

**STATE BOARD OF EQUALIZATION
OPEN MEETING
MINUTES OF MEETING HELD AUGUST 12, 2026**

In attendance: Commissioners Paul Woods, Janet Moyle, and Jared Zwygart. Commissioner John Bernasconi is absent, and Jim Rice, Deputy Attorney General. This meeting was open to the public and guests attended online.

Commissioner Woods, Chairman for the State Board of Equalization, reconvened the State Board of Equalization for 2026 (Board) at 9:00 a.m. August 12, 2026. Commissioner Woods opened the meeting.

There were no changes to the agenda. The Board's only agenda item for today is the action item to determine whether the 2026 Hydroelectric Company Appeals were received timely. Commissioner Woods introduced the matter for discussion. There is no question that the appeals were received after the due date, July 22, 2026, in accordance with Tax Commission rules. The appellants have, in prior years, met that deadline. When the appeal initially came into the Tax Commission, he sent an email saying the appeals were received untimely and they needed to provide a reason as to why they should be provided relief. The Appellant provided an email response that on the Tax Commission website, there was indication that the date was August 1. The Tax Commission website contains a disclaimer that the website is not to be relied upon and, as oversight commissioner, he accepted that as a reason to move this forward so that, at the end of the day, the Board makes the final decision. They attempted to determine whether a stipulation agreement could be achieved prior to this decision. The Appellant returned the agreement with language that was unacceptable to the Tax Commission. That's the background. On Monday, the Board discussed this and chose to have this meeting today. The Appellant is present if the Board would like to hear from him. Commissioner Zwygart said the Appellant should have an opportunity to explain why he felt the instructions should override the rules. Commissioner Moyle agreed.

Tom Arkoosh, Attorney representing the Appellants, said he doesn't feel the rule is overridden, necessarily. He reviewed relevant statute that says, "... on request therefore in writing, the taxpayer will be entitled to a hearing before the commission in relation to the assessment. And the commission shall upon any request fix the time for such hearing within the period in which such assessment must be made and such hearing shall be conducted in such manner as the commission may direct." The Commission has written rules regarding that, and the rule is 407, and paragraph 2 of 407 speaks to liberal construction. It says, "...for good cause, the commission may permit deviation..." to these rules and it goes on to say that the taxpayer can request the stipulation to bypass the entire process. He asserted that the Board can set it by rule but can deviate from the rule. Mr. Arkoosh said that for ten years, he's relied upon, not necessarily the calendar the commission publishes, but the calendar notwithstanding what the rule said, said the commission would accept this – and it's a commission-published calendar, there's no caveats on that calendar – by [August] 1. He's been practicing law for 50 years and in his memory, he's never missed a deadline. This was not done out of disrespect for the Commission or its rules; it was done how they've done it for the past ten years.

Mr. Arkoosh said the language they provided for inclusion into the stipulation, and asked that it be included in the Commission's record, was the stipulated judgment and findings of fact of Judge Medema, and the Commission rejected that. His offer after that was to sign the stipulation as it was

originally submitted to him. He was willing to do that because it's not really that important that it's in the record, because it's in the court's record. That was rejected and we find ourselves here today.

The determination today isn't whether the rule is binding, the determination is whether they had good cause. The Board certainly has the power to allow the appeal. Into the future, this matter will go to the District Court. If the Board decides today to dismiss the appeal, it will go to the District Court and it will add an issue about whether it was futile to exhaust administrative remedies. As Commissioner Woods indicated, at one point, the Commission was willing to just bypass this hearing, as they have several times in the past, or the Commission would have conducted the hearing and, more likely than not, accepted the assessment completed by staff. He doesn't think there will be any evidence there would a different outcome this year. In fact, the offer for stipulation was in writing. For two reasons, it's probably futile. That's one. The second is the District Court will hear this entirely *de novo* so what happens, if they appeal, will not be determinative what the final assessments will be. It seems to him that the proper thing to do, because they have [20]25 and [20]26 pending and set for trial, they're in the discovery phase, and they know the rules, the issues are exactly the same this year. The thing to do would be to stipulate it, let them file their appeal without litigating the extra issue, which is just going to cost everyone money. Matt Shriver, Deputy Attorney General representing Tax Commission Operating Property Staff, suggested keeping 2026 in abeyance until the outcome of the other case to see what happens. If in fact this Board votes there was not good cause and if the court determines that was a correct exercise of discretion and the hearing here was not futile and dismisses their appeal in the district court, once they have 2025 and 2026 decided, the Commission will more likely than not have to review 26 and follow those rules. He would expect that whatever the rules are. He suggests they file the stipulation that initially proposed by staff, he has no heartburn about the language around the stipulated judgment not being in it, and go forward, and not complicate this matter further.

