

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

IN THE MATTER OF FALLS WATER
CO., INC.'S MITIGATION PLAN FOR
THE SURFACE WATER COALITION

Docket No. CM-MP-2024-004

**PRELIMINARY ORDER
ACKNOWLEDGING WITHDRAWAL
AND DISMISSING CONTESTED CASE**

BACKGROUND

On November 22, 2024, Falls Water Co., Inc. (“Falls”) submitted *Falls Water Co., Inc.’s CM Rule 43 Mitigation Plan (“Original Plan”)* with the Idaho Department of Water Resources (“Department”), pursuant to Rule 43 of the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”), IDAPA 37.03.11.043.

The Surface Water Coalition protested the proposed mitigation plan. Bonneville-Jefferson Ground Water District and Idaho Ground Water Appropriators, Inc. were granted intervention in this matter.

On August 5, 2025, the Department appointed Gerald F. Schroeder as the hearing officer to consider the *Original Plan* in the assigned Docket No. CM-MP-2024-004.

On February 4, 2026, Falls submitted the *First Amended Falls Water Co., Inc.’s CM Rule 43 Mitigation Plan (“Amended Plan”)* pursuant to CM Rule 43. Falls indicated on the face of the plan that it “intended to completely supersede and replace Falls Water’s first mitigation plan.” *Amended Plan*, at 1. The Department elected to readvertise the *Amended Plan* as it differed substantially from the *Original Plan*.

On March 20, 2026, the Director issued a *Notice of Prehearing Conference; Order Appointing Hearing Officer (“Order”)*. The Director outlined the process for receiving, accepting, and republishing amended plans. *Order*, at 2–3. The Director also appointed Gerald Schroeder as the Hearing Officer to consider the *Amended Plan* in Docket No. CM-MP-2026-002. *Id.* at 4. Moreover, the Director indicated that “[b]ecause the *Original Plan* was assigned to Hearing Officer Schroeder, the Director will leave it to the Hearing Officer to address the status of the *Original Plan*.” *Id.* at 3.

ANALYSIS

Pursuant to Rule 303 of the Department’s Rules of Procedure (IDAPA 37.01.01), “[a] party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy.” IDAPA 37.01.01.303. Although Falls did not file a separate notice of withdrawal, Falls expressly stated on the face of the *Amended Plan* that it “intended to completely supersede and replace Falls Water’s first mitigation plan.” *Amended Plan*, at 1.

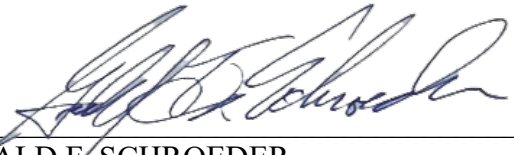
The Hearing Officer finds that this statement clearly reflects Falls' intent not to proceed with the *Original Plan*. Treating the *Amended Plan* as superseding and replacing the *Original Plan* is effectively withdrawing the *Original Plan*. Accordingly, the Hearing Officer concludes that Falls has withdrawn the *Original Plan*.

Based on this determination, the Hearing Officer will treat the *Original Plan* as withdrawn and will dismiss the contested case assigned Docket No. CM-MP-2024-004. The Hearing Officer will instead consider the *Amended Plan* in the newly initiated contested case, assigned Docket No. CM-MP-2026-002.

ORDER

IT IS HEREBY ORDERED, in accordance with IDAPA 37.01.01.303, that *Falls Water Co., Inc.*'s *CM Rule 43 Mitigation Plan* filed on November 22, 2024 is WITHDRAWN, and the contested case Docket No. CM-MP-2024-004 is DISMISSED.

DATED this 20th day of March 2026.

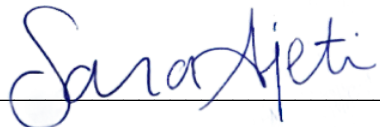


GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of March 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Sara Ajeti
Deputy Attorney General

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a “**Preliminary Order**” issued by the Idaho Department of Water Resources (“Department”) pursuant to Idaho Code § 67-5243. **This preliminary order can and will become a final order without further action of the Department, unless a party petitions for reconsideration, petitions for review, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

(See Idaho Code § 67-5243(3))

Any party may file a petition for reconsideration of this preliminary order with the Department within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The presiding officer will issue a written order disposing of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

PETITION FOR REVIEW (EXCEPTIONS)

(See Idaho Code § 67-5245)

Within fourteen (14) days after: (a) the service date of this preliminary order, (b) the service date of a denial of a petition for reconsideration of this preliminary order, or (c) the failure of the presiding officer to dispose of a petition for reconsideration of this preliminary order within twenty-one (21) days, any party may petition the Director in writing to review any part of this preliminary order by filing exceptions, and any supporting brief, with the Department.¹ Any parties opposing the exceptions shall have fourteen (14) days from the service date of the exceptions to file a brief. If the Director determines that oral argument is necessary, the Director will provide reasonable notice to the parties of the place, date, and hour for the argument.

The Director will issue a final order on exceptions within fifty-six (56) days of receipt of the final written brief or oral argument, whichever is later, unless extended for good cause. The Director may remand the matter for or hold an evidentiary hearing if further factual development of the record is necessary before issuing a final order.

REQUEST FOR HEARING

(See Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Director or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order,

¹ The Director may decide to review this preliminary order upon his own motion. Should the Director decide to do so, the Director will provide written notice to the parties within the period the parties are allowed to petition the Director for review of the preliminary order.

or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the Director to contest the action. The person shall file with the Director, within fifteen (15) days after receipt of written notice of the action issued by the Director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the Director and requesting a hearing. **Note: The request must be received by the Department within this fifteen (15) day period.**

CERTIFICATE OF SERVICE

(See IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration, petition for review, or a request for hearing of this preliminary order shall be served on all other parties to the proceeding in accordance with Rules 53 and 202 of the Department's Rules of Procedure.