

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

|                                     |                                  |
|-------------------------------------|----------------------------------|
| IN THE MATTER OF APPLICATIONS FOR ) |                                  |
| PERMIT NOS. 63-34079 AND 63-34080 ) | <b>ORDER GRANTING MOTION FOR</b> |
| IN THE NAME OF CHRIS EMMERT )       | <b>CONTINUANCE OF HEARING</b>    |
| _____ )                             |                                  |

**FINDINGS OF FACT**

On May 8, 2015, Chris Emmert ("Applicant") filed Applications for Permit Nos. 63-34079 and 63-34080 ("Applications") with the Idaho Department of Water Resources ("Department"). The Applications propose the diversion and use of ground water in Canyon County approximately four to five miles southeast of Lake Lowell. The Boise Project Board of Control ("Boise Project") protested both Applications on October 22, 2015. The Department held a pre-hearing conference on the matter on September 29, 2016. At the conference, the parties asked to schedule a hearing and to initiate discovery.

On October 4, 2016, the Department issued an order consolidating the contested cases, authorizing discovery, and setting disclosure deadlines.

On October 20, 2016, the Department issued an order stating the hearing for the Applications will be on February 15, 2017.

On December 16, 2016, the Department received the *Boise Project Board of Control's Motion for Continuance of Hearing* ("Motion"). The Boise Project seeks to vacate the hearing scheduled for February 15, 2017, and to reschedule it for six to eight weeks later. The Boise Project wants to use the additional time to retain a hydrogeologist to model the ground water resources in the vicinity of Lake Lowell.

The Boise Project did not request a hearing in connection with the Motion.

The Department has not received a response from the Applicant regarding the Motion.

**CONCLUSIONS OF LAW**

Rule 260 of the Department's Rules of Procedure (IDAPA 37.01.01.260) authorizes the parties in contested cases to file motions requesting the agency take action in a contested case proceeding. The Boise Project filed its motion pursuant to Rule 260.

Rule 565 of the Department's Rules of Procedure (IDAPA 37.01.01.565) requires responses to motions to be filed within 14 days of the time of filing. The Department did not receive a response to the Motion from the Applicant within 14 days from the filing of the Motion.

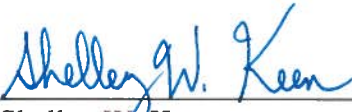
The determination of whether to grant a motion for continuance lies is within the discretion of the hearing officer. *See Gunter v. Murphy's Lounge, LLC*, 141 Idaho 16, 24, 105 P.3d 676, 684 (2005). As there is no opposition to the motion and good cause having been shown by the Boise Project, the hearing officer will, in an exercise of discretion, grant the Motion.

### ORDER

IT IS HEREBY ORDERED that the Boise Project's Motion to vacate the hearing scheduled for February 15, 2017, is GRANTED.

IT IS FURTHER HEREBY ORDERED that the Applicant and the Boise Project notify the hearing officer in writing by January 17, 2017, of their available hearing dates from April 3, 2017, through April 21, 2017.

Dated this 4<sup>th</sup> day of January, 2017.

  
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Shelley W. Keen  
Hearing Officer

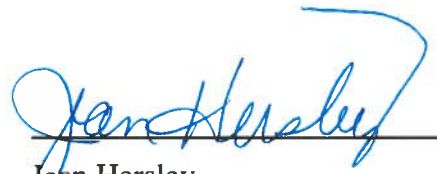
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of January, 2017, true and correct copies of the *Order Granting Motion for Continuance of Hearing* were served by placing a copy of the same with the United States Postal Service, certified mail with return receipt, postage prepaid and properly addressed to the following:

**CHRIS EMMERT  
7180 BOWMONT RD  
NAMPA ID 83686**

**BOISE PROJECT BOARD OF CONTROL  
C/O SHELLEY DAVIS  
BARKER ROSHOLT & SIMPSON LLP  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE ID 83701-2139**

**JOHN MARSHALL  
JOHN MARSHALL LAW PLLC  
575 W BANNOCK ST STE B  
BOISE ID 83702**

  
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Jean Hersley  
Technical Records Specialist II