

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

**IN THE MATTER OF INTEGRATED
MUNICIPAL APPLICATION PACKAGE
("IMAP") OF SUEZ WATER IDAHO,
INC. FOR APPLICATIONS FOR
TRANSFERS OF WATER RIGHTS**

**ORDER DENYING MOTION TO DEFER
AND GRANTING MOTION FOR
EXTENSION OF TIME, IN PART**

On March 16, 2018, the Boise Project Board of Control ("BPBC") filed a *Motion for Summary Judgment to Limit Planning Horizon* ("BPBC Motion") in the above-referenced contested case, pursuant to Rule 260 of the Department's Rules of Procedure (IDAPA 37.01.01). On March 20, Suez Water Idaho Inc. ("Suez") filed a *Motion to Defer or, in the Alternative, for Extension of Time, with Supporting Argument* (hereinafter identified separately as "Motion to Defer" and "Motion for Extension of Time").

In its Motion to Defer, Suez requests that the hearing officer "defer briefing and a decision on the [BPBC Motion] until after the merits hearing scheduled for May 29 through 31, 2018." *Motion to Defer* at 1. Suez argues that the BPBC Motion seeks a "first-of-its kind, precedential interpretation of the statutory requirement for a reasonable planning horizon for reasonably anticipated future needs[.]" *Id.* at 2. In order to evaluate the reasonableness of the planning horizon proposed by Suez, the hearing officer must "weigh a broad range of facts and considerations." *Id.* at 2. Suez asserts that the hearing officer must, at a minimum, review hundreds of pages of comprehensive land use plans and hear testimony from expert witnesses about the "creation, purpose, and impact of the documents" to determine whether the proposed planning horizon is reasonable. *Id.* at 3-4.

Suez also argues that moving forward with a decision on the BPBC Motion prior to hearing will require substantial effort and "will not foster efficiency for the parties or the Director." *Id.* at 4. In fact, Suez envisions submitting "many thousands of pages of documents" as part of its response to the BPBC Motion. *Id.* at 4.

The submission of many thousands of pages of documents as a response to a motion for summary judgment would be excessive and unnecessary. It does not require many thousands of pages to demonstrate that genuine issues of material fact exist in a contested case. If Suez believes that the evaluation of a planning horizon requires more information than the list of facts presented in the BPBC Motion, then Suez should present that argument in the form of a response to the BPBC Motion, rather than a Motion to Defer. Similarly, if Suez believes some or all of the facts presented in the BPBC Motion are in dispute, then Suez should present that argument in

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the form of a response to the BPBC Motion. Neither of these arguments would require the submission of many thousands of pages of documents.

Suez's arguments in favor of deferring a decision on the BPBC Motion until after the hearing are not persuasive. If Suez wants to argue summary judgment is not appropriate on the question of the reasonableness of the proposed planning horizon, Suez is free to raise those arguments in the form of a response to the BPBC Motion.

In its Motion for Extension of Time, Suez asks the hearing officer to extend the deadline for filing a response to the BPBC Motion to April 18, 2018. Suez cites preplanned family travel conflicts for members of its legal team.

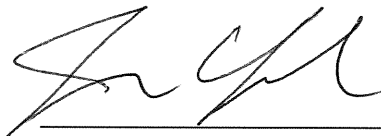
Pursuant to Rule 565 of the Department's Rules of Procedure (IDAPA 37.01.01) a presiding officer may extend the deadline for filing a response to a motion upon a showing of good cause by the party requesting an extension. In this instance, Suez has provided good cause for an extension of time to the response deadline for the BPBC motion. The extension of time proposed by Suez, however, is too long. Extending the deadline for filing a response to April 9, 2018 is reasonable and would provide Suez's counsel a full week after returning from family travel to prepare a response to the BPBC Motion.

ORDER

IT IS HEREBY ORDERED that Suez's Motion to Defer is DENIED.

IT IS FUTHER ORDERED that Suez's Motion for Extension of Time is GRANTED, in part. Suez must file its response to the BPBC Motion on or before April 9, 2018.

DATED this 21st day of March 2018.



JAMES CEFALO
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of March 2018, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

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For the City of Kuna, Interested Party



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