

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

IN THE MATTER OF CITY OF BOISE WATER
RIGHT Nos. 63-3013, 63-3014, 63-7005B, 63-7042B,
63-7047, 63-7053, 63-7055A, 63-7055C, 63-7055D,
63-7064A, 63-7064B, 63-7078B, 63-7755B, 63-8130B,
63-8435, 63-9243, 63-9359, 63-12461 and 63-12470

**ORDER DISMISSING
CONTESTED CASE**

INTRODUCTION

On October 5, 2022, Petitioner CS Property Development LLC (“CS Property”) filed with the Idaho Department of Water Resources a *Petition for Partial Forfeiture* (“*Petition*”). The *Petition* named the City of Boise (“City”) as the owner of certain water rights, alleged those water rights were partially forfeited, and requested the Department amend the water rights accordingly. Specifically, CS Property requested the Department “initiate a contested case and move to formal proceedings pursuant to IDAPA 37.01.01.101 to amend the City’s decreed water rights to represent this forfeiture and to decrease the City’s combined Water Rights.” *Petition* at 5.

On November 21, 2022, the Director issued an *Order Directing Service of Petition on the City of Boise* requiring CS Property to serve the *Petition* upon the City and comply with IDAPA 37.01.01.053.05. Adhering to the Director’s order, on December 21, 2022, CS Property filed a *Declaration of Service on City of Boise*.

On December 18, 2023, CS Property filed a *Notice of Withdrawal of Petition for Partial Forfeiture* (“*Notice*”). The *Notice* states that CS Property and the City entered into a Stipulation and Settlement Agreement in which CS Property agreed to withdraw its *Petition* upon certain conditions being met. *Notice* at 1–2. The *Notice* reports that the conditions for withdrawal were satisfied and notifies the Department that the *Petition* is withdrawn without prejudice. *Id.* at 2. Pursuant to IDAPA 37.01.01.303, “[u]nless otherwise ordered by the presiding officer, the notice [of withdrawal] is effective seven (7) days after filing.”

ORDER

IT IS HEREBY ORDERED, in accordance with IDAPA 37.01.01.303, that CS Property Development LLC’s *Petition for Partial Forfeiture* is withdrawn, effective December 26, 2023, and the contested case in this matter is DISMISSED.

DATED this 27th day of December 2023.

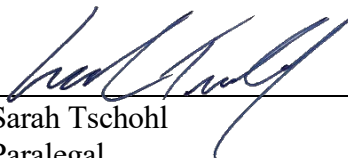


MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 27th day of December 2023, the above and foregoing was served by the method indicated below, and addressed to the following:

<p>Albert P. Barker MARTEN LAW LLP P.O. Box 2139 Boise, Idaho 83701-2139 abarker@martenlaw.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Darrell Early CITY OF BOISE P.O. Box 500 Boise, Idaho 83701 dearly@cityofboise.org</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>



Sarah Tschohl
Paralegal

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.