

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

IN THE MATTER OF APPLICATION) FOR PERMIT NO. 63-34318 IN THE) NAME OF CITY OF BOISE PUBLIC) <u>WORKS DEPARTMENT</u>)	ORDER ACCEPTING SETTLEMENT AND ACKNOWLEDGING WITHDRAWAL OF PROTEST
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BACKGROUND

The City of Boise (“Boise”) filed Application for Permit No. 63-34318 (“Application”) with the Idaho Department of Water Resources (“Department”) on November 15, 2016, to appropriate 200 cfs of water from the Dixie Slough for water quality improvement, storage, and diversion to storage uses.

The City of Greenleaf (“Greenleaf”) and others (“Other Parties”) protested the Application. According to the *Stipulated Hearing Schedule*, Boise, Greenleaf, and the Other Parties dispute “whether an efficiency standard should be included” and “what the efficiency standard should be.”

On May 8, 2018, the Department’s Hearing Officer received the *Stipulated Conditional Withdrawal of City of Greenleaf’s Protest* (“Conditional Withdrawal”). According to the Conditional Withdrawal, Boise and Greenleaf jointly propose that the Department include the following condition (“Proposed Condition”) if the Application is approved:

The right holder shall achieve an overall annual total phosphorous removal efficiency of 40%.

CONCLUSIONS OF LAW

Pursuant to Rule 612 of the Department’s Rules of Procedure (IDAPA 37.01.01.612), the Hearing Officer may “summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties.”

Pursuant to Rule 204 of the Department’s Rules of Procedure (IDAPA 37.01.01.204), “[a]ny party may withdraw from a proceeding in writing or at hearing.”

Setting a minimum total phosphorous removal efficiency of 40% settles a private dispute between Boise and Greenleaf with no significant implications for administration of the law for persons other than Boise and Greenleaf. Setting this minimum resolves the question of whether an efficiency standard is required and sets a threshold below which the efficiency standard may not be set. However, Boise and the Other Parties still dispute what the final phosphorous removal efficiency should be.

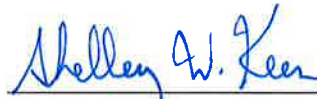
The Department should accept the Conditional Withdrawal to the extent it establishes a minimum total phosphorous removal efficiency of 40%. Accordingly, the Department should also acknowledge Greenleaf’s withdrawal from this matter.

ORDER

The Department accepts the Proposed Condition as a minimum total phosphorous removal efficiency. The Department may require an efficiency standard greater than 40% if the record so warrants.

The Department acknowledges Greenleaf's withdrawal from this matter. Greenleaf's participation in this matter will cease unless the Department does not include the Proposed Condition on any permit that may be issued in connection with the Application.

Dated this 11th day of May 2018.



Shelley W. Keen
Hearing Officer

CERTIFICATE OF SERVICE

I, the undersigned, certify that on May 14, 2018, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Procedure, to the following person(s):

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