

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,  
BURLEY IRRIGATION DISTRICT,  
MILNER IRRIGATION DISTRICT,  
MINIDOKA IRRIGATION DISTRICT,  
NORTH SIDE CANAL COMPANY, AND  
TWIN FALLS CANAL COMPANY

Docket No. CM-DC-2010-001

**ORDER GRANTING A&B'S REQUEST  
TO WITHDRAW REQUEST FOR  
HEARING RE: SCOPE OF RIGHTS**

**BACKGROUND**

On May 2, 2016, A&B Irrigation District ("A&B") submitted to the Director ("Director") of the Idaho Department of Water Resources ("Department") *A&B Irrigation District's Petition for Reconsideration and Request for Hearing Re: April 2016 As Applied Order* requesting a hearing on the Director's April 19, 2016, *Final Order Regarding April 2016 Forecast Supply (Methodology Steps 1-3)* ("April Forecast Supply Order").

On May 11, 2016, the Director issued an *Order on Petition for Reconsideration and Request for Hearing*: 1) re-calculating A&B's proportionate share of the predicted demand shortfall of 42,000 acre-feet identified in the April Forecast Supply Order, and 2) granting A&B's request for hearing on the issue of the scope of junior-priority ground water rights that should be subject to administration in response to the Surface Water Coalition ("SWC") delivery call.

On June 14, 2016, A&B submitted a letter to the Director stating "it has elected to not deliver groundwater pursuant to its enlargement water rights that are subject to the [April Forecast Supply Order]" and requesting the Director "rescind any mitigation obligation attributed to [A&B]."

On June 30, 2016, the Director issued a response to A&B's June 14, 2016, letter stating that A&B will not have a mitigation obligation for this year if A&B curtails the enlargement ground water rights and if the priority date for curtailment for 2016 remains junior to A&B's other ground water rights.

On July 1, 2016, A&B filed *A&B Irrigation District's Notice of Withdrawal of Request for Hearing* withdrawing its request for hearing on the issue of the scope of junior-priority ground water rights that should be subject to administration in response to the SWC delivery call. The Department received no opposition to A&B's request to withdraw its request for hearing.

**ORDER**

IT IS HEREBY ORDERED that A&B's request to withdraw its request for hearing on the issue of the scope of junior-priority ground water rights that should be subject to administration in response to the SWC delivery call is GRANTED.

DATED this 2<sup>nd</sup> day of September 2016.



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GARY SPACKMAN  
Director


## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 2nd day of September 2016, the above and foregoing was served on the following by the method(s) indicated below:

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Deborah Gibson  
Admin. Assistant for the Director



## EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

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

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

### PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order 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 department 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 67-5246(4), Idaho Code.

### REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, 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. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.