

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 90258**

This is to certify that: **HARD WAY LP**
5313 S 5700 W
REXBURG, ID 83440-4225

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
22-14166	WR/DECREED	5/15/1968	1.930 cfs	108.0 af	112.0	498.0	GROUND WATER
22-7654	WR/LICENSE	3/16/1989	1.760 cfs	N/A	N/A	114.0	GROUND WATER
22-7706	WR/LICENSE	4/12/1991	1.720 cfs	N/A	N/A	86.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
22-14166	NO	NO	NO	YES	NO	NO
22-7654	NO	NO	NO	YES	NO	NO
22-7706	NO	NO	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
22-14166	22-14166	1.930 cfs	108.0 af	112.0	498.0	N/A	N/A	N/A	N/A	N/A
22-7654	22-7654	1.760 cfs	399.0 af	114.0	114.0	N/A	N/A	N/A	N/A	N/A
22-7706	22-7706	1.720 cfs	301.0 af	86.0	86.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.690 cfs	749.2 af	312.0	498.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 12th day of March, 2026.


Water Resources Program Manager

Support Data

In File # 22-7654

Transfer No. 90258

WATER RIGHT NO. 22-7706

As Modified by Transfer No. 90258

In accordance with the approval of Transfer No. 90258, Water Right No. 22-7706 is now described as follows:

Right Holder: HARD WAY LP
5313 S 5700 W
REXBURG, ID 83440-4225

Priority Date: 4/12/1991

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

4/15

To

to 10/15

Diversion Rate

1.720 cfs

1.720 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SWSW

Sec 3 Twp 04N Rge 40E MADISON County

GROUND WATER

SWSW

Sec 3 Twp 04N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	3						16.0	25.0	5.0	17.0	10.0							73.0
								L 4											
04N	40E	4	5.0																5.0
			L 1																
05N	40E	33																8.0	8.0

POU Total Acres: 86.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 301 af at the field headgate for the place of use.
2. Rights 22-7654 and 22-7706 when combined shall not exceed a total diversion rate of 1.76 cfs and a total annual maximum diversion volume of 641.2 af at the field headgate.

WATER RIGHT NO. 22-7706
As Modified by Transfer No. 90258

CONDITIONS OF APPROVAL

3. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.
5. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
6. Prior to the diversion and use of water under Transfer approval 90258, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
7. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
8. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

WATER RIGHT NO. 22-7654
As Modified by Transfer No. 90258

In accordance with the approval of Transfer No. 90258, Water Right No. 22-7654 is now described as follows:

Right Holder: HARD WAY LP
 5313 S 5700 W
 REXBURG, ID 83440-4225

Priority Date: 3/16/1989

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	4/15	to 10/15	1,760 cfs 1,760 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 3	Twp 04N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 3	Twp 04N Rge 40E	MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	3											38.0	17.0					55.0
04N	40E	10					19.0	40.0											59.0

POU Total Acres: 114.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 399 af at the field headgate for the place of use.
2. Rights 22-7654 and 22-7706 when combined shall not exceed a total diversion rate of 1.76 cfs, a total annual maximum diversion volume of 641.2 af at the field headgate.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.100.
4. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 90258

WATER RIGHT NO. 22-7654
As Modified by Transfer No. 90258

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 90258, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
8. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

WATER RIGHT NO. 22-14166**As Modified by Transfer No. 90258**

In accordance with the approval of Transfer No. 90258, Water Right No. 22-14166 is now described as follows:

Right Holder: HARD WAY LP
5313 S 5700 W
REXBURG, ID 83440-4225

Priority Date: 5/15/1968

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 11/01	1,930 cfs	108.0 af
			1,930 cfs	108.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 3	Twp 04N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 3	Twp 04N Rge 40E	MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	40E	3						14.0	27.0	4.0	15.0	10.0	38.0	18.0					126.0
								L 4											
04N	40E	4	19.0	40.0	40.0	32.0									37.0	40.0	39.0	40.0	287.0
				L 1	L 2														
04N	40E	10					19.0	39.0											58.0
05N	40E	33															16.0	11.0	27.0

Right Acre Limit: 112.0

POU Total Acres: 498.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 112 acres within the 498-acre place of use authorized by this right in a single irrigation season. The specific 112 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 112 acres to be irrigated within the 498-acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.

