

## BEFORE THE IDAHO WATER RESOURCE BOARD

**IN THE MATTER OF APPLICATION  
FOR STREAM CHANNEL ALTERATION  
PERMIT NOS. S82-20066 and S82-20067**

Docket No. IWRB-2017-001

**ORDER VACATING DEADLINES AND  
HEARING DATES; RECOMMENDED  
ORDER DISMISSING CONTESTED  
CASES**

### BACKGROUND

On August 2, 2017, the Idaho Department of Water Resources (“Department”) denied Joint Application for Permit No. S82-20066 in the name of Gay Richardson (“Richardson”) and No. S82-20067 in the name of John Stickley (“Stickley”). Both applications were for suction dredge mining within the Red River, a tributary of the South Fork Clearwater River.

The Department received letters from Richardson (August 15, 2017), and Stickley (August 17, 2017), each requesting a hearing on the denial of their respective Joint Application for Permit.

On March 3, 2018, the IWRB appointed Nick Miller as the hearing officer to preside over the hearings requested by Richardson and Stickley and issue a recommended order or recommended orders in accordance with Idaho Code §§ 67-5243(1)(a) and 67-5248.

The hearing officer held a prehearing conference on April 27, 2018. Richardson and Stickley attended the prehearing conference by telephone. Based upon and consistent with discussion at the prehearing conference, the hearing officer issued a *Prehearing Order* on May 4, 2018, adopting a schedule for a hearing and setting a continued prehearing conference.

The hearing officer held the continued prehearing conference by telephone at 11 am on August 20, 2018. Richardson did not participate in the conference due to telephone issues. Stickley participated in the conference and stated Richardson had authorized him to speak on Richardson’s behalf.

Stickley stated that both he and Richardson submitted a Joint Application for Permit for suction dredge mining within the Red River for the 2018 season. The Department approved both applications.

Stickley stated that he and Richardson both wished to withdraw their petitions for a hearing regarding Joint Application for Permit Nos. S82-20067 and S82-20066.

The hearing officer telephoned Richardson following the conference and confirmed Stickley accurately represented Richardson’s intention to withdraw his petition for hearing.

Based on the statements by Richardson and Stickleby that they wish to withdraw their petitions for hearing, the hearing officer will vacate the hearing dates and associated schedule and issue a recommended order dismissing the above-captioned matters.


**ORDER**

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the August 27, 2018, deadlines and September 11-12, 2018, hearing dates set forth in the May 4, 2018, *Prehearing Order* are VACATED.

**RECOMMENDED ORDER**

IT IS HEREBY ORDERED that the contested cases in the matters of application for stream channel alteration permit nos. S82-20066 and S82-20067 are hereby DISMISSED.

DATED this 20<sup>th</sup> day of August 2018.

  
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NICK MILLER  
Hearing Officer

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of August 2018, I served a true and correct copy of the foregoing document by the methods indicated to the following:

GAY RICHARDSON  
PO BOX 314  
ELK CITY, ID 83525  
[gayrichardson@idaho.net](mailto:gayrichardson@idaho.net)

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

JOHN STICKLEY  
1900 WOODWORTH ROAD  
GRANDVIEW WA 98930  
[goldfinder2013@hotmail.com](mailto:goldfinder2013@hotmail.com)

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

*Courtesy Copies to:*

AARON GOLART  
STREAM CHANNEL COORDINATOR  
ID DEPT OF WATER RESOURCES  
PO BOX 83720  
BOISE ID 83720-0098  
[aaron.golart@idwr.idaho.gov](mailto:aaron.golart@idwr.idaho.gov)

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

BRIAN PATTON  
WATER PLANNING & PROJECTS  
BUREAU CHIEF  
ID DEPT OF WATER RESOURCES  
PO BOX 83720  
BOISE ID 83720-0098  
[brian.patton@idwr.idaho.gov](mailto:brian.patton@idwr.idaho.gov)

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- Email

  
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Rachel Neely  
Administrative Assistant

## **EXPLANATORY INFORMATION TO ACCOMPANY A RECOMMENDED ORDER**

(Required by Rule of Procedure 720.02)

The accompanying order is a "**Recommended Order**" issued by the agency pursuant to Section 67-5243, Idaho Code. This order will only become a final order after review by the Idaho Water Resource Board ("Board").

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Board as further described below:

### **PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the hearing officer within this fourteen (14) day period.** The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.

### **EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Board. Opposing parties shall have fourteen (14) days to respond.

If no party files exceptions to the recommended order, the Board will issue a final order within fifty-six (56) days after (a) the last day a timely petition for reconsideration could have been filed with the hearing officer, (b) the service date of a denial of a petition for reconsideration by the hearing officer; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration by the hearing officer.

### **ORAL ARGUMENT**

The Board may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Board. If oral arguments are to be heard, the Board will, within a reasonable time, notify each party of the place, date and hour for the argument of the case. Unless the Board orders otherwise, all oral arguments will be heard in Boise, Idaho.

### **CERTIFICATE OF SERVICE**

Any petition for reconsideration or other motion to the hearing officer shall be served upon all other parties to the proceeding. All exceptions, briefs, requests for oral argument and any other matters filed with the Board in connection with the recommended order shall be served on all other parties to these proceedings in accordance with Rules of Procedure 302 and 303.

### **FINAL ORDER**

The Board will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The agency will serve a copy of the final order on all parties of record.

### **APPEAL OF FINAL ORDER TO DISTRICT COURT**

A party aggrieved by a final order of the Board is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.