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DEPARTMENT OF
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR
TRANSFER 89232 IN THE NAME OF
GOOD TIMBER RANCH, LLC

**OPPOSITION TO MOTION TO STAY
PROCEEDINGS**

Applicant Good Timber Ranch, LLC (“Good Timber”), by and through counsel, hereby opposes the Motion to Stay Proceedings (“Motion”) filed by Protestants Georgie Stanley, Susan Miller, the Maguire Family Trust, Raft Rivers, Ainsely Rivers, and Gregory Collins (self-described as the “Good Neighbors,” but referred to collectively herein as the “Neighbors”) on June 3, 2025. The Neighbors argue that yet-to-be-filed lawsuits against Good Timber for an alleged violation of the Clean Water Act (“CWA”) and trespass constitutes good cause for staying the Idaho Department of Water Resources’ (“Department”) proceeding of Good Timber’s water right transfer application no. 89232 (the “Application”). As explained below, the Motion should be denied.

ARGUMENT

The Motion should be denied for three reasons. First, the Neighbors cite the wrong procedural rule in support of their Motion, presumably intentionally since the correct procedural rule does not allow them to request a stay at this stage of proceedings. Second, even if the Motion were procedurally proper, the Neighbors’ threatened lawsuits before other tribunals, under different laws, that do not appeal the Department’s actions in this proceeding, does not

create good cause to stay the Department's processing of the Application. Third, consideration of water quality under Idaho Code § 42-222 is governed by water quality standards set by the Idaho Department of Environmental Quality ("DEQ"), not Clean Water Act ("CWA") standards set by the federal Environmental Protection Agency ("EPA").

1. The Neighbors cite the wrong procedural rule in support of their motion, and the correct procedural rule does not warrant a stay.

The Motion argues that a stay is warranted under rule 780 of the Department's rules of procedure. (Motion, p. 2.) However, rule 780 applies to recommended, preliminary, and final orders issued by the Department, none of which have been issued in this case.

At this stage of the proceeding, where a hearing has yet to occur, a stay may be issued under rule 101.03 "at the request of applicant or petitioner, upon stipulation of the parties, when the agency determines that such delay will assist the agency in resolving or deciding the contested case." IDAPA 37.01.01.101.03. Under rule 101.03, a protestant has no right to request a stay in the absence of a stipulation by the applicant. Therefore, the hearing officer should deny the Motion.

If the hearing officer denies the Motion for this reason, it need not to consider the arguments set forth in section 2 and section 3 of this brief.

2. The Neighbors' threatened lawsuits do not warrant a stay.

Even if the Motion were procedurally proper, it should be denied. If protestants in water right proceedings were allowed to stay proceedings simply by filing separate lawsuits in state or federal court, under separate laws, that do not appeal the actions of the Department, it would set bad precedent by incentivizing protestants to file separate lawsuits for no other reason than to delay action from the Department.

The pond that Good Timber seeks to construct on its property is similar to hundreds or thousands of ponds constructed elsewhere in Idaho, without injury to neighboring landowners. It is not actually the pond the Neighbors oppose, but any development of Good Timber's property. The threatened lawsuits and the Motion are tactics to harass Good Timber and punish them for a minor mistake their contractor made in not securing a grading permit from Teton County. Good Timber has gone above and beyond what many water users do to ensure its pond is constructed properly. It hired a civil engineering firm to design the pond, and it hired a professional wetland scientist to remediate the springs which were badly damaged by the prior owner's ranching

activities and ensure compliance with the CWA. Its single failing was an oversight of a contractor who did not secure a grading permit—a sword the Neighbors have wielded effectively against Good Timber to try and halt development of its property altogether.

Regardless of the Neighbors' motives, the filing of lawsuits before other tribunals, under different laws, that do not appeal the Department's actions, does not justify a stay of the Department's processing of the Application over Good Timber's objection. The Neighbors posit that their lawsuits may revoke or modify Good Timber's Nation-Wide Permit 27, that they may seek injunctive relief to enjoin Good Timber from "continuing certain operations." This is entirely speculative. In fact, even if the Neighbors' threatened lawsuits had merit, which Good Timber disputes, they would not prevent Good Timber from remedying whatever error occurred and implementing whatever management practices and mitigation requirements that may be required to construct a pond in compliance with the CWA.

Therefore, the hearing officer should find that threatened lawsuits before other tribunals, under different laws, that do not appeal the Department's actions in this case, do not warrant a stay of this case. If the hearing officer denies the Motion for this reason, it need not consider the arguments set forth in section 3 of this brief.

3. Consideration of water quality under Idaho Code § 42-222 is governed by DEQ standards, not CWA standards.

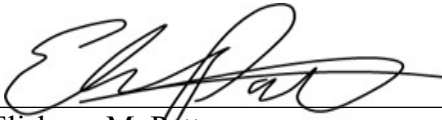
Absent from the Motion are any citations to case law, rule, or other authority which would dictate why the CWA proceedings control or supersede the analysis done by the Department in determining whether to approve a transfer application. While impacts to water may be considered under the local public interest factor of Idaho Code § 42-222, compliance with water quality standards is governed by the DEQ, not the federal Environmental Protection Agency. *Shokal v. Dunn*, 109 Idaho 330, 340-41, 707 P.2d 441 (1985). "It is not the primary job of Water Resources to protect the health and welfare of Idaho's citizens and visitors—that role is vested in the Department of [Environmental Quality], including compliance with the water quality regulations and monitoring effluent discharge in our state's waterways." *Id.*

CONCLUSION

For the foregoing reasons, Good Timber respectfully requests the Hearing Officer deny the Motion and continue this case in accordance with Good Timber's Motion to Amend Hearing Schedule filed contemporaneously herewith.

RESPECTFULLY SUBMITTED this 13th day of June 2025.

RACINE OLSON, PLLP

By: 
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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June 2025, I served the foregoing document on the persons below via email at the address shown:


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