

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

IN THE MATTER OF APPLICATION) FOR TRANSFER NO. 89436 IN THE) <u>NAME OF RENO DITCH CO LLC</u>)	ORDER DENYING PETITION FOR RECONSIDERATION AND GRANTING PETITION FOR HEARING
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On October 3, 2024, Reno Ditch Company LLC (“Reno” or “Applicant”) filed Application for Transfer 89436 with the Idaho Department of Water Resources (“Department”). The Department published notice of the application in November and December 2024. No protests were filed against the application.

On March 12, 2025, the Eastern Regional Manager for the Department issued a *Preliminary Order Denying Application* (“Preliminary Order”). The *Preliminary Order* described several ways that the changes proposed in Application 89436 could result in an enlargement in use of the water rights held by Reno. The *Preliminary Order* concluded: “Reno has not demonstrated that the changes proposed in Application 89436 will not result in an enlargement in use of the subject rights or Reno’s associated Birch Creek water rights.”

On March 26, 2025, Reno filed *Applicant’s Petition for Reconsideration* (“Petition for Reconsideration”) and a *Protest and Petition for Hearing* (“Petition for Hearing”).

Reno’s *Petition for Reconsideration* does not resolve the enlargement concerns described in the *Preliminary Order*. Reno has not identified the 800 acres that will be changed from direct irrigation to irrigation from storage. Reno has not identified a means to ensure that those 800 acres only receive water from storage. In fact, Reno suggests that the 800 acres, wherever they may be located, will continue to be irrigated with Reno’s direct irrigation water rights from Birch Creek. *Petition for Reconsideration* at 7 (“Not all acres historically irrigated will be irrigated when water is being diverted into storage or at least the acres will not be irrigated with as much volume of water as there was historically.”). Reno has not identified a means to ensure that excess water, which is not required for irrigation, is not captured and stored in the proposed reservoir. The *Preliminary Order* notes that Reno released excess water from its irrigation system in 2016, 2017, 2018, 2019, 2020 and 2021. If excess water is captured in the proposed reservoir, it would constitute an enlargement of use under the Birch Creek water rights delivered through the same proposed irrigation system. Reno’s *Petition for Reconsideration* does not include new information or facts and does not refute any of the facts set forth in the *Preliminary Order*. Although Reno proposes conditions that could be added to a transfer approval, the proposed conditions do not address the enlargement concerns set forth in the *Preliminary Order*. For these reasons, the *Petition for Reconsideration* should be denied.

Idaho Code § 42-1701A(3) states, in pertinent part:

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action, including action upon any application for a permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, 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.

Reno's *Petition for Hearing* was filed pursuant to Idaho Code § 42-1701A(3) and was timely because it was filed within fifteen days after Reno received notice of the *Preliminary Order*. Reno is aggrieved by the *Preliminary Order* and has not been given an opportunity for a hearing on the matter. Therefore, Reno's *Petition for Hearing* should be granted.

ORDER

IT IS HEREBY ORDERED that Reno's *Petition for Reconsideration* is DENIED. IT IS FURTHER ORDERED that Reno's *Petition for Hearing* is GRANTED. The Department shall assign a hearing officer and schedule a prehearing conference for the contested case.

Dated this 4th day of April, 2025.



James Cefalo
Regional Manager

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April 2025, I served a true and correct copy of the foregoing ORDER DENYING PETITION FOR RECONSIDERATION AND GRANTING PETITION FOR HEARING, by email, and with the United States Postal Service, postage prepaid and properly addressed to the person(s) listed below:

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