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Over 100 Years of Legal Services to the Magic Valley

August 30, 2016

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SEP 01 2016

DEPARTMENT OF
WATER RESOURCES

State of Idaho
Department of Water Resources
Post Office Box 83720
Boise, Idaho 83720-0098

45-13470
45-14444

Re: Final Order Regarding Management Program in the Matter of Expansion Ground Water Rights in the Oakley Fan Critical Ground Water Areas

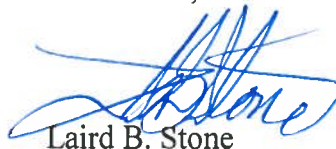
To Whom It May Concern:

Enclosed are the Final Order Re: Management Program and letter from Tim Luke that we received on August 29, 2016. We no longer represent Lambert Produce, Inc., and have not represented them for some time. Please ensure that these documents have been served upon Lambert Produce, Inc.'s current counsel of record.

As we do not represent any other parties to this action, please ensure that we are removed from your certificate of service and/or mailing list with regard to this matter.

Respectfully yours,

STEPHAN, KVANVIG, STONE & TRAINOR



Laird B. Stone

LBS:cl
Enclosures
cc: Lambert Produce, Inc. w/out Encl.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

AUG 29 2016

MARY SPACKMAN
Director

August 26, 2016

Re: Final Order Regarding Management Program in the Matter of Expansion Ground Water Rights in the Oakley Fan Critical Ground Water Areas

Dear Water User:

The Idaho Department of Water Resources ("Department") has issued the enclosed Final Order ("Order") regarding ground water expansion rights and the adequacy of the Southwest Irrigation District's ("SWID") and Goose Creek Irrigation District's ("GCID") proposed Ground Water Management Program for the Artesian City, Oakley-Kenyon, and West Oakley Fan Critical Ground Water Areas. The enclosed Order is a final order pursuant to Section 67-5246, Idaho Code. Any party may file a petition for reconsideration of a final order as explained in the enclosed information sheet.

Water right records on file at the Department indicate that you are the owner of a ground water right(s) which was claimed and decreed in the Snake River Basin Adjudication as an expansion right(s) pursuant to Idaho Code § 42-1416B. An expansion right represents an expanded use of a ground water right located within a Critical Ground Water Area ("CGWA"), where the expanded use occurred after the designation of the CGWA and in violation of mandatory permit requirements. Idaho Code § 42-1416B requires expansion rights to be curtailed "unless the director [of the Department] finds that a management program exists which will, within a time period acceptable to the director, limit the average annual water withdrawals from the aquifer designated in the critical ground water area to no more than the average annual recharge to the aquifer."

SWID and GCID submitted a *Critical Ground Water Management Plan* to the Department on June 15, 2016. SWID and GCID submitted an updated Management Plan on August 22, 2016. **The Department finds that the SWID and GCID updated Management Plan is an adequate management program to bring ground water withdrawals into balance with recharge in the OFCGWAs. As a result, holders of ground water expansion rights in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs may continue use of water in accordance with those expansion rights.**

A copy of this notice has been sent to all holders of expansion rights in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs. For personal assistance regarding this matter, please contact Tim Luke, IDWR State Office, at 208-287-4959, or Nathan Erickson, IDWR Twin Falls Regional Office at 208-736-3033.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF EXPANSION
GROUND WATER RIGHTS IN THE
OAKLEY FAN CRITICAL GROUND
WATER AREAS

**FINAL ORDER RE: MANAGEMENT
PROGRAM**

FINDINGS OF FACT

Background

1. On January 16, 1962, the Director ("Director") of the Idaho Department of Water Resources ("Department")¹ issued an order designating the Goose Creek-Rock Creek ("GCRC") Critical Ground Water Area ("CGWA") pursuant to Idaho Code § 42-233a. *Order Designating the Goose Creek-Rock Creek Critical Ground Water Area*, (Jan. 16, 1962). The designated area included ground water located within the Goose Creek, Cottonwood Creek, and Dry Creek drainages in the Department's Administrative Basin No. 45, excluding areas in the northern part of the basin within the Burley Irrigation District, Milner Irrigation District and Twin Falls Canal Company boundaries. The far western portion of the GCRC CGWA included a portion of the Rock Creek drainage and an area between Murtaugh Lake, Hansen and the Snake River in both Administrative Basins 45 and 47.

2. The boundary of the GCRC CGWA was modified on September 6, 1967, creating three separate CGWAs including Artesian City, Cottonwood and Oakley Kenyon CGWAs. *Order Modifying Boundaries of Goose Creek-Rock Creek Critical Ground Water Area* (Sept. 6, 1967).

