



Governor Brad Little

Director Mathew Weaver

June 9, 2025

VEOLIA WATER IDAHO INC
C/O CHRIS MEYER

NAMPA & MERIDIAN IRRIGATION DISTRICT
SETTLERS IRRIGATION DISTRICT
C/O SAWTOOTH LAW OFFICES PLLC
ATTN S BRYCE FARRIS

BOISE PROJECT BOARD OF CONTROL
C/O ALBERT P BARKER

RE: Stipulated and Conditional Withdrawal of Protest in the Matter of Veolia's Integrated Municipal Application Package

Dear Parties:

The Idaho Department of Water Resources ("Department") is preparing to bring the Integrated Municipal Application Package ("IMAP") Transfer No. 89499 to a final resolution. Protests to the IMAP have been resolved and the purpose of this letter is to acknowledge receipt of the conditional withdrawals of protest filed by Nampa & Meridian Irrigation District ("NMID") and Settlers Irrigation District ("Settlers") (collectively, "Districts"), and another by the Boise Project Board of Control, Big Bend Irrigation District, Boise-Kuna Irrigation District, and Wilder Irrigation District (collectively, "Boise Project"). The stipulations are referred to here as the "Districts Stipulation"¹ and the "Boise Project Stipulation"² (collectively, "Stipulations"). The parties have agreed to the protestants' withdrawals if approval of the transfer application is conditioned substantially as provided in the Stipulations.

In any conditional withdrawal, the Department must review the proposed conditions to ensure they are acceptable for inclusion in the approval. Further, the Department may substitute a standard condition of the Department with essentially the same language and intent, or it may modify the conditions as written to fit the approval format, reduce ambiguity, or prevent conflicting interpretations. The Department may modify conditions that (a) conflict with laws, rules, or Department policy, (b) are burdensome to enforce because they fall outside the Department's authority, or (c) are unclear, ambiguous, or would unreasonably consume Department time or resources.

¹ *Stipulation for Withdrawal of Protests and Request to Change Status to Intervenor by Nampa & Meridian Irrigation District and Settlers Irrigation District, In the Matter of Integrated Municipal Application Package ("IMAP") of Suez Water Idaho Inc., Being a Collection of Individual Applications for Transfers of Water Rights and Applications for Amendment of Permits (April 18, 2018) [hereinafter Districts Stipulation].*

² *Stipulated and Conditional Withdrawal of Protest, In the Matter of Integrated Municipal Application Package ("IMAP") of Suez Water Idaho Inc., Being a Collection of Individual Applications for Transfers of Water Rights and Applications for Amendment of Permits (June 11, 2018) [hereinafter Boise Project Stipulation].*

The Stipulations include proposed conditions that are to be addressed by the Department on the face of an approval as well as proposed conditions that are the responsibility of the respective parties to accomplish and enforce. The enclosed draft approval document incorporates the Department's standard conditions, as well as conditions pursuant to the Stipulations. The conditions proposed in the Stipulations are referenced below, along with some discussion of any changes the Department made to the proposed language.

The Boise Project Stipulation

1. The *Boise Project Stipulation* is conditioned on the approval of a 50-year planning horizon and total quantity of 370.87 cfs. The attached draft approval includes a condition on each water right identifying a planning horizon ending on December 31, 2065, consistent with the *Master Water Plan for the Years 2015 to 2065* (April 28, 2017).³ The total quantity on the cover page represents the sum of the 90 water rights included in the transfer that equals 199.14 cfs. The difference in total rate reflects the removal of certain water rights from IMAP, a reduction in diversion rates resulting from the removal of annual volumes and combined limits, and the removal of fire protection from certain water rights.
2. The *Boise Project Stipulation* was contingent upon "reference to the existence of the Side Agreement on the face of each of SUEZ's water rights and permits that are transferred or amended pursuant to the IMAP." *Boise Project Stipulation*, at 2–3. This Side Agreement is included on the attached draft approval document through a condition that reads:

The diversion and use of water described in Transfer 89499 may be subject to additional conditions and limitations agreed to by the participants in the IMAP contested case proceeding pursuant to separate agreements to which the Department is not a party. Because the Department is not a party to those agreements, the Department is not responsible for enforcement of any aspect of the agreements not specifically addressed in conditions herein. Enforcement of those agreements shall be the responsibility of the parties to the agreements. Such agreements may include, but are not limited to, IMAP Settlement Agreement Between Boise Project et al. and SUEZ (executed July 9, 2018).

