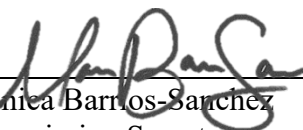
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21<sup>st</sup> day of May 2025.

  
EDWARD LODGE, PRESIDENT

  
JOHN R. HAMMOND JR., COMMISSIONER

*Recused*  
DAYN HARDIE, COMMISSIONER

ATTEST:

  
Monica Barros-Sanchez  
Commission Secretary

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