3. The West Oakley Fan CGWA was designated by order of the Director on January 19, 1982. *Order Establishing Critical Ground Water Area*, In the Matter of the West Oakley Fan Critical Groundwater Area (Jan. 19, 1982). The order stated that, "the available water resource is limited and that with present development localized water level declines are occurring within the aquifer system." The order further stated that "the records of the department indicate potential withdrawal and use of groundwater pursuant to the existing permits and licenses total more than 1.4 times the calculated recharge and would exceed the reasonably safe supply."

¹ At the time, the Department was known as the Idaho Department of Reclamation.

4. The Artesian City, Cottonwood, Oakley-Kenyon, and West Oakley Fan CGWAs (“Oakley Fan CGWAs”) form a contiguous area and are managed as a single unit. The aquifers within the Oakley Fan CGWAs are likely all hydraulically connected.²

5. Idaho Code § 42-1416B, enacted March 2, 1989, allows uses of ground water in a critical ground water area expanded in violation of mandatory permit requirements to be “decreed in a general water rights adjudication if the expansion occurred after the designation of the critical ground water area, before the commencement of the adjudication, and before the date of enactment of” the statute.

6. The Oakley Fan CGWAs are located within the Snake River Basin. A general adjudication of the Snake River Basin was completed on August 26, 2014, through issuance of the *Final Unified Decree* by the Snake River Basin Adjudication (“SRBA”) District Court. See *Final Unified Decree, In re SRBA, Case No. 39576* (Fifth Jud. Dist. Ct. Aug 26, 2014).

7. The SRBA District Court issued eighty partial decrees in the Oakley Fan CGWAs based on water right claims filed pursuant to Idaho Code § 42-1416B.³ Nearly all of the eighty partial decrees for ground water expansion rights are for irrigation use. All eighty rights have points of diversion within Water District 140. See *Amended Final Order Creating the Oakley Valley Area Water District* (Sept. 4, 2008). The total number of irrigated acres represented by all Oakley Fan CGWA expansion rights is 12,722 acres.

8. Idaho Code § 42-1416B(2) states that, even if expansion rights are decreed in a general water rights adjudication, water will not be deemed available to “fill the rights for expanded use . . . unless the [D]irector finds that a management program exists which will, within a time period acceptable to the [D]irector, limit the average annual water withdrawals from the aquifer designated in the critical ground water area to no more than the average annual recharge to the aquifer.”

9. The Director must “make a finding as to whether an adequate management program exists to bring withdrawals into balance with recharge.” Idaho Code § 42-1416B(3). The finding must occur “[w]ithin two (2) years after a decree determining the water rights within a critical ground water area becomes final, but not sooner than four (4) years from the date of enactment” of Idaho Code § 42-1416B. *Id.*

10. “If the [D]irector finds that an adequate management program to bring withdrawals into balance with recharge does not exist, the [D]irector shall order all holders of rights to expanded use of ground water within the area to cease or reduce withdrawal of water . . .” Idaho Code § 42-1416B(4). “The [D]irector’s order shall be issued before September 1 and shall be effective beginning with the following irrigation season.” *Id.*

11. In accordance with Idaho Code § 42-1416B, the Director must find whether an adequate management program exists to bring withdrawals into balance with recharge in the Oakley Fan CGWAs by August 26, 2016. If the Director finds an adequate management

² Young, H.W. and Newton, G.D. *Hydrology of the Oakley Fan Area, South-Central Idaho*. USGS Water Resources Investigation Report 88-4065, p. 42 (1989).

³ According to Department records, one right owned by Alan Ward (43-14340) was abandoned.



program does not exist, the Director must order all holders of expansion rights in the Oakley Fan CGWAs to cease or reduce withdrawal of water.

12. On February 5, 2015, the Department held a public information meeting in Burley, Idaho to inform the holders of ground water expansion rights about the requirements of Idaho Code § 42-1416B. Notice of the public meeting was mailed to the holders of all expansion rights in the Oakley Fan CGWAs on January 15, 2015.

13. At the public information meeting, Department staff offered the following suggestions and timelines for addressing expansion rights in the Oakley Fan CGWAs:

- From February 2015 to April 2016, water users should decide on and/or develop one management program for all expansion rights in the Oakley Fan CGWAs for submittal to the Director; and
- From April 2016 to September 1, 2016, the Director will review any submitted management program and issue findings regarding the adequacy of the program to bring withdrawals into balance with recharge.

14. Department staff also presented a water balance analysis completed by Department staff, mitigation activities implemented by Southwest Irrigation District (“SWID”) and Goose Creek Irrigation District (“GCID”) in 2013, and a Department analysis of historical water level trends for 39 wells within the Oakley Fan CGWAs.

