

IN THE SENATE

SENATE BILL NO. 1061

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1
2 RELATING TO WATER RIGHTS; AMENDING SECTION 42-1701A, IDAHO CODE, TO PROVIDE
3 THAT THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES SHALL NOT
4 ISSUE ORDERS IN CERTAIN CIRCUMSTANCES; AND DECLARING AN EMERGENCY AND
5 PROVIDING AN EFFECTIVE DATE.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 42-1701A, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 42-1701A. HEARINGS BEFORE DIRECTOR -- APPEALS. (1) All hearings re-
10 quired by law to be held before the director of the department of water re-
11 sources shall be conducted in accordance with the provisions of chapter 52,
12 title 67, Idaho Code, and rules of procedure promulgated by the director.

13 (2) The director, in his discretion, may direct that a hearing be con-
14 ducted by a hearing officer appointed by the director. In such event, the
15 hearing officer shall have the duty to make a complete record of the evidence
16 presented and duly received at the hearing and to prepare a recommended or
17 preliminary order in accordance with chapter 52, title 67, Idaho Code, and
18 rules of procedure promulgated by the director.

19 (3) Unless the right to a hearing before the director or the water re-
20 source board is otherwise provided by statute, any person aggrieved by any
21 action of the director, including any decision, determination, order or
22 other action, including action upon any application for a permit, license,
23 certificate, approval, registration, or similar form of permission required
24 by law to be issued by the director, who is aggrieved by the action of the di-
25 rector, and who has not previously been afforded an opportunity for a hearing
26 on the matter shall be entitled to a hearing before the director to contest
27 the action. The person shall file with the director, within fifteen (15)
28 days after receipt of written notice of the action issued by the director,
29 or receipt of actual notice, a written petition stating the grounds for con-
30 testing the action by the director and requesting a hearing. The director
31 shall give such notice of the petition as is necessary to provide other af-
32 fected persons an opportunity to participate in the proceeding. The hearing
33 shall be held and conducted in accordance with the provisions of subsections
34 (1) and (2) of this section. Judicial review of any final order of the direc-
35 tor issued following the hearing shall be had pursuant to subsection (4) of
36 this section.

37 (4) Any person who is aggrieved by a final decision or order of the di-
38 rector is entitled to judicial review. The judicial review shall be had in
39 accordance with the provisions and standards set forth in chapter 52, title
40 67, Idaho Code.

41 (5) The director shall not issue an order establishing a new or revised
42 methodology for determining material injury under the rules for conjunctive

1 management of surface and ground water resources without first giving af-
2 ected persons notice and an opportunity to request a hearing in accordance
3 with section 67-5242, Idaho Code, prior to issuance of such order, except in
4 emergency proceedings under section 67-5247, Idaho Code, or informal dispo-
5 sition under section 67-5241, Idaho Code. Any final order issued pursuant
6 to this subsection shall be issued no later than December 1 prior to the year
7 such order takes effect. If a hearing is held pursuant to this subsection,
8 any person aggrieved by the final order shall not be entitled to a hearing as
9 provided in subsection (3) of this section. This subsection shall not apply
10 to any orders that implement or apply the methodology steps for purposes of
11 conjunctive water right administration.

12 SECTION 2. An emergency existing therefor, which emergency is hereby
13 declared to exist, this act shall be in full force and effect on and after
14 July 1, 2025.