

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

IN THE MATTER OF DISTRIBUTION OF WATER)
TO VARIOUS WATER RIGHTS HELD BY OR FOR)
THE BENEFIT OF A&B IRRIGATION DISTRICT,)
AMERICAN FALLS RESERVOIR DISTRICT #2,) **INTERIM ORDER**
BURLEY IRRIGATION DISTRICT, MILNER) **SUSPENDING HEARING**
IRRIGATION DISTRICT, MINIDOKA IRRIGATION) **SCHEDULE**
DISTRICT, NORTH SIDE CANAL COMPANY,)
AND TWIN FALLS CANAL COMPANY)
)
(Water Districts No. 120 and No. 130))
_____)

This matter is before the Director of the Department of Water Resources (“Director” or “Department”) as a result of a *Petition for Reconsideration of Third Supplemental Order Amending Replacement Water Requirements Final 2005 & Estimated 2006* (“Coalition’s Petition”), filed on July 12, 2006, by the Surface Water Coalition. In addition to requesting reconsideration of the Director’s orders of May 2, 2005, and June 29, 2006, in light of Judge Barry Wood’s *Order on Plaintiffs’ Motion for Summary Judgment* in Case No. CV-2005-0000600 (Fifth Jud. Dist., Gooding County, June 2, 2006), the Petition also seeks a stay in the proceedings, based upon entry of Judge Wood’s *Order Certifying Judgment Granting Partial Summary Judgment Under Rule 54(b)* (July 11, 2006).

On July 13, 2006, the Idaho Ground Water Appropriators, Inc. (“IGWA”) also filed *IGWA’s Petition for Reconsideration of the Director’s Third Supplemental Order Amending Replacement Water Requirements Final 2005 and Estimated 2006* (“IGWA’s Petition”).

On June 14, 2006, the Director denied a request for stay of the administrative proceeding made by the City of Pocatello. The request, however, was denied without prejudice:

The Director has determined that further delay in this proceeding would undermine timely administration of water rights and therefore denies Pocatello’s Motion for Stay. Nonetheless, given the uncertainty surrounding the effects of the judicial action, the Director has determined that an adjustment in the remaining deadlines in the administrative proceeding is appropriate. Thus, the existing deadlines will be extended by approximately thirty days. *If circumstances in the judicial action change, and upon motion by the parties, the Director should revisit staying the administrative proceeding.*

Order Regarding Pocatello’s Motion for Stay and Fourth Amended Scheduling Order at p. 5 (June 14, 2006) (emphasis added).

With the entry of Judge Wood’s *Order Certifying Judgment Granting Partial Summary Judgment Under Rule 54(b)*, circumstances have sufficiently changed that the Director should

suspend the administrative hearing schedule. The hearing schedule should be suspended until the Director has had sufficient time to review the Coalition's Petition and IGWA's Petition as they pertain to the issue of reconsideration of the Director's orders of May 2, 2005, and June 29, 2006. Once the Director has had sufficient time to review the issues of reconsideration, the Director should issue a subsequent order addressing reconsideration and stay.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

1. The administrative hearing schedule is suspended for an unspecified period of time to allow the Director to review the Coalition's Petition and IGWA's Petition for reconsideration of the Director's orders of May 2, 2005, and June 29, 2006. Suspension of the hearing schedule will not affect the Director's orders requiring that IGWA provide the remaining replacement water required to mitigate material injury in 2005, the monitoring of water supply and climatic conditions through the 2006 irrigation season, or requirements for additional replacement water to mitigate material injury that may occur during the 2006 irrigation season.

2. Once the Director has reviewed the Coalition's Petition and IGWA's Petition, the Director shall issue a subsequent order regarding reconsideration and stay.

DATED this 14th day of July 2006.



KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 2006, the above and foregoing, was served by the method indicated below, and addressed to the following:

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