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RECEIVED

May 09, 2024

DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT 77-14378, AND
APPLICATIONS FOR TRANSFER
85396, 85397, AND 85398, AND
APPLICATION FOR EXCHANGE 85538
IN THE NAME OF PERPETUA
RESOURCES IDAHO, INC..

**PERPETUA RESOURCES IDAHO,
INC.'S MOTION TO STRIKE**

Perpetua Resources Idaho, Inc. ("Perpetua") through undersigned counsel, pursuant to IDAPA 37.01.01.260, respectfully moves to strike Protestants' Nez Perce Tribe, Save the South Fork Salmon, Inc., and Idaho Conservation League (collectively "Protestants") Joint Response in Opposition to Perpetua Resources' Petition for Reconsideration filed on May 8, 2024 ("Response").

On April 24, 2024, Perpetua filed a Petition for Reconsideration requesting that the Hearing Officer reconsider certain permit conditions, pursuant to IDAPA 37.01.01.730.02.a. On May 8, 2024, Protestants filed the Response in opposition to Perpetua's petition for reconsideration. Notably, Protestants fail to identify any authority authorizing the filing of a response to a petition for reconsideration. Indeed, none exists.

Neither the Rules of Procedure of the Idaho Department of Water Resources (“Rules”), nor Idaho Code specifically authorize the filing of a response brief to a petition for reconsideration. I.C. § 67-5243; Rule 730.02.a. This is particularly notable, because the Rules *do* specifically authorize and provide for a response brief when exceptions are filed with the Director. *See* Rule 730.02.c. Had the Department intended to authorize responses to petitions for reconsideration it would have included an express provision in the Rules.

Consistent with the plain language of the Rules, the Department has held that “the [Rules] *do not authorize responses to petitions for reconsideration.*” Order on Reconsideration; Amended Preliminary Order Approving Permit Upon Conditions at 1 n.1, *In re Application for Permit 63-34348 in the Name of Elmore County, Board of County Commissioners*, (May 7, 2019) (emphasis added). Because the Rules do not authorize the filing of a response, the Hearing Officer in that case declined to consider the Protestants’ response brief in deciding the petition for reconsideration. *Id.*

For the foregoing reasons, Perpetua respectfully requests that the Hearing Officer strike Petitioners’ Response or otherwise not consider it in deciding Perpetua’s Petition for Reconsideration.

DATED: May 9, 2024

STOEL RIVES LLP

/s/ Wade C. Foster

Wade C. Foster

Kevin J. Beaton

Attorneys for Perpetua Resources Idaho, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2024, true and correct copies of the foregoing document was served on the parties by Email:

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