Mr. Arkoosh added that the Commission tells the taxpayers in a letter that the rules changed since July 22. He doesn't get those letters, even though he's their power of attorney. His clients don't send him those letters. Had he seen it, he would have responded. Commissioner Zwygart asked if Mr. Arkoosh isn't an owner of one of the properties. Mr. Arkoosh said he is not and he has not seen the letters. In 50 years of practice, he has no memory of ever missing a deadline and it wasn't done out of disrespect for the Commission. He isn't trying to make these matters hard. There are some serious issues to solve, and he would like to see it go as smoothly as possible. He said Mr. Shriver is easy to work with and hopefully they can resolve these issues. Commissioner Zwygart noted that last year, Mr. Arkoosh filed timely. Mr. Arkoosh said they did. Erin Cecil, his assistant, saw one of the letters. Mr. Arkoosh said he looked twice, once before the appraisals came out, and the calendar said August 1, and after they had rounded up all the appraisals, he told Ms. Cecil the August 1 deadline. Commissioner Zwygart said he assumed Mr. Arkoosh was one of the owners, and he understands the power of attorney – as an accountant, he knows the dilemma he's in with a client. Mr. Arkoosh said the confusion is likely because his family, his cousin, owns properties. He has no personal ownership or interest in either one. Commissioner Zwygart acknowledged he hadn't considered familial ownership.

Commissioner Zwygart asked staff if there is a calendar, or is it just in rule? Jim Rice, Lead Deputy Attorney General assigned to the Tax Commission, and advisor to the Board for these proceedings, suggested allowing Tax Commission staff the opportunity to respond to Mr. Arkoosh's statements before moving forward. Matt Shriver, Deputy Attorney General Assigned to the Tax Commission and representing Operating Property, said staff is deferring to the Commission on the question of good cause. He wants to address a couple of points of order regarding Mr. Arkoosh's

statements. The calendar to which he refers, by way of clarification of the documents on the website, published on the website and attached as exhibits on the affidavits of both Mr. Arkoosh and Ms. Cecil, are dated 2022. As the Board is aware, when that calendar was published, it was accurate and reflected the August 1 deadline for Rule 407 requests. That date is visible in the lower right-hand corner where it says 03/2022 and the file name below that is a more precise date. It appears on its face to be outdated and, in his opinion, is the reason for the disclaimer. He doesn't think there's any doubt that the website probably should have been updated, but that's the reason for the disclaimer and the rule, that was linked on that very web page referenced Rule 407 which is published and the Appellants would have had access to it. Regarding the stipulation. If you read it or look at the draft, considering it was never executed, and the Board can review the stipulations of the past, those are between staff and appellants, and there's been a practice of considering them, and the rule doesn't address it, but the rule does state that the taxpayer may request a stipulated finding. A stipulation is an agreement. Whether the stipulation is final when staff executes or whether it needs to be approved by the Board in order to be effective, there's never been a formal decision per se. There is a bit of grey area about the effect of an offered stipulation and any statement of future intent that may be inferred from that would be, with respect to staff and not necessarily the Board. Having said that, he will stand for questions, but staff is deferring the good cause question to the discretion of the Board.

Commissioner Moyle said the question before the Board is not the stipulation. They are separating the issues. The Board must first decide whether they feel there was good cause for the appeal to go forward because they obviously missed the deadline. She wants to ensure these two issues remain separate. Commissioner Woods said the reason he allowed staff to pursue stipulation wasn't in him knowing that he had the final say, but if the argument was to allow it because they'll stipulate, that's not a given either. He never got to that point. This process is clunky. They have that date for fairness for a hearing and submittal of documents. As awkward as it is, he feels it's played out the way it's supposed to. Commissioner Moyle addressed the Appellant and said there was negotiated rulemaking and the taxpayer is and has had the opportunity to participate in that. When this rule change came forward, did they participate? Mr. Shriver said he was not a part of that process and cannot speak to that. Commissioner Zwygart said he understands the hierarchy of Statute, Rules, and instructions are the lowest form of reliance. In those instructions that were provided, do they expect the taxpayer to follow the instructions? Mr. Shriver clarified that Commissioner Zwygart is asking about the website as instruction. Commissioner Zwygart said the website is instruction; whether it's website or a piece of paper, in his mind. Mr. Shriver said he isn't familiar with instruction as terminology related to this scenario. Commissioner Zwygart ceded that it's the website to which he refers. Mr. Shriver said the expectation is that the applicable law or rule controls everything the website says. That's been encapsulated by the Commission's disclaimer. Commissioner Zwygart asked why, then, do we put anything on the website; we should just tell people to look at the rules. Mr. Shriver said he hasn't been part of those conversations. His assumption is that it's an effort to try to provide education and information, making it more accessible, than to just say people can go look at the rules. He thinks the reason for the linkage to the rules is to verify the information available and is the reason for the disclaimer at the bottom of every page of the website saying you can't rely on this, but "here's the link" to where you can find the actual rule if you want to check for yourself. Commissioner Zwygart said he understands that the citizens should not ever look at the website, they should just go look at the rule. Mr. Shriver said, in this case, there is a bit of a different set of circumstances. We're not talking about a taxpayer; we're talking about an attorney who relied on the website. He thinks there's a distinction there. Commissioner Zwygart interjected that Mr. Shriver suggests he should not have. Mr. Shriver said staff are deferring to the Board. Staff doesn't believe it was reasonable. Whether the discrepancy on the website constitutes good cause is the question before the Board today. Commissioner Zwygart said in his profession, he would have gone to the

