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Attorney for Petitioner

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE**

JOHN HASTINGS, Jr.

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER
RESOURCES, a Political Subdivision of the
STATE OF IDAHO; MATHEW WEAVER,
Director and the IDAHO WATER
RESOURCES BOARD; JEFF RAYBOULD,
Chairman

Respondents.

CV07-26-00378

Case No. CV-OC 1515681

**PETITION FOR JUDICIAL
REVIEW**

COMES NOW the above named Petitioner, by and through its attorney of record,
J. Kahle Becker, and Pursuant to IRCP 84 and Idaho Code 67-5270 *et seq* for causes of
action against the Respondents, complains and alleges as follows:

I.

PARTIES

1. Petitioner John Hastings, Jr. is a resident of California, who at all times relevant to this action owned property along the Big Wood River in Blaine County, Idaho.
2. Respondent Idaho Department of Water Resources is a political subdivision of the State of Idaho with its principal place of business at 322 E Front St. Ste 648, Boise, Ada County ID 83702-7371.
3. Respondent Mathew Weaver is the Director of the Idaho Department of Water Resources, a political subdivision of the State of Idaho, with its principal place of business at 322 E Front St. Ste 648, Boise, Ada County ID 83702-7371.
4. Respondent Idaho Water Resources Board, is a political subdivision of the State of Idaho, with its principal place of business at 322 E Front St. Ste 648, Boise, Ada County ID 83702-7371.
5. Respondent, Jeff Raybould, is the Chairman of the Idaho Water Resources Board, a political subdivision of the State of Idaho, with its principal place of business at 322 E Front St. Ste 648, Boise, Ada County ID 83702-7371.

II.

JURISDICTION AND VENUE

6. This Court has subject matter and personal jurisdiction over this action pursuant to and by virtue of Idaho Code § 67-5270 and other applicable laws and rules.
7. Venue is proper in Blaine County pursuant to and by virtue of Idaho Code § 67-5272(1)(d) and other applicable laws and rules.
8. By Order of the Supreme Court, all appeals of decisions of the Idaho

Department of Water Resources are to be heard by Administrative District Judge of the Fifth Judicial District, Judge Eric J. Wildman.

III.

REVIEW OF FINAL AGENCY ACTION

9. Petitioner restates and realleges the preceding paragraphs and incorporates them herein by reference as though fully set forth.
10. Petitioner John Hastings received emergency approval from the City of Ketchum to install bank armoring during the 2017 flood event which was declared a local, state, and federal emergency. <https://ioem.idaho.gov/wp-content/uploads/sites/57/2017/05/FLOODING-MAY-ID-04-LEVEL-1-STATE-DECLARATION.pdf> and https://www.mtexpress.com/news/blaine_county/trump-signs-disaster-declaration-for-county/article_eca08bca-8d0a-11e7-9dd9-3b8965bbb412.html.
11. Petitioner installed the armoring following direction from the City of Ketchum in order to protect not only his property but also the Warm Springs Bridge, which is just downstream of Petitioner's property.
12. Unfortunately, IDWR's staff became upset that Petitioner had not applied for a permit prior to engaging in work – during this emergency. Petitioner immediately ceased construction upon notice from IDWR, yet a Notice of Violation and a Consent Order followed thereafter.
13. Petitioner promptly paid a \$10,000 fine. However, the situation was not resolved as easily as the Department asserted it would be when it induced Petitioner to enter into the Consent Order.

14. The Consent Order indicated that additional terms would be added by the Department later, in the form of permit terms the Department represented to Petitioner would align with the other terms of the Consent Order.
15. Therefore, a binding contract was never formed and the Consent Order was an agreement to (maybe) agree at a later time.
16. The Department continued to add more and more onerous conditions to the permit, despite its later admission during the discovery process of the administrative hearing that the bank armoring Petitioner had previously installed complied with the applicable administrative rules.
17. On May 23, 2019, Petitioner filed a *Petition for Hearing* (“*Petition*”), on the *Permit* the Department compelled him to apply for, asserting that “[c]ertain requirements contained in [the Permit] are inconsistent with the Consent Order and the agreement that led to the filing of the Restoration Plan.” *Petition*, at 2.
18. The case given the header: Idaho Water Resources Board Case No. *In The Matter of Application for Stream Channel Alteration Permit No. S37-20565*.
19. Numerous scheduling and discovery related hearings were held in this matter.
20. Ultimately, a public hearing was held *In The Matter of Application for Stream Channel Alteration Permit No. S37-20565* as to the parties cross motions for summary judgment on December 2, 2025, in Boise, Idaho before Hearing Officer Rodger Burdick.
21. A recording of the hearing was made utilizing an unknown software program, but has not been transcribed as of the filing of this *Petition*. However, a transcript of all hearings held in this matter have been requested to be transcribed and included in the agency record for judicial review. At this time the Department has arranged for Veritext

to transcribe the proceedings with Petitioner responsible for payment of the same. Petitioner hereby certifies that he will pay for the preparation of said transcripts.

