

**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 DENYING MOTION TO  
RE-SET HEARING**

**BACKGROUND**

On May 22, 2023, the Cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Idaho Falls, Jerome, Paul, Pocatello, Richfield, Rupert, Shoshone, and Wendell (collectively the “Cities”), the Idaho Ground Water Appropriators, Inc. (“IGWA”), Bonneville-Jefferson Groundwater District (“BJGWD”), and Bingham Groundwater District (“BGWD”) (collectively “Groundwater Users”), filed a *Motion to Re-Set Hearing* (“Motion to Re-Set”), wherein the Groundwater Users requested that the hearing be re-set from June 6–10 to June 19–23. *Motion to Re-Set* at 2.

On May 23, 2023, the Surface Water Coalition (“SWC”) filed *Surface Water Coalition’s Opposition to Groundwater Users’ Motion to Re-Set Hearing Dates* (“Objection to Motion to Re-Set Hearing”).

**ANALYSIS**

Rule 560 of the Department’s Rules of Procedure grants the presiding officer the discretion to continue a proceeding. IDAPA 37.01.01.560. Rules 710 and 711 advise that scheduling orders are interlocutory orders, and that the presiding officer has the discretion to “rescind, alter or amend any interlocutory order...”. IDAPA 37.01.01.710–711.

The Groundwater Users contend that resetting the hearing for June 19–23 will allow IGWA’s expert Jaxon Higgs and counsel for the Cities Candice McHugh to attend the hearing in person. *Motion to Re-Set* at 2–3. The Groundwater Users further contend that resetting the hearing will allow the Cities’ expert Greg Sullivan and Ms. McHugh more time for preparation. *Id.* The Groundwater Users also point out that the Groundwater Users have filed various district court actions and associated motions and resetting the hearing date would allow “due consideration” to the various motions. *Id.* at 3.

The SWC opposes the motion, arguing the Groundwater Users “offer no new facts that would justify any further delay in this case. Instead, they repeat the same claims the Director fully considered and addressed” in his order responding to the Groundwater Users’ previous

request to move the hearing dates. *Objection to Motion to Re-Set Hearing* at 2. The SWC argues that “[w]hile the Director provided for remote participation for consultants that cannot travel to Idaho or will be voluntarily out-of-state at that time, that accommodation is overlooked.” *Id.* The SWC characterizes the Groundwater Users’ motion to reset as nothing more than a delay tactic to buy time for their various district court lawsuits. *Objection to Motion to Re-Set Hearing* at 3–4. The SWC argues that any delay in hearing will unreasonably delay water administration and that worsening water supply conditions justify moving forward promptly. *Id.* 5–7. The SWC also asserts its expert David Colvin will be traveling to Vietnam from June 8–21, and that Mr. Colvin has already made arrangements to appear in person at the hearing on June 6–7. *Id.* at 7; *see also* Colvin Decl. ¶¶ 4, 8.

Unfortunately, it appears that given the number of parties involved, there will not be a time later in June that will be free of conflicts. The Groundwater Users do not provide any new or additional information that would justify moving the hearing date. The Director has already authorized remote participation for the Groundwater Users’ experts and counsel. The Director previously stated that he would “consider moving the hearing to other dates within the first three weeks of June 2023 if the parties file[d] a stipulated motion requesting the change.” *Order Denying Second Motion to Continue* at 4. Because the parties failed to stipulate to resetting the hearing, the Director concludes it is best to keep the current hearing dates of June 6–10, 2023.

### ORDER

Based on the forgoing discussion, IT IS HEREBY ORDERED that the Groundwater Users’ *Motion to Re-Set Hearing Dates* is DENIED.

DATED this 26th day of May 2023.



Gary Spackman  
Director

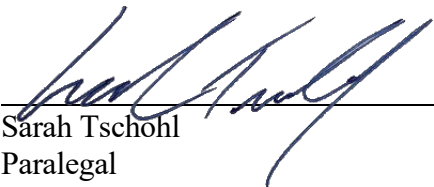
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of May 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

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