instructions, or the website, and look at them first from the Tax Commission. He relied heavily on them to be correct. Mr. Shriver is now asking him to shift his mind to say it's a lie and he should always go to the rule. Mr. Shriver said it's not so much a lie, but that mistakes are made. The Commission doesn't have the authority to change the law or the rule by virtue of a mistake that's on the website. Parties are held – there's a maxim in the law that ignorance of the law is no excuse – and that's part of it. That's the defining concept and it's a common issue in federal taxation, where the IRS makes it clear that they do their best to explain things and forms and guidance to help taxpayers figure things out, but at the end of the day, the law is the law, the rule is the rule, the code of federal regulations is the code of federal regulations. Commissioner Zwygart said he understands that and is where he's having difficulty. He asked if there is a mechanism to ensure the website is updated. Mr. Shriver said as soon as the error was discovered, it was updated. His understanding is that occurred on July 20.

Commissioner Woods said the website exists to provide information to the taxpayer with a disclaimer that there could be errors. The error existed since 2022. It might be different if they'd just changed it in a desire to be deceptive. As pointed out, the appellant in this case understands that rules and statute have control. Commissioner Zwygart said it's a once-per-year thing; a couple of years is relatively new when you're used to a different date. He said it was put into effect in 2024. It's only been two years and, in his mind, that's relatively new. He can see the human side of it. Rules always change, and he thinks that needs to be taken into consideration because it's relative.

Commissioner Woods allowed the appellant to reply. Mr. Arkoosh said they didn't participate in the rulemaking; maybe they should have. He's attached the calendar upon which he relied to his Declaration. There's no disclaimer on that calendar. There was evidently a disclaimer on the site Ms. Cecil looked at, but she wouldn't have been looking for a disclaimer. As counsel indicated, it was immediately changed when the Commission learned it was misleading. The issue here is whether there was good cause to make this mistake. The Commission represented something to them and they relied upon it, but it wasn't the rule and there may or may not have been disclaimers, but the Board does have authority to find good cause. The rules say that and the statute says that. The issue today is whether the missed filing date of July 22 is factually decided; did they justifiably rely on what the commission published.

Commissioner Woods asked George Brown, Property Tax Division Administrator, for comments. Mr. Brown said, in response to Commissioner Zwygart's question, because of this incident, the Division has reviewed their continuous improvement documents and created an entire procedure to ensure all websites are reviewed regularly. In this case, there are multiple documents involved, and several of those that contained the incorrect date had other information that was still relevant. He believes it was an oversight when reviewing those documents. They've gone to great lengths to ensure that doesn't happen again. Our main business is customer service, and customers deserve excellent customer service. Mistakes happen, as Mr. Shriver noted earlier, and they happen on both sides. He wants to assure the Board that Mr. Arkoosh noted the website changed, and it did. They immediately resolved the error and instituted measures to ensure it never happens again. Commissioner Zwygart said he understands the heartache that the moment you put instructions out, you've opened yourself up for everything. He asked Mr. Brown if he expects the taxpayers and the counties to rely on the instructions on the website. Mr. Brown said it's a low expectation that anyone relies on anything on a website; they're informational. This is more a discussion about procedural due process. In his mind, a taxpayer sophisticated enough to have an attorney would probably review the rules occasionally, as well. Once again, he thinks mistakes were made on both sides, and he doesn't hold it against anyone. Mr. Arkoosh has been wonderful to work with over the years. He thinks

mistakes were made. This is a decision for the Board. The only thing staff wants is to ensure they're prepared either way. They must either put on a case or not.

