

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE IDAHO WATER
RESOURCE BOARD'S OMNIBUS
RULEMAKING

RESOLUTION TO ADOPT AND PUBLISH
PENDING OMNIBUS FEE AND NON-FEE
RULES

1 WHEREAS, the Idaho Water Resource Board (“IWRB”) is the executive branch entity with
2 either sole or shared statutory oversight and authority over ten chapters of Administrative Non-
3 Fee and Fee Rules in IDAPA 37, including: IDAPA 37.01.01 Rules of Procedure of the IDWR; IDAPA
4 37.02.01 Comprehensive State Water Plan Rules; IDAPA 37.02.03 Water Supply Bank Rules;
5 IDAPA 37.02.04 Shoshone Bannock Tribal Water Supply Bank; IDAPA 37.03.03 Rules and
6 Minimum Standards for the Construction and Use of Injection Wells; IDAPA 37.03.04 Drilling for
7 Geothermal Resources Rules; IDAPA 37.03.05 Mine Tailings Impoundment Structures Rules;
8 IDAPA 37.03.06 Safety of Dams Rules; IDAPA 37.03.07 Stream Channel Alteration Rules; IDAPA
9 37.03.09 Well Construction Standards Rules; and IDAPA 37.03.10 Well Driller Licensing Rules; and

10 WHEREAS, at the direction of the Division of Financial Management (“DFM”) the IWRB
11 adopted its non-fee rules as temporary rules, effective July 1, 2021, in its Resolution No. 20-2021
12 on May 21, 2021; and

13 WHEREAS, also at the direction of DFM the IWRB adopted its fee rules as temporary fee
14 rules, effective July 1, 2021, in its Resolution No. 21-2021 on June 15, 2021; and

15 WHEREAS, DFM published the IWRB’s temporary non-fee rules as Docket No. 37-0000-
16 2100 and its fee rules as Docket No. 37-0000-2100F, on July 21, 2021, in the [Idaho Administrative](#)
17 [Bulletin Vol. 21-7SE](#) (pages 4808-5039); and

18 WHEREAS, on August 24, 2021, DFM directed all state executive agencies to adopt and
19 publish their temporary rules (both fee and non-fee) as proposed rules, and later pending rules,
20 and submit them for 2022 legislative review as an omnibus rulemaking; and

21 WHEREAS, the IWRB adopted and authorized the publication of its omnibus temporary
22 fee and non-fee rules as proposed rules in its resolution 33-2021 on September 30, 2021; and

23 WHEREAS, DFM published the IWRB’s temporary non-fee rules as proposed omnibus non-
24 fee rules (Docket No. 37-0000-2100) and its temporary fee rules as proposed omnibus fee rules
25 (Docket No. 37-0000-2100F), on October 20, 2021, in the [Idaho Administrative Bulletin Vol. 21-](#)
26 [10SE](#) (pages 4523-4702); and

27 WHEREAS, on October 25, 2021, DFM directed all state executive agencies to adopt and
28 publish their omnibus proposed rules (both fee and non-fee) as pending rules in a special edition
29 of the Idaho Administrative Bulletin on December 22, 2021; and

30 WHEREAS, the period for the public to submit written comment or oral comment
31 regarding the IWRB's October 20, 2021, published proposed omnibus non-fee and fee rules tolled
32 on November 10, 2021, with no comments submitted; and

33 WHEREAS, the IWRB's rules implement the duly enacted laws of the state of Idaho,
34 provide citizens with the detailed rules and standards for complying with those laws, and assist
35 in the orderly execution and enforcement of those laws; and

36 WHEREAS, the expiration of the IWRB's rules without due consideration and process
37 would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them
38 of the benefit intended by the rules; and

39 WHEREAS, the Governor has found that the fee(s) or charge(s) imposed or increased in
40 the fee rules are justified and necessary to avoid immediate danger to the budget of the Idaho
41 Department of Water Resources, to the state budget, to necessary state functions, and services,
42 and to avoid immediate danger of a potential violation of Idaho's constitutional requirement that
43 the state annually balance its budget.

44 NOW, THEREFORE BE IT RESOLVED that the IWRB adopts and authorizes the notice and
45 publication of the following proposed fee rules as pending rules and directs their adoption as
46 published on October 20, 2021, in the Idaho Administrative Bulletin Vol. 21-10SE:

- 47 • 37.01.01, (*Rules of Procedure of the Idaho Department of Water Resources*);
- 48 • 37.02.03, (*Water Supply Bank Rules*);
- 49 • 37.03.03, (*Rules and Minimum Standards for the Construction and Use of Injection*
50 *Wells*);
- 51 • 37.03.04, (*Drilling for Geothermal Resources Rules*);
- 52 • 37.03.05, (*Mine Tailings Impoundment Structures Rules*);
- 53 • 37.03.06, (*Safety of Dams Rules*);
- 54 • 37.03.07, (*Stream Channel Alteration Rules*);
- 55 • 37.03.09, (*Well Construction Standards Rules*); and
- 56 • 37.03.10, (*Well Driller Licensing Rules*).

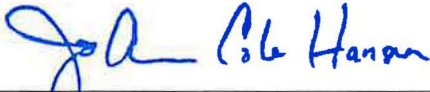
57 NOW, THEREFORE BE IT FURTHER RESOLVED that the IWRB adopts and authorizes the
58 notice and publication of the following proposed non-fee rules as pending fee rules and directs
59 their adoption as published on October 20, 2021, in the Idaho Administrative Bulletin Vol. 21-
60 10SE:

- 61 • 37.02.01, *Comprehensive State Water Plan Rules*
- 62 • 37.02.04, *Shoshone Bannock Tribal Water Supply Bank*.

DATED this 19th day of November 2021.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board



ATTEST

JO ANN COLE-HANSEN, Secretary
Idaho Water Resource Board