

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

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 87701, IN THE NAME OF
GARDNER FARMS

**ORDER EXTENDING DEADLINE TO
ISSUE FINAL ORDER**

BACKGROUND

On March 23, 2023, Gardner Farms (“Gardner”) filed Application for Transfer of Water Right No. 87701 (“Application”) with the Idaho Department of Water Resources (“Department”). The Application proposed to change the point of diversion and place of use for a combined 13-acre portion of Water Right Nos. 35-14407 and 35-14408. The Application was protested by Idaho Power Company (“IPC”).

On March 27, 2024, James Cefalo, the appointed hearing officer, issued a *Preliminary Order Approving Transfer* (“*Preliminary Order*”) concluding the Application met the transfer requirements of Idaho Code § 42-222(1) and did not constitute an appropriation of Trust Water. *Preliminary Order*, at 22. The hearing officer approved the Application “subject to the conditions set forth in Transfer Approval 87701 issued in conjunction with [the] order.” *Id.*

On April 20, 2024, IPC filed a *Petition for Reconsideration*. On April 25, 2024, the Hearing Officer issued an *Order Denying Petition for Reconsideration*.

On May 9, 2024, IPC filed *Idaho Power Company’s Exceptions to Preliminary Order Approving Transfer and Brief in Support of Exceptions* (“*Exceptions*”) requesting the Director deny the Application “without additional review by the Department consistent with the Trust Water conditions.” *Exceptions*, at 10.

On May 23, 2024, Gardner filed *Applicant’s Response to Idaho Power Company’s Exceptions to Preliminary Order Approving Transfer and Brief in Support of Exceptions* (“*Gardner Response*”), stating the issues raised by IPC’s *Exceptions* “have already been addressed by the Hearing Officer, Gardner Farms has nothing further to add.” *Gardner Response*, at 2.

ANALYSIS

The Department’s Rule of Procedure 730.02.e 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 extended for good cause.” IDAPA 37.01.01.730.02.e. No additional supportive or responsive briefs have been filed in this contested case since the May 23, 2024 *Gardner Response*. Therefore, the Director is required to issue a final order by July 18, 2024, 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 *Exceptions* raise important legal and policy issues that require careful consideration and extensive legal research. Additional time is needed prior to issuance of a final order. Accordingly, the Director will extend the deadline for issuing a final order to October 1, 2024.

ORDER

IT IS HEREBY ORDERED that the deadline for the Director to issue a final order is EXTENDED to October 1, 2024.

Dated this 18th day of July 2024.

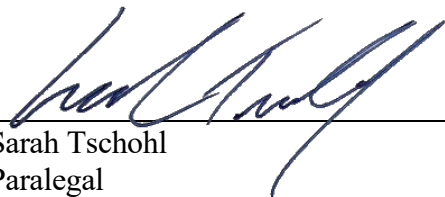


MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of July 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

Scott N. Pugrud IDAHO POWER COMPANY PO Box 70 Boise, Idaho 83707 spugrud2@idahopower.com John K. Simpson MARTEN LAW LLP PO Box 2139 Boise, Idaho 83701-2139 jsimpson@martenlaw.com jwitt@martenlaw.com <i>Attorneys for Idaho Power Company</i>	☒ U.S. Mail, postage prepaid ☒ Email
Luke H. Marchant DARRINGTON LAW, PLLC 601 7th St. PO Box 536 Rupert, ID 83350 luke@minicassialaw.com <i>Attorney for Gardner Farms</i>	☒ U.S. Mail, postage prepaid ☒ Email



Sarah Tschohl
Paralegal