

CHRIS M. BROMLEY
IDAHO STATE BAR NO. 6530
CANDICE MCHUGH
IDAHO STATE BAR NO. 5908
MCHUGH BROMLEY, PLLC
Attorneys at Law
PO Box 107
Boise, ID 83701
Telephone: (208) 287-0991
Facsimile: (208) 287-0864
cbromley@mchughbromley.com
cmchugh@mchughbromley.com

*Attorneys for Byron Pehrson, Loy Pehrson,
and Randy Pehrson*

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

BYRON PEHRSON, LOY PEHRSON AND
RANDY PEHRSON,

Petitioners,
vs.

IDAHO DEPARTMENT OF WATER
RESOURCES and MATHEW WEAVER, in
his capacity as Director of the Idaho
Department of Water Resources,

Respondents

IN THE MATTER OF WATER RIGHT
NOS.34-182 AND 34-381A (MOSS FARMS,
INC.)

IN THE MATTER OF USE OF NATURAL
FLOW FROM THE BIG LOST RIVER AND
STORAGE RELEASES FROM MACKAY
RESERVOIR

Case No.: CV01-25-13914

Fee Category: L.3a: \$221.00

PETITION FOR JUDICIAL REVIEW

Petitioner, Byron Pehrson, Loy Pehrson, and Randy Pehrson (“Pehrsons”), by and
through their counsel of record, McHugh Bromley, PLLC, and pursuant to I.R.C.P. 84, hereby

file this petition seeking judicial review of a final agency action by the Idaho Department of Water Resources (“IDWR” or “Department”).

STATEMENT OF THE ISSUES AND CASE

1. This Petition seeks judicial review of the June 23, 2025, *Preliminary Order on Dispositive Motions* (hereinafter “Order”). A true and correct copy of the *Order* is attached hereto as Exhibit A.

2. The issue in this matter is whether the Department erred when it determined that the points of diversion and rediversion for the storage water rights of the Big Lost River Irrigation District, which were partially decreed by the Snake River Basin Adjudication District Court, may be ignored and enlarged and expanded through reference to I.C. §§ 42-105 and 42-801, when no such reference exists on the face of the partial decrees.

3. The *Order* became a final order of the Department when no petitions for reconsideration or exceptions were filed by July 7, 2025.

JURISDICTION AND VENUE

4. The *Order* is a final agency action subject to judicial review pursuant to I.C. §§ 42-1701A(4), 67-5246(1), and 67-5270(3).

5. This Court has jurisdiction over this action pursuant to Idaho Code §§ 42-1701A(4) and 67-5270(3).

6. Venue lies in this Court pursuant to Idaho Code § 67-5272 and the Snake River Basin Adjudication (“SRBA”) Court’s December 3, 2020 Administrative Order Regarding Transition to Electronic Filing System (“SRBA Administrative Order”). IDWR’s final action was taken in Ada County, Idaho.

7. Pursuant to the Idaho Supreme Court's December 9, 2009 Administrative Order, "all petitions for judicial review of any decision regarding administration of water rights from the Department of Water Resources shall be assigned to the presiding judge of the Snake River Basin Adjudication District Court of the Fifth Judicial District." The *SRBA Administrative Order* instructs the clerk of the district court in which the petition is filed to reassign the case to the presiding judge of the SRBA Court.

8. This Petition is timely as it is filed within 28 days of the date of service of the *Order*. I.C. § 67-5273(2).

PARTIES

9. Petitioners reside in Butte County, Idaho.

10. Respondent IDWR is an Idaho state agency with its main office located at 322 E. Front St., Boise, Idaho, 83702.

STATEMENT OF INITIAL ISSUES

11. Petitioners assert the following issue on judicial review: Whether the Department erred when it determined that the points of diversion and redirection for the storage water rights of the Big Lost River Irrigation District, which were partially decreed by the Snake River Basin Adjudication District Court, may be ignored and enlarged and expanded through reference to I.C. §§ 42-105 and 42-801, when no such reference exists on the face of the partial decrees.

AGENCY RECORD

12. IDWR has compiled a documentary record in this matter.

13. The undersigned attorneys for Petitioners hereby certify that they have made a request of the Department for the estimated fee to prepare the agency record. Petitioners will

promptly pay the estimated fee for the Department to prepare the agency record and has paid the clerk of the agency the estimated fee of \$20.00 for the preparation of the record.

SERVICE

14. The undersigned hereby certifies that service of this Petition has been made on Respondent.

I.R.C.P. 84(c) INFORMATION

15. **Name of Agency for Which Judicial Review is Sought:** Idaho Department of Water Resources, an executive department existing under the laws of the state of Idaho pursuant to Idaho Code § 42-1701 et seq., with its state office located at 322 E. Front St., Boise, Ada County, Idaho 83702.

16. **Title of District Court to Which Petition is Taken:** In the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada.

17. **Case Caption and Action for Which Judicial Review is Sought:** The Department's June 23, 2025, *Preliminary Order on Dispositive Motions*, In the Matter of Water Right 34-182 and 34-381A (Moss Farms, Inc.) and In the Matter of Use of Natural Flow from the Big Lost River and Storage Releases from Mackey Reservoir.

18. **Hearing Recording:** A hearing was held in this matter on May 19, 2025.

19. **Statement of Issues of Judicial Review:** As stated above in the section titled "Statement of Initial Issues," the issues is: Whether the Department erred when it determined that the points of diversion and redirection for the storage water rights of the Big Lost River Irrigation District, which were partially decreed by the Snake River Basin Adjudication District

Court, may be ignored and enlarged and expanded through reference to I.C. §§ 42-105 and 42-801, when no such reference exists on the face of the partial decrees.

20. **Designation of Whether a Transcript is Required:** A hearing transcript is not being requested.

21. **Attorney Certification:** The undersigned counsel for Petitioners certifies the following: 1) service of this petition has been made upon the Department; and 2) a request has been made to the Department for the estimated fee to prepare the agency record. Petitioners will promptly pay the estimated fee for the Department to prepare the agency record.

DATED this 30th day of July, 2025.

/s/ Candice McHugh for
Chris M. Bromley
McHugh Bromley, PLLC
*Attorneys for Byron Pehrson, Loy Pehrson,
and Randy Pehrson*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 2025, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by electronic service:

IDAHO DEPARTMENT OF WATER RESOURCES
PO Box 83720
Boise, ID 83720
file@idwr.idaho.gov
garrick.baxter@idwr.idaho.gov

With Courtesy Copies To:

Skyler C. Johns
OLSEN TAGGART PLLC
PO Box 3005
Idaho Falls, ID 83403
sjohns@olsentaggert.com

Norman Semanko
[Garrett Kitamura](#)
[PARSONS BEHLE & LATIMER](#)
[800 W. Main St., Ste. 1300](#)
[Boise, ID 83702](#)
nsemanko@parsonsbehle.com
gkitamura@parsonsbehle.com

Hyrum Erickson
Michelle Mortimer
RIGBY, ANDRUS & RIGBY LAW
25 N. 2nd E.
Rexburg, ID 83440
herickson@rex-law.com
mmortimer@rex-law.com

/s/ Candice M. McHugh
Candice M. McHugh