BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF ADOPTING TEMPORARY NON-FEE RULES TO BE EFFECTIVE JULY 1, 2021	RESOLUTION TO PUBLISH THE IDAHO WATER RESOURCE BOARD'S CURRENT PENDING ADMINISTRATIVE NON-FEE RULES AS TEMPORARY RULES

WHEREAS, the Idaho Water Resource Board ("IWRB") is the executive branch entity with statutory oversight and authority over 12 chapters of Administrative Rules in IDAPA 37, including: IDAPA 37.01.01 Rules of Procedure of the IDWR; IDAPA 37.02.01 Comprehensive State Water Plan Rules; IDAPA 27.02.03 Water Supply Bank Rules; IDAPA 37.02.04 Shoshone Bannock Tribal Water Supply Bank Rules; IDAPA 37.03.03 Rules and Minimum Standards for the Construction and Use of Injection Wells; IDAPA 37.03.04 Drilling for Geothermal Resources Rules; IDAPA 37.03.05 Mines Tailing Impoundment Structures Rules; IDAPA 37.03.06 Safety of Dams Rules; IDAPA 37.03.07 Stream Channel Alteration Rules; IDAPA 37.03.09 Well Construction Standards and Rules; and IDAPA 37.03.10 Well Driller Licensing Rules; and

WHEREAS, as stated in Idaho Code, § 67-5292, *"every adopted rule shall automatically expire on July 1 of the following year unless the rule is extended by statute"* and the extension of Idaho's administrative rules by statute requires the Idaho Legislature to pass a bill every year reauthorizing Idaho's administrative rules for another year prior to adjourning the legislative session; and

WHEREAS, the 2021 Idaho House of Representatives ("House") recessed on May 12, 2021, without the Idaho Legislature reauthorizing the IWRB's administrative non-fee rules, or the House establishing a date certain that it would reconvene; and

WHEREAS, the IWRB's administrative non-fee rules will expire on July 1, 2021; and

WHEREAS, the IWRB has already taken action to ensure its administrative fee rules will remain in effect on July 1, 2021, by adopting them as temporary rules in its Resolution No. 06-2021 on March 2, 2021; and

WHEREAS, as a precautionary measure to ensure the continuity of administrative rules and ensure that existing rules remain in effect in Fiscal Year 2022, the Division of Financial Management acting on behalf of the Governor of Idaho has directed all agencies to adopt all non-fee rules as temporary rules; and

WHEREAS, pursuant to Idaho Cod, § 67-5226, the Governor has found temporary adoption of the IWRB's rules is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens; and

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

WHEREAS, the expiration of the IWRB's rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

NOW, THEREFORE BE IT RESOLVED that the IWRB adopts and authorizes the notice and publication of the following non-fee rules as temporary rules to be effective July 1, 2021. This approval and adoption is conditional and will only become effective if the 2021 Idaho Legislature, consistent with Idaho Code, §§ 67-5291 and 67-5292, has not otherwise taken action to reauthorize and effectuate the existing non-fee rules by July 1, 2021.

- 37.02.01, *Comprehensive State Water Plan Rules*
- 37.02.04, *Shoshone Bannock Tribal Water Supply Bank*

DATED this ____ day of May, 2021.

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JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST _____
JO ANN COLE-HANSEN, Secretary
Idaho Water Resource Board