

**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 Nos. CM-DC-2010-001
CM-MP-2016-001

**ORDER GRANTING
STIPULATED MOTION TO
EXTEND STAY**

IN THE MATTER OF IGWA’S SETTLEMENT
AGREEMENT MITIGATION PLAN

BACKGROUND

On June 20, 2024, the Surface Water Coalition (“SWC”)¹ and Ground Water Users² filed a *Joint Motion for Order Approving 2024 Stipulation (“June Stay Motion”)* with the Department.³ On July 3, 2024, the same parties filed a *Stipulation and Joint Motion Regarding SWC Delivery Call and 2016 Plan (“July Stay Motion”)*. In both the *June Stay Motion* and *July Stay Motion*, the stipulating parties moved for a stay of litigation in the above-captioned matters until October 1, 2024. *June Stay Motion* Ex. A, § 9; *July Stay Motion*, at 3. As requested, the Director granted a stay of litigation in the matters. See *Order Approving 2024 Stipulation as Compliance with Approved Mitigation Plan*, at 8.

On October 1, 2024, the SWC and Ground Water Users filed a *Stipulation and Joint Motion to Extend Stay (“October Stay Motion”)*. In their motion, the parties represented that they were “working through final details of [a] long-term mitigation plan that can be submitted to their respective boards for approval, and they desire to extend the stay of litigation in this matter until November 1, 2024, to enable them to complete that process.” *October Stay Motion*, at 3. The Director granted the stay extension, including in the order, “[a]ll deadlines will begin to run when the stay concludes on November 1, 2024.” *Order Granting Joint Motion to Extend Stay*, at 2.

¹ The SWC is comprised 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.

² “Ground Water Users” refers to the Idaho Ground Water Appropriators, Inc., American Falls-Aberdeen Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry’s Fork Ground Water District, Jefferson Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, and North Snake Ground Water District, collectively.

³ The SWC and Ground Water Users submitted the *June Stay Motion* to the Department by email on June 19, 2024. Because June 19, 2024, was a holiday, the *June Stay Motion* was deemed filed the next business day. IDAPA 37.01.01.53.01.b,

On November 15, 2024, the SWC and Ground Water Users⁴ fully executed a new long-term mitigation agreement—the *2024 Stipulated Mitigation Plan* (“*2024 Mitigation Plan*”)—that will replace the subject *2016 Mitigation Plan*, if approved. See *2024 Mitigation Plan*, §§ 1, 11; see also *Stipulated Motion to Extend Stay*, at 2 (Dec. 3, 2024) [hereinafter *December Stay Motion*]. On November 19, 2024, the *2024 Mitigation Plan* was filed with the Department as Appendix A of a *Joint Motion for Order Approving 2024 Stipulated Mitigation Plan*; the Department assigned the matter Docket No. CM-MP-2024-003. In December of 2024, notice of the proposed *2024 Mitigation Plan* was publicly advertised by the Department in accordance with Idaho Code § 42-222(1) and Rule 43 of the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources. The deadline to file a protest against the approval of the *2024 Mitigation Plan* is December 23, 2024.

On December 3, 2024, the SWC and Ground Water Users filed the *December Stay Motion* in the above-captioned matters. In their motion, the parties request the Director issue “an order extending the stay of litigation” in both matters until January 31, 2025,⁵ “[t]o accommodate the approval process” of the proposed *2024 Mitigation Plan*. *December Stay Motion*, at 2. The parties also request the Director consider the motion without oral argument and on an expedited basis. *Id.* No responses to the *December Stay Motion* have been filed with the Department.

ANALYSIS

The moving parties include all the signatories to the *2016 Mitigation Plan*⁶ and no responses were filed to the *December Stay Motion* within the time allowed pursuant to Rule 220 of the Department’s Rule of Procedure. See IDAPA 37.01.01.220.b. Therefore, the Director will exercise his discretion to grant the *December Stay Motion*. Additionally, considering the previous stay of litigation in the above-captioned matters concluded November 1, 2024, in the interest of procedural economy and for the sake of calculating deadlines, the Director will grant the stay retroactively.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the Director GRANTS the December 3, 2024 *Stipulated Motion to Extend Stay*; the following are STAYED from November 1, 2024 until January 31, 2025, or until the SWC and Ground Water Users file a motion to dismiss the *2016 Mitigation Plan* and corresponding litigation with the Department:

⁴ Here “Ground Water Users” excludes Idaho Ground Water Appropriators, Inc., as it is not a signatory to the *2024 Mitigation Plan*.

⁵ No stay of litigation was requested or active in either matter from November 1, 2024 through December 2, 2024.

⁶ The *2016 Mitigation Plan* is comprised of the 2015 Settlement Agreement, the A&B-IGWA Agreement, the First Addendum, the Order Approving Mitigation Plan, the Second Addendum, and the Order Approving Amendment to Mitigation Plan. Each party who stipulated to the *December Stay Motion* is a signatory to at least one of the *2016 Mitigation Plan* underlying agreements and addendums. All signatories to the underlying agreements and addendums stipulated to the *December Stay Motion*.

1. Hearing and consideration of *IGWA's Petition for Reconsideration and Request for Hearing* and the *Surface Water Coalition's Petition for Reconsideration/Request for Hearing*, both filed May 17, 2024, in response to the Director's *Final Order Specifying Additional Actions*, issued May 3, 2024, in Docket No. CM-MP-2016-001.
2. The parties' deadlines for petitions for reconsideration, exceptions and briefs, and appeal regarding Hearing Officer Burdick's June 20, 2024 *Recommended Order* in Docket No. CM-MP-2016-001.
3. The parties' response deadlines and decision deadlines regarding IGWA's July 31, 2024 petition for clarification of the Director's July 17, 2024 *Order Revising April 2024 Forecast Supply and Amending Curtailment Order (Methodology Steps 5 & 6)* in Docket No. CM-DC-2010-001.

IT IS FURTHER ORDERED that any additional non-specified deadlines in Docket Nos. CM-DC-2010-001 and CM-MP-2016-001 are likewise STAYED in the interim. All deadlines will begin to run when the stay concludes on January 31, 2025, or on the day the SWC and Ground Water Users file a motion to dismiss the 2016 Mitigation Plan and corresponding litigation with the Department.

Dated this 23rd day of December 2024.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

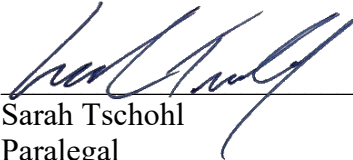
I HEREBY CERTIFY that on this 23rd day of December 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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⁷ Through informal means and the receipt of undelivered mail, the Department has been made aware that the mailing address for counsel of McHugh Bromley, PLLC has changed from the service address the Department has on record in this matter: 380 South 4th Street, Suite 103, Boise, ID 83702. To avoid additional unnecessary expense, the Department has updated the mailing address for McHugh Bromley, PLLC in this matter. However, this update does not remove any duty that counsel of McHugh Bromley, PLLC may have to formally notify the Department and the parties of their change of mailing address for service in this matter.

<p>COURTESY COPY TO: Craig Chandler IDWR—Eastern Region 900 N. Skyline Drive, Ste. A Idaho Falls, ID 83402 craig.chandler@idwr.idaho.gov</p>	<input checked="" type="checkbox"/> Email
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