22. The clerk of the Idaho Water Resources Board and/or Idaho Department of Water Resources has been requested to prepare the complete agency record for this matter as set forth in I.C. 67-5249 and IRCP 84(f)(1) and under the timelines specified in I.C. 67-5275. Petitioner has paid the initial fee of \$20 requested by the Department and has requested the Department provide an estimate for the preparation of the complete Record in this matter and all materials relied upon by the Department and the Hearing Officer. Petitioner will pay the total fee for preparation of the Record promptly upon notification of the amount.
23. On February 19, 2026 the Hearing Officer *In the Matter of Application for Stream Channel Alteration Permit No. S37-20565* issued a *Preliminary Order*.
24. Petitioner then timely sought reconsideration of the Preliminary Order pursuant to Idaho Code § 67-5243(3), on March 5, 2026.
25. On March 26, the Hearing Officer *In the Matter of Application for Stream Channel Alteration Permit No. S37-20565* issued an *Order Denying Petitioner's Motion for Reconsideration*.
26. On April 9, 2026, pursuant to IDAPA 37.01.01.730 and I.C. 67-5245, Petitioner timely filed his *Petitioner's Exceptions to Hearing Officer's Orders* to the Water Resources Board.
27. On May 21, 2026 The Water Resources Board, Jeff Raybould, Chairman, issued its *Order on Exceptions; Final Order*.

28. This Petition is taken to review each of the foregoing Orders, which became final as of May 21, 2026.
29. Pursuant to I.C. § 67-5276, IRCP 84(d)(5), 84(l) and other applicable law, the Petitioner reserves his right to amend this Petition and add to the Record in order to seek judicial review of any Orders issued in this matter, by the Hearing Officer, IDWR, or the Water Resources Board subsequent to the filing of this Petition.
30. As set forth in I.C. 67-5279(5), the Reviewing Court must interpret the rules and statutes at issue in this matter in favor of a reasonable interpretation that limits agency power and maximizes Petitioner's individual liberty.
31. Due to its refusal to recognize the emergency nature of the bank armoring Petitioner placed, IDWR and/or the Water Resources Board has forced a private property owner to incur legal fees and costs to protect not only private riparian and/or upland property but also a public road and bridge.
32. Due to a cloud placed on the title to the beds and banks of the Big Wood River by the late Ernest Hemingway, an interest now allegedly owned by The Community Library, the Department's Orders seek to compel Petitioner to perform work on land allegedly owned by a private third party due to the State's refusal to clear title to what the State itself acknowledges to be a publicly owned river.
33. The Community Library has demanded Petitioner sign an agreement indemnifying it, as a condition of granting Petitioner access to "its property" i.e. the beds and banks of the Big Wood River. Therefore, the Orders described above represent an unconstitutional uncapped financial liability which neither IDWR nor the Board have regulatory or statutory authority to compel Petitioner to assume.

IV.

PRAYER

WHEREFORE, Petitioner prays that the Court enter judgment against the Respondents as follows:

1. For an Order remanding this matter to the Idaho Department of Water Resources and/or the Water Resources Board with instructions to take further evidence as to whether the stream restoration work Petitioner has been ordered to perform a) complied with the Department's regulations at the time of construction and therefore require no further action; b) took place below the Ordinary High Water Mark as it existed prior to the bank armoring Petitioner performed; and c) adequately considered the local public interest due to the presence of a well-known swimming hole across the Big Wood River from Petitioner's property.
2. Alternatively, for an Order remanding this matter to the Idaho Department of Water Resources and/or the Water Resources Board with instructions to dismiss these proceedings pursuant to I.C. 42-3808 due to the emergency nature of the bank armoring Defendant performed;
3. Alternatively for an Order remanding this matter to the Idaho Department of Water Resource and/or the Water Resources Board with instructions to issue a permit which contains conditions which maximize Petitioner's personal liberty.
4. Alternatively, for an Order which precludes the Department from mandating Petitioner assume an uncapped liability as a condition of its performance of work the Department is Ordering Petitioner to perform on land which a third party claims to own.

5. Alternatively, for an Order compelling the State to clear title to this section of the Big Wood River prior to issuing any Order compelling Petitioner to perform any stream channel restoration work in or along this section of the Big Wood River.
3. For reasonable costs of suit;
4. For reasonable attorney fees pursuant to Idaho Code §§ 12-117, the Private Attorney General Doctrine, or other applicable statutes or rules;
5. For such other and further relief as the Court deems just and proper.

DATED this ___17th___ day of June, 2026.

LAW OFFICES OF J. KAHLE BECKER

/s/ J. Kahle Becker

By: _____
J. KAHLE BECKER
Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this __17th__ day of June 2026, a true and correct copy of the foregoing **PETITION FOR JUDICIAL REVIEW** was served by email as follows:

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/s/ J. Kahle Becker
By: _____
J. KAHLE BECKER
Attorney for the Petitioner