

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application for)	
Encroachment L95S6166,)	AGENCY Case No. PH-2025-NAV-22-002
)	
Mark E. Allen,)	OAH Case No. 25-320-04
)	
Applicant.)	ORDER OF DISMISSAL WITHOUT
)	PREJUDICE
)	

On July 31, 2025, Objector Randy Folkins emailed the Hearing Officer and all parties, stating: "Please let it be known that I am hereby withdrawing my objection to case #PH-2025-NAV-22-002, OAH Case No. 25-320-04. Therefore, no hearing should be necessary as scheduled for August 5th, 2025."

After the Hearing Officer advised the parties that this email would be treated as a motion to dismiss the proceeding, Applicant Mark Allen emailed all parties on July 31, 2025 to advise: "I join Mr. Folkins' motion." Thereafter, on August 1, 2025, the Idaho Department of Lands (IDL) filed its Notice of Non-Opposition to Motion to Dismiss ("IDL Non-Opposition").

DISCUSSION

The pending Motion to Dismiss was made informally by Objector Folkins, with Applicant Allen joining the motion and IDL not opposing the motion. As reflected in the discussion on the record at the July 29, 2025 prehearing conference, as well as the summary provided by IDL in its Non-Opposition, the dismissal at this juncture appears to be reflected on at least some informal discussions between Applicant Allen and Objector Folkins implicating potential changes to the pending application which may require additional evaluative work by IDL with respect to any updated plans and/or a new permit application. Given that the requested dismissal appears predicated on actions which may or may not occur and lacks a definitive finality – and absent any

specific request otherwise - the Hearing Officer concludes a dismissal in this instance would be one without prejudice.

Accordingly, based upon the submissions of the parties, it appears dismissal without prejudice is appropriate. In ordering such dismissal, the Hearing Officer adopts IDL's clarification that, given the current posture of this matter and resolution(s) being discussed by the Applicant and Objector, this dismissal does not constitute a waiver of IDL's rights or policies, and does not constitute a consent by IDL to encroachments being built to plans other than those submitted with an application.

ORDER

Based upon the above, IT IS HEREBY ORDERED that this proceeding is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATED: August 4, 2025.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Bryan A. Nickels

Bryan A. Nickels

Chief Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of August, 2025, I was caused to be served a true and correct copy of the foregoing by the following method to:

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/s/ Elaine Maneck
Elaine Maneck, Deputy Clerk
Office of Administrative Hearing