

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

**IN THE MATTER OF APPLICATION  
FOR PERMIT 63-34348 IN THE NAME  
OF ELMORE COUNTY, BOARD OF  
COUNTY COMMISSIONERS**

**ORDER EXTENDING DEADLINE TO  
ISSUE FINAL ORDER**

**BACKGROUND**

On March 3, 2017, the Board of County Commissioners of Elmore County (“Elmore County”) applied for Permit No. 63-34348 (“Application”) with the Idaho Department of Water Resources (“Department”). Elmore County seeks to appropriate 200 cubic feet per second and/or 10,000 acre-feet per year for storage from the South Fork of the Boise River. The application proposes beneficial use of water for diversion to storage, ground water recharge storage, ground water recharge from storage, ground water recharge, irrigation storage, irrigation from storage, and irrigation. *Application* at Attachments p.2—Proposed Uses.

The Boise Project Board of Control (“BPBC”); the group of protestants collectively referred to herein as the Ditch Companies;<sup>1</sup> Idaho Power Company; Cat Creek Energy, LLC;<sup>2</sup> the City of Boise (“Boise”); Riverside Irrigation District; the Idaho Conservation League (“ICL”); and the United States Bureau of Land Management timely protested the Application.

On November 13-16 and December 7-10, 2018, the hearing officer heard and received evidence in this contested case. Post-hearing briefs were authorized by the hearing officer and Elmore County, BPBC, Boise, the Ditch Companies, and ICL timely filed briefs.

On April 2, 2019, the hearing officer issued a *Preliminary Order Approving Permit Upon Conditions* (“Preliminary Order”). On April 16, 2019, Elmore County timely filed a *Petition for Reconsideration/Petition for Clarification* (“Petition”).

The hearing officer issued an *Order on Reconsideration; Amended Preliminary Order Approving Permit Upon Conditions* on May 7, 2019, in which the Petition was granted in part and denied in part.

On May 21, 2019, the Ditch Companies filed *Exceptions to Amended Preliminary Order Approving Permit Upon Conditions* and Elmore County filed its *Exceptions to Amended Preliminary Order / Renewed Petition for Clarification*.

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<sup>1</sup> The Ditch Companies are: Ballentyne Ditch Company, Canyon County Water Company, Eureka Water Company, Farmers’ Cooperative Ditch Company, Middleton Mill Ditch Company, Middleton Irrigation Association, Inc., Nampa & Meridian Irrigation District, New Dry Creek Ditch Company, Pioneer Ditch Company, Pioneer Irrigation District, and Thurman Mill Ditch Company.

<sup>2</sup> Cat Creek Energy, LLC, withdrew its protest on August 28, 2018.

On June 4, 2019, Boise filed a *Response to Elmore County's Exceptions to Amended Preliminary Order/Renewed Petition for Clarification*. Also on June 4, 2019, Elmore County filed a *Response to Protestant's Exceptions*.

### ANALYSIS

The Department's Rule of Procedure 730.02.d requires the Director to issue a final order within fifty-six days of receipt of written briefs or oral argument regarding exceptions to a preliminary order, "whichever is later, unless waived by the parties or for good cause shown." IDAPA 37.01.01.730.02.d. As described above, the last written brief regarding the exceptions was filed on June 4, 2019. The Director is required to issue a final order thereon by July 30, 2019, unless "good cause" is shown to extend the deadline. *Id.*

Good cause exists to extend the deadline for the Director to issue a final order. The various exceptions and related briefing raise important legal and policy issues that require careful consideration and extensive legal research. Additional time is needed to conduct the necessary research and exhaustive evaluation of the issues presented prior to issuance of a final order. Accordingly, the Director will extend the deadline for issuing a final order by two weeks to August 13, 2019.

### ORDER

IT IS HEREBY ORDERED that the deadline for the Director to issue a final order is EXTENDED to August 13, 2019.

Dated this 30<sup>th</sup> day of July 2019.

  
\_\_\_\_\_  
Gary Spackman  
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July 2019, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

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*For SUEZ Water Idaho Inc., non-party*

  
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