Transfer No. 90258

WATER RIGHT NO. 22-14166

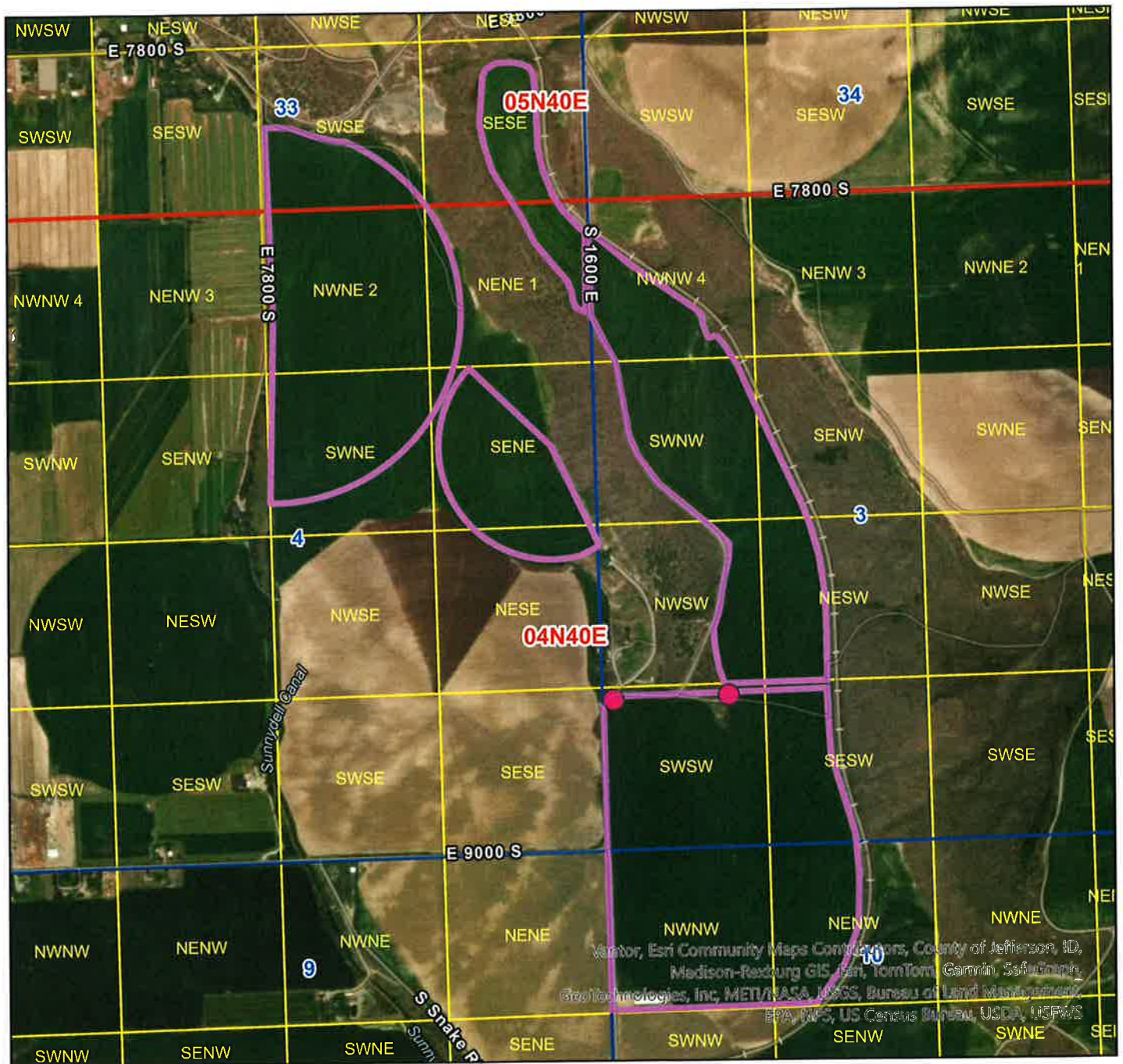
As Modified by Transfer No. 90258

CONDITIONS OF APPROVAL

3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. Prior to the diversion and use of water under Transfer approval 90258, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device. A measuring device shall be installed to record the quantity of water delivered under this right and a separate measuring device shall be installed to record the quantity of water delivered under water rights 22-7706 and 22-7654.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. Use of this right is combined with water from Sunnyside Irrigation District on all irrigated acres authorized under this right.
8. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
9. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Attachment to Transfer Approval 90258

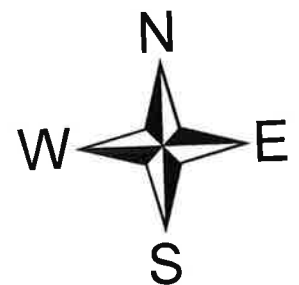
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- Water Right POD
- Water Right POU
- Township/Range
- Sections
- QQ

0 500 1,000 2,000 Feet



Date: 3/12/2026



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

March 12, 2026

HARD WAY LP
5313 S 5700 W
REXBURG ID 83440-4225

Re: Transfer No: 90258
Water Right No(s): 22-7654, 22-7706, 22-14166

Transfer Approval Notice

Dear Water Right Holder :

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure
CC:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2026 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 90258

Water Right No(s): 22-7654, 22-7706, 22-14166

HARD WAY LP

5313 S 5700 W

REXBURG ID 83440-4225

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC

482 CONSTITUTION WAY STE 303

IDAHO FALLS ID 83402-3552



**Christina Henman
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

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

PETITION FOR RECONSIDERATION

(See Idaho Code § 67-5243(3))

Any party may file a petition for reconsideration of this preliminary order with the Department 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 presiding officer 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.

PETITION FOR REVIEW (EXCEPTIONS)

(See Idaho Code § 67-5245)

Within fourteen (14) days after: (a) the service date of this preliminary order, (b) the service date of a denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days of the presiding officer to act on a petition for reconsideration of this preliminary order, any party may petition the Director in writing to review any part of this preliminary order by filing exceptions, and any supporting brief, with the Department.¹ Any parties opposing the exceptions shall have fourteen (14) days from the service date of the exceptions to file a brief. If the Director determines that oral argument is to be heard, the Director will provide reasonable notice to the parties of the place, date, and hour for the argument.

The Director will issue a final order on exceptions within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless extended for good cause. The Director may remand the matter for or hold an evidentiary hearing if further factual development of the record is necessary before issuing a final order.

REQUEST FOR HEARING

(See Idaho Code § 42-1701A(3))

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 Idaho Code § 42-1701A(3). A written petition to the Director contesting the preliminary order and requesting a hearing must be filed with the Department

¹ The Director may decide to review this preliminary order upon his own motion. Should the Director decide to do so, the Director will provide written notice to the parties within the period the parties are allowed to petition the director for review of the preliminary order.

by any aggrieved person **within fifteen (15) days after service of this preliminary order.**

CERTIFICATE OF SERVICE
(See IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration, petition for review, or a request for hearing of this preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 53 and 202.