15. On March 24, 2016, the Department mailed notice to all holders of expansion rights in the Oakley Fan CGWAs that June 15, 2016, was the deadline for submitting a management program to the Director. The notice explained the requirements of Idaho Code § 42-1416B. The notice specifically stated that “all expansion rights will be curtailed in 2017 if a management program is not submitted and accepted by the Department.”

Management Plan Submitted by SWID and GCID

16. On June 15, 2015, SWID and GCID submitted to the Director a *Ground Water Management Plan*. SWID and GCID state that the Cottonwood CGWA “has been administered by the [Department] for several years.”

17. On August 26, 2016, the Director issued a *Final Order Regarding Management Plan*, In the Matter of Expansion Ground Water Rights in the Cottonwood Critical Ground Water Area, finding an adequate management program exists to bring withdrawals into balance with recharge in the Cottonwood CGWA. Therefore, this order only addresses the Oakley-Kenyon CGWA, West Oakley CGWA, and Artesian City CGWA.

18. On August 22, 2016, SWID and GCID submitted an updated *Ground Water Management Plan* (“Management Plan”) for the stated purpose of complying with Idaho Code §§ 42-1416B and 42-233a.

19. The Management Plan states that, “[e]ach practice listed in this program is to be completed in addition to pre-2016 practices” of conversions and recharge.

20. The Management Plan also estimates that a pipeline completed before the irrigation season in 2016 “will contribute 4,000 acre feet of increased conversion during the 2016 season.”

21. The Management Plan proposes a ten-year implementation timeline broken into three periods: 2017-2019, 2020-2022, and 2023-2026.

22. The practices proposed by the Management Plan in addition to pre-2016 practices are set forth as follows:

a. 2017-2019

- i. 10,000 acre-feet average increased conversions
 - 1. Buckhorn Pipeline
 - 2. Pickett-Duncan 2016 Pipeline
 - 3. New soft conversions on Oakley Canal Company system [“OCC”]
 - a. Needs accounting system between SWID & OCC
- ii. 10,000 acre-feet average recharge
 - 1. \$250,000 yearly on Buckhorn Pipeline and Murtaugh Lake stations [ten year storage water rental lease]
 - 2. Snake River [Recharge] Well construction

b. 2020-2022

- i. Minimum 5,000 acre-feet increased conversions
 - 1. Maximize Buckhorn Pipeline
 - a. Total 15,000 acre-feet annual
 - 2. Increased BID conversions
 - a. April-May & August-September
 - b. Increase canal capacity
- ii. Minimum 5,000 acre-feet increased recharge
 - 1. Buckhorn
 - 2. First phase of Wayment Pipelines
 - a. Winter pumps installed to fill J-Canal
 - 3. Dry Creek [Recharge] Well construction
 - 4. Additional active injection sites off of Murtaugh Lake

c. 2023-2026

- i. Second-Final phases of Wayment Pipelines
- ii. Tiered reduction program
 - 1. Volume dependent upon then current water table trends
 - 2. To be effective for the 2023 irrigation season

23. The Management Plan states that, “[i]f practices employed during the first phase do not stabilize the aquifer, SWID agrees to undertake the second period management practices listed and likewise for the third period.”

24. The Management Plan also states that, “[i]f the districts cannot complete the benchmarks listed in each period, or if aquifer levels continue to decline post-2026, SWID/GCID recognize the management program is no longer sufficiently effective.”

25. The Management Plan proposes a tiered reduction program and states that “Details of the finalized [tiered reduction] plan will depend on the amount of water needed to offset aquifer depletion at the time of initialization.”

26. SWID and GCID propose the use of sentinel wells to assess and evaluate the success of activities proposed by the Management Plan. The Management Plan identifies twenty-two wells as preliminary candidates for sentinel wells and six additional locations “where monitoring is desired.” The Management Plan states that “SWID commits to partner with [the Department] to drill up to two monitoring wells.” The Management Plan also states that “SWID/GCID propose collaboration with [the Department] to vet all wells and determine if the spatial distribution is sufficient.”

27. The Management Plan proposes that “wells will be evaluated on a yearly basis to assess progress” and that “data from each monitoring well must be analyzed individually, including determination of well elevation and measuring point. Following which, a normalized hydrograph of all wells will be created to assess the slope of the overall trend.”

28. The Management Plan states that “SWID/GCID are committed to collaboration” with the Department “to finalize all details of this monitoring program before the start of the 2017 irrigation season.”

Analysis of the Management Plan

29. Department records establish that SWID’s pre-2016 conversion and recharge projects resulted in a benefit of about 73,000 acre feet in 2015.