The Districts Stipulation

1. The *Districts Stipulation* demonstrates support for a re-opener condition "that will give the Department some flexibility in re-evaluating the extent of SUEZ's reasonably anticipated future needs before the end of the 50-year planning horizon." *Districts Stipulation*, at 3. The withdrawal of protests is, in part, "[b]ased on the inclusion of such a re-opener condition" *Id.*

The Department reviewed the proposed re-opener condition and determined that re-evaluation of the reasonably anticipated future needs ("RAFN") status of the water rights at the end of the planning horizon is appropriate to ensure the change is in the local public interest and that water is not held indefinitely without cause or evidence of beneficial use. The Department will not re-open the transfer proceedings following the approval of IMAP. The following conditions are included on each of the water rights in the

³ The *Master Water Plan for the Years 2015 to 2065* was submitted to IDWR on April 28, 2017 as part of the IMAP proceedings. The document is found at <https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/suez-water-idaho-imap/IMAP-20170428-Suezs-Master-Water-Plan-for-the-Years-2015-to-2065.pdf>.

transfer to facilitate re-evaluation of the RAFN status of the water rights at the end of the planning horizon.

Prior to diversion and use of water under transfer approval 89499 the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications.

The right holder shall record the diversion volume measurements and maximum flow rates for each point of diversion monthly throughout the planning horizon. The measurement records must be made available to the Department upon request. Upon the expiration of the planning horizon, the right holder shall prepare a report containing the measurement records and a gap analysis comparing peak demand with the right holder's portfolio of water rights and other entitlements available to meet that demand. The right holder shall submit the report to IDWR within 90 days of the expiration of the planning horizon, with notice provided by the right holder to the parties to transfer 89499.

2. The Districts Stipulation was also dependent upon the inclusion of an alternative point of diversion ("APOD") condition. *Districts Stipulation*, at 2. The attached draft approval includes conditions on each of the water rights identifying the original diversion, and diversions added through subsequent proceedings.

In general, the Department's APOD conditions provide information required to address issues with well interference and limited geographical curtailment. The additional language proposed by Veolia intends to clarify how the information will be used in different limited regional curtailment scenarios. Previous Department discussions of the purpose of the APOD conditions do not address every scenario where the condition may be applied. *See, e.g., In re Application for Transfer No. 79778 in the Name of City of Meridian, Order Addressing Exceptions and Amending Transfer Approval* (Oct. 4, 2016); *In re Application for Transfer No. 80621 in the Name of City of Ketchum, Order Addressing Exceptions and Amending Transfer Approval* (Oct. 27, 2016).

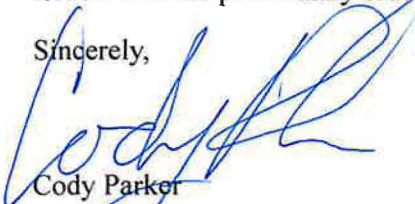
The Department is not required to address every possible future curtailment scenario through a water right condition. The Department has decided not to incorporate the proposed explanatory language in the APOD condition. Instead, the Department prefers to decide how the APODs will be treated at the time of curtailment, when the specific details of a particular curtailment are known.

The enclosed draft transfer approval incorporates the Department's standard conditions, as well as other conditions unique to the Stipulations or unique to the IMAP matter.

Please review the draft approval carefully. If you think the draft approval does not substantially conform to the conditions you have stipulated, please contact the Department in writing within 14 days of the date of this letter with your concerns. If a party objects in writing to the proposed changes, the Department will inform the parties that the protest is not considered withdrawn, and the pending application will remain an active contested case before the Department. The parties will have further opportunity to resolve the contested matter through continued negotiations. If the Department does not receive a response, the Department will proceed with finalizing the transfer approval since all protests have been resolved. As always, you may follow the necessary actions to obtain administrative review of the preliminary order as

summarized on the Explanatory Information to Accompany a Preliminary Order sheet which will be issued with the preliminary order.

Sincerely,



Cody Parker
Water Resources Supervisor
IDWR Western Region