Commissioner Moyle asked to make a motion. She spoke to the motion first. She said Mr. Arkoosh is correct. The relevant question is whether erroneous website information provides good cause for excusing this particular taxpayer's failure to meet the actual deadline. The fact is that they missed the deadline. The website was in error, and it should be acknowledged. However, website guidance does not amend or supersede a duly promulgated administrative rule, nor does it change the statute. The Commission's website itself expressly cautions taxpayers that its information is provided as general guidance and that it may contain technical inaccuracies or typographical errors and that if the website information conflicts with the current tax law, the current tax law wins. And tax law includes the rules. Rules have the same effect as the law. This particular taxpayer has met this deadline previously. Letters were also issued; clients received letters and that would be an error on their side if [Mr. Arkoosh] didn't receive them.

Commissioner Woods interrupted Commissioner Moyle prior to the motion to ask Mr. Rice a legal question. He said the Board is down one commissioner today and asked, in the event of a deadlock, is it possible to pause the action, take no more testimony, and put this to a vote when the other Commissioner is available. The follow-up question is what they do in the event of a deadlock. Mr. Rice said he's looking at the rule, which says, "...for good cause, the tax commission may permit deviation from these rules..." Mr. Rice said the proper vote would be to deviate from the rule requiring that it be filed by the 22nd. Commissioner Woods said he's asking if they can suspend the vote. Mr. Rice said that even a deadlock on a motion to permit the appeal is a rejection. He doesn't think they get to a deadlock that leaves it undecided, in this instance. That's his analysis. When there is a hearing and a commissioner is not present to participate in the hearing, they would need a new hearing for them to participate. Commissioner Woods asked if they can't listen to the recording being made. Mr. Rice said he doesn't know that would be sufficient on something like this. Commissioner Woods allowed Commissioner Moyle to make her motion.

Commissioner Moyle moved to not deviate from the rule; that the rule will stand with the deadline of July 22nd and accordingly, the taxpayer did not comply with this timely requirement. Commissioner Zwygart was recognized for discussion. He said the rule says, "for good cause," and in putting on his "practitioner hat," there is a deadline that was changed after multiple years and in the heat of the moment, they weren't sure, so they quickly reviewed the website which reaffirms the initial decision they've been using for more than one year. He has a hard time thinking that he would take more time, after already reaffirming the decision by looking at the website, that he would take time to go to the rule. He doesn't see an attorney or an accountant go further than that once they've reaffirmed their decision. To him, that's where his headache is coming in. He was aware, but it was a year ago. It was once. He wasn't sure, so went to the website, and had his staff go to the website, and the website corresponds with what they've been doing for several years. He said he'd have done the same. Commissioner Woods interjected that it's been two previous years, not one. There has been communication about the dates. Commissioner Moyle responded to Commissioner Zwygart saying as a practitioner, he should have been held to that standard. That's where this Board is now. He would have had to comply with the IRS, with the state statutes, and they do as well. She agrees the error should be acknowledged, and it has been. There was no further discussion. Commissioner Woods asked Ms. Young to conduct a roll call vote; Ms. Young asked Commissioner Woods to restate the motion. Commissioner Moyle said the motion is that **we do not deviate from Rule 407, that the deadline remain July 22nd, and accordingly, the taxpayer did not comply with that filing**

requirement. Ms. Young conducted a roll call vote: Commissioner Moyle, aye; Commissioner Zwygart, aye. The motion carried.

Commissioner Woods thanked everyone for their participation today. There are no other agenda items for today. Commissioner Zwygart asked if they need to vote on the agenda about not meeting tomorrow or the other days. Commissioner Zwygart noted there's nothing for them to discuss on August 13, 14, 17, 18, 19, 20, and 21. Commissioner Woods asked for a motion to amend the agenda to recess until August 24. Commissioner Moyle asked if the agenda must be amended if they recess until the last day. Ms. Young explained there are hearings scheduled that the Board just now canceled.

Commissioner Zwygart moved to amend the agenda to remove the days with no currently-schedule activity, August 13, August 14, August 17, August 18, August 19, August 20, and August 21. Commissioner Woods noted there are activities scheduled for August 19. He encouraged Commissioner Zwygart to amend his motion to say, "to remove the items scheduled." **Commissioner Woods clarified the motion: To amend the agenda to remove all the days and items listed until August 24.** Mr. Rice added that the Board should also remove action item number 2 on the 24th, which relates to the Hydroelectric Companies. He asked that the Board submit a separate motion for that. **Ms. Young conducted a roll call vote: Commissioner Moyle, aye; Commissioner Zwygart, aye.**

Commissioner Moyle moved to amend the agenda on August 24 to remove item number 2. Ms. Young conducted a roll call vote: Commissioner Moyle, aye; Commissioner Zwygart, aye.

Commissioner Woods recessed the Board until 9:00 a.m. Monday, August 24, 2026.

Maria Young
Secretary

Paul Woods
Chairman of the Idaho State Board of Equalization