30. A Department staff hydrograph analysis concludes that mitigation activities in Water District 140 are having a positive impact on the water table in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs. However, in spite of these efforts, the groundwater declines have not stopped; 12 out of 14 wells with statistically significant trends have declining trends in their hydrographs since spring of 2009. The trend for 13 additional wells cannot be determined with 95% confidence, but correlations developed for 10 of the 13 wells establish declining trends.

31. Department staff conducted a Regional Mann-Kendall Test for Trend⁴ using data from spring measurements collected at 20 wells between 1967 and 2009. The Regional Mann-Kendall Test for Trend concluded that the water table was declining at a rate of 1.9 feet per year. A Regional Mann-Kendall Test for Trend conducted using data from spring measurements collected in the 27 wells measured between 2009 and 2016 concluded that the water table was declining at a rate of 1.0 feet per year.

⁴ Heisel, D.R., Mueller, D.K., and Slack, J.R., 2006. *Computer program for the Kendall family of trend tests*, U.S. Geological Survey Scientific Investigations Report 2005-5275.

32. The rate of water level decline decreased from 1.9 feet per year between 1967-2009 to 1.0 feet per year between 2009-2016. Between 2010 and 2015 the documented mitigation taking place within the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs averaged about 51,000 acre feet per year. An average mitigation of 51,000 acre feet per year reduced the water level decline from 1.9 feet per year to 1.0 feet per year, a 0.9 feet per year change. Assuming the change in water table decline can be wholly attributed to the mitigation activities and that the proportional relationship between mitigation activities and water level decline is equivalent, the total mitigation required to reduce the decline from 1.9 to 0.0 is 108,000 acre feet per year ($1.9 / 0.9 \times 51,000 \text{ acf/yr} = 108,000 \text{ acf/yr}$).

33. Because SWID's mitigation activities for 2015 totaled approximately 73,000 acre feet per year, at least 35,000 additional acre feet per year should be required to bring withdrawals into balance with recharge ($73,000 + 35,000 = 108,000$).

34. Assuming the tiered reduction program identified in the management plan results in a net reduction of aquifer pumping equal to or greater than 5,000 acre-feet, the Director finds that the practices proposed by the Management Plan in addition to pre-2016 practices and the timeline set forth in Finding of Fact 22 should produce at least 35,000 additional acre feet per year in a time period acceptable to the Director and, according to the Department's current analysis and estimates set forth in Findings of Fact 29 through 33, bring withdrawals into balance with recharge.

CONCLUSIONS OF LAW

1. The Director is responsible for direction and control over the distribution of water in accordance with the prior appropriation doctrine as established by Idaho law within water districts to be accomplished through watermasters supervised by the Director as provided in chapter 6, title 42, Idaho Code.

2. Idaho Code § 42-604 authorizes the Director to form water districts as necessary to properly administer uses of water from public streams, or other independent sources of water supply, for which a court having jurisdiction thereof has adjudicated the priorities of appropriation.

3. Again, SWID and GCID submitted the Management Plan to the Department for the stated purpose of complying with Idaho Code §§ 42-1416B & 42-233a.

4. Idaho Code § 42-1416B(3) requires that, because a general adjudication of the Snake River Basin was completed on August 26, 2014, through issuance of the *Final Unified Decree*, the Director must find whether an adequate management program exists to bring withdrawals into balance with recharge in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs by August 26, 2016. If the Director finds an adequate management program does not exist, the Director must order all holders of expansion rights in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs to cease or reduce withdrawal of water. Idaho Code § 42-1416B(4).

5. As explained in Findings of Fact 29 through 34, the Director finds that the Management Plan is an adequate management program to bring withdrawals into balance with recharge in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs. Specifically, the practices proposed by the Management Plan, assuming the tiered reduction program identified in the Management Plan results in a net reduction of aquifer pumping equal to or greater than 5,000 acre-feet, in addition to pre-2016 practices and the timeline set forth in Finding of Fact 22, should produce at least 35,000 additional acre feet per year in a time period acceptable to the Director and, according to the Department's current analysis and estimates set forth in Findings of Fact 29 through 33, bring withdrawals into balance with recharge.

6. In accordance with Idaho Code § 42-1416B, the Director will not order all holders of expansion rights in the Oakley-Kenyon, West Oakley Fan, and Artesian City CGWAs to cease or reduce withdrawal of water.

7. Idaho Code § 42-233a states that the Director "may approve a ground water management plan for" a CGWA when the CGWA is designated, "or at any time thereafter during the existence of the designation." "The ground water management plan shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water." *Id.*

8. Because the Director finds the Management Plan is an adequate management program to bring withdrawals into balance with recharge in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs, the Director concludes the Management Plan also "provides for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water."

