

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

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 63-34079 AND
63-34080 IN THE NAME OF
CHRIS EMMERT

**ORDER EXTENDING
DEADLINE TO ISSUE FINAL
ORDER ON EXCEPTIONS**

BACKGROUND

On May 8, 2015, Chris Emmert filed Applications for Permit Nos. 63-34079 and 63-34080 (“Applications”) with the Idaho Department of Water Resources (“Department”). The Applications seek supplemental supplies of ground water to irrigate farmland in Canyon County approximately five miles southeast of Lake Lowell.

The Department published notice of the Applications as required by Idaho Code § 42-203A. The Boise Project Board of Control (“Boise Project”) protested the Applications on October 22, 2015. In the protests, the Boise Project stated:

Protestant is concerned about the cumulative effects that groundwater withdrawals in the Lake Lowell vicinity may have[,] adversely affecting its senior water rights in Lake Lowell, and therefore submits this Protest. Further, the location and proposed depth of the applicant’s well will most likely directly withdraw water from Lake Lowell.

On April 6, 2017, a Department hearing officer conducted a hearing on the Applications. On April 24, 2017, the Department received the *Applicant’s Closing Arguments* and the *Boise Project Board of Control’s Post-Hearing Closing Argument*.

On June 19, 2017, the hearing officer issued a *Preliminary Order Approving Applications for Permit* pursuant to Rule 730 of the Department’s Rules of Procedure (IDAPA 37.01.01.730). On June 30, 2017, the Department received the *Boise Project Board of Control’s Petition for Reconsideration of Preliminary Order Approving Applications for Permit*. On July 14, 2017, the Department received the *Applicant’s Opposition to Reconsideration*.

On July 14, 2017, the Cities of Meridian, Caldwell, Nampa, Eagle, Boise, and Kuna and Suez Water Idaho Inc. (“Municipal Providers”) submitted the *Municipal Providers’ Petition to*

Intervene seeking to intervene in the contested case. On July 19, 2017, the Boise Project filed a memorandum in opposition to the Municipal Providers' petition to intervene.

On July 21, 2017, the Department issued an order denying the Municipal Providers' petition to intervene. That same day, the Department issued an *Order Granting Petition for Reconsideration; Amended Preliminary Order Rejecting Applications for Permit*.

On August 3, 2017, the Department received the *Applicant's Exceptions to Amended Preliminary Order* ("Exceptions"). On August 4, 2017, the Department received the *Municipal Providers' Second Petition to Intervene* and the *Municipal Providers' Brief on Exceptions to the Director*. On August 14, 2017, the Boise Project filed a *Memorandum in Opposition to Second Petition to Intervene*, a *Motion to Strike and Memorandum in Support*, and the *Boise Project Board of Control's Response to Applicant's Exceptions to Amended Preliminary Order*. On August 18, 2017, the Municipal Providers filed the *Municipal Providers' Response to Three Submissions by Boise Project*.

ANALYSIS

The Department's Rule of Procedure 730.02.d requires that the Director issue a final order within fifty-six days of receipt of written briefs or oral argument regarding exceptions to a preliminary order, "whichever is later, unless waived by the parties or for good cause shown." IDAPA 37.01.01.730.02.d. As described above, the last written brief regarding the Exceptions was filed on August 18, 2017. The Director is required to issue a final order on the Exceptions by October 13, 2017, unless "good cause" is shown to extend the deadline. *Id.*

Good cause exists to extend the deadline for the Director to issue a final order on the Exceptions. The Exceptions and related briefing raise important issues that require careful consideration and extensive legal research. Additional time is needed to conduct the necessary research and exhaustive evaluation of the issues presented prior to issuance of a final order. Accordingly, the Director will extend the deadline for issuing a final order on the Exceptions by two weeks to October 27, 2017.

ORDER

IT IS HEREBY ORDERED that the deadline for the Director to issue a final order on the Exceptions is EXTENDED to October 27, 2017.

Dated this 13th day of October 2017.


GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of October 2017, I caused to be served a true and correct copy of the foregoing document by U.S. mail, postage pre-paid, and by electronic-mail to the following:

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