BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY MEMBERS OF THE BIG WOOD & LITTLE WOOD WATER USERS ASSOCIATION DIVERTING FROM THE BIG WOOD RIVER	Docket No. CM-DC-2015-001
IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY MEMBERS OF THE BIG WOOD & LITTLE WOOD WATER USERS ASSOCIATION DIVERTING FROM THE LITTLE WOOD RIVER	Docket No. CM-DC-2015-002 **FINAL ORDER DISMISSING DELIVERY CALLS**

On April 22, 2016, the District Court issued a *Memorandum Decision and Order* and *Judgment* in *Sun Valley Company v. Spackman*, CV-WA-2015-14500, a judicial review proceeding involving the two above captioned delivery calls pending before the Idaho Department of Water Resources ("Department") and its Director, Gary Spackman ("Director"). The District Court held that the "seniors failed to satisfy both the filing and service requirements of Rule 30 to the prejudice of the substantial rights of Sun Valley, the Cities of Fairfield and Ketchum, and the Water District 37B Ground Water Association." *Memorandum Decision and Order* at 14. The District Court set aside the Director's *Order Denying Sun Valley Company's Motion to Dismiss* issued on July 22, 2015, and remanded the matter back to the Department "for further proceedings as necessary." *Judgment* at 3. No appeal was filed.

On April 22, 2016, the District Court also issued a *Memorandum Decision and Order* and *Judgment* in a companion case, *City of Hailey v. Spackman*, CV-WA-2015-14419, a second judicial review proceeding involving the two above captioned delivery call proceedings. The District Court held that its decision in *Sun Valley Company v. Spackman* "is dispositive of the issues raised by the parties in this matter." *Memorandum Decision and Order* at 6. The District Court set aside the Director's *Order Denying Joint Motion to Designate ACGWS by Rulemaking*

and to Dismiss Delivery Calls issued on July 22, 2015, and remanded the matter back to the Department "for further proceedings as necessary." *Judgment* at 3. No appeal was filed.

Based on the District Court's decision in *Sun Valley Company v. Spackman*, the Director concludes no further proceedings are necessary and the Director should dismiss the delivery calls.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the Big Wood Delivery Call (Docket No. CM-DC-2015-001) and the Little Wood Delivery Call (Docket No. CM-DC-2015-002) are DISMISSED.

DATED this 22nd day of June 2016.

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 23rd day of June 2016, I served a true and correct copy of the above and foregoing document by placing a copy of the same in the United States mail, postage prepaid and properly addressed and by e-mail to participants who have provided e-mail addresses to the Department for service to the following:

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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.