9. In accordance with Idaho Code § 42-233a, the Director will approve the Management Plan as a ground water management plan for the Oakley-Kenyon, West Oakley Fan, and Artesian City CGWAs.

ORDER

IT IS HEREBY ORDERED that, because the Director finds that Management Plan is an adequate management program to bring withdrawals into balance with recharge in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs, holders of rights to expanded use of ground water within those CGWAs may continue use of water consistent with the partial decrees issued by the SRBA District Court.

IT IS FURTHER ORDERED that the Director reserves the right to require any modifications to the Management Plan the Director deems necessary to bring withdrawals into balance with recharge in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs and to manage the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water.

IT IS FURTHER ORDERED that, while SWID and GCID may assess the sentinel wells as proposed in the Management Plan and described in Finding of Fact 26, the Department

reserves the ability to assess the trends of the sentinel wells ultimately selected by using a regional analysis such as the Regional Mann-Kendall Test for Trend.⁵

IT IS FURTHER ORDERED that, if SWID and GCID do not complete the management practices listed in each of the three periods of time identified in Finding of Fact 22, the Director may order full curtailment of the expansion ground water rights in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs at the end of any period for which SWID or GCID did not complete the management practices.

IT IS FURTHER ORDERED that, if the Management Plan fails to bring withdrawals into balance with recharge in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs post-2026, the Director may order full curtailment of the expansion ground water rights in the areas.

IT IS FURTHER ORDERED that the Management Plan is approved as a ground water management plan for the Oakley-Kenyon, West Oakley Fan, and Artesian City CGWAs in accordance with Idaho Code § 42-233a.

IT IS FURTHER ORDERED that, pursuant to Idaho Code § 42-233a, the Director may order the holders of water rights in the Artesian City, Oakley-Kenyon, and West Oakley Fan CGWAs on a time priority basis to cease or reduce withdrawal of water upon determination that the ground water supply is insufficient to meet the demands of water rights within all or portions of the CGWAs until such time as the Director determines there is sufficient ground water.

IT IS FURTHER ORDERED that approval of the Management Plan does not obligate the Department to any expenditure of funds.

DATED this 26th day of August 2016.



GARY SLACKMAN
Director

⁵ The Mann-Kendall Test for Trend is useful since it is a nonparametric test and missing values are allowed, allowing the test to be used in a wide variety of situations. The Regional Mann-Kendall Test for Trend evaluates trends at different spatial locations and combines the results from the various locations into one consistent regional trend. The test is applicable where data have been gathered annually at numerous locations such as water levels collected from wells. *See Helsel, D.R., Mueller, D.K., and Slack, J.R., Computer program for the Kendall family of trend tests, U.S. Geological Survey Scientific Investigations Report 2005-5275 (2006).* If, during evaluation of a regional trend, trends exist at different locations in different directions, they will cancel each other out, leading to a conclusion of no consistent regional trend.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of August 2016, I served a true and correct copy of the foregoing document by U.S. mail, postage prepaid to the following:

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TOLMAN & SONS INC
D L EVANS BANK
PO BOX 87
TWIN FALLS ID 83303

US DEPT INTERIOR BLM
FRED PRICE
1387 S VINNELL WAY
BOISE ID 83709-1657

DANIEL G WARD
KARLA WARD
227 E 400 S
BURLEY ID 83318

DANIEL G WARD
KARLA WARD
RABO AGRIFINANCE INC
12443 OLIVE BLVD STE 50
ST LOUIS MO 63141

WATERSTREET FARMS
1496 S 500 W
OAKLEY ID 83346

WAYMENT FARMS INC
781 S 250 E
BURLEY ID 83318

WAYNE C ANDERSEN LLC
911 S 700 W
BURLEY ID 83318

WEST SLOPE FARMS INC
605 S 600 W
BURLEY ID 83318

WHITELEY BROTHERS LLC
700 W 2000 S
OAKLEY ID 83346

GRANT M WYATT
327 S 400 W
BURLEY ID 83318

WYBENGA DAIRY LLC
PO BOX 459
BURLEY ID 83318-0459

WYBENGA DAIRY LLC
STEVE C WYBENGA
PO BOX 459
BURLEY ID 83318

STEVE C WYBENGA
WYBENGA DAIRY LLC
PO BOX 459
BURLEY ID 83318-0459

ROSALIE D YOUNG
SHERMAN YOUNG JR
3134 S 1900 E
WENDELL ID 83355


Deborah Gibson
Admin. Assistant for the Director

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.