

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

IN THE MATTER OF TRANSFER	)	
APPROVAL 88172 IN THE NAME OF	)	PRELIMINARY ORDER
KNIFE RIVER CORPORATION	)	RESCINDING TRANSFER
<u>MOUNTAIN WEST</u>	)	

On June 27, 2023, Knife River Corporation Mountain West ("Knife River") filed Application for Transfer 88172 with the Idaho Department of Water Resources ("Department") proposing to change the point of diversion and place of use for a portion of ground water right 25-14499. Knife River amended Application 88172 on September 11, 2023. The Department published notice of the application, and no protests were received.

On September 15, 2023, the Watermaster for Water District 120 notified the Department about his concern that the transfer would result in an enforcement issue. According to the Watermaster, Knife River has periodically exceeded the annual volume limits of the water rights at the existing point of diversion for water right 25-14499. Transferring a portion of water right 25-14499 away could exacerbate that excess use.

On July 8, 2024, Knife River filed Application for Permit 25-14552 to cover some of the non-consumptive uses occurring at the existing place of use for water right 25-14499. The application addressed the enforcement concerns of the Watermaster for Water District 120.

The Department approved Transfer 88172 and Permit 25-14552 on September 20, 2024. On October 15, 2024, Knife River notified the Department that Transfer 88172 is no longer needed and requested that the Department rescind the transfer.

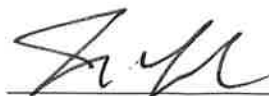
CONCLUSIONS OF LAW

Based on the evidence available to the Department, Knife River has not accomplished the changes authorized by Transfer 88172 and does not intend to accomplish the proposed changes. Therefore, Transfer 88172 can be rescinded without an additional application for transfer.

ORDER

IT IS HEREBY ORDERED that Application for Transfer 88172 in the name of Knife River is RESCINDED.

Dated this 15th day of October 2024.



James Cefalo, Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of October 2024, I mailed a true and correct copy of the foregoing PRELIMINARY ORDER RESCINDING TRANSFER, with the United States Postal Service, return receipt requested, postage prepaid and properly addressed to the person(s) listed below:

Knife River Corporation
Mountain West
5450 W Gowen Rd
Boise, ID 83709-5625
joe.smith@kniferiver.com

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way, Ste 303
Idaho Falls, ID 83402
kristin.rmea@gmail.com



Christina Henman
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **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 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case 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 this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.