

T5782 CV CATTLE INC

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5782~~(Amended)~~ APPLICATION FOR TRANSFER OF WATER RIGHT ~~(Amended)~~
PART 1Name of applicant C.V. Cattle Inc. Phone 648-7863
Post Office address 3124 Nipper Ln, Bancroft Idaho 83217

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes To Reflect current point of diversion and place of use

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>29-0236</u>	<u>7/6/1868</u>	<u>0.31 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>9/15</u>
<u>*29-0238</u>	<u>7/6/1868</u>	<u>1.733 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>9/15</u>
<u>29-0239</u>	<u>7/6/1868</u>	<u>1.679 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>9/15</u>
<u>29-0240</u>	<u>7/6/1868</u>	<u>0.862 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>9/15</u>

2. Total amount of water being transferred 4.584 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Toponce Creek tributary to Portneuf River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
1	NE	NE	NE	4	7S	38E	CARIBOU	Toponce Feeder Canal
		SE	NE	34	6S	38E	Caribou	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
6S	38E	26													35				35
		25									35	28	6	38	6	39	38	5	195
															L-19			L-20	

Total acres 230

PART 1**6. General Information:**

a. Description of diversion system Two ditches (one controlled by applicant + the other is the Toponce feed-in Canal) to place of use.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ☒ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Indian ground will not have irrg. crops on it.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 29-0236 Decreed to Mary Hoyt (allot No. 69)
in case of USA vs. Hibner
dated 4/8/1929 in _____ county of _____

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Toponce Creek tributary to Portneuf River

4. Date or priority 07/06/1868

5. Water is used for the following purpose:

amount 0.31 cfs for Irrigation purposes from 04/15 to 09/15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 0.31 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Not Listed

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
6S	38E	35																X	
		36										X							

Total acres 15.53

9. Describe any other water rights used for the same purpose as described above _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 29-0238 Decreed to KEMENATSE (allotment # 71)
in case of USA vs. Helmer
dated 4/28/1929 in _____ county of _____

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Toponce Creek tributary to Portneuf River

4. Date or priority 7/6/1868

5. Water is used for the following purpose:

amount 1.733 cfs for IRRIGATION purposes from 4/15 to 9/15
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 1.733 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Not listed

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
<u>6S</u>	<u>38E</u>	<u>36</u>			<u>X</u>					<u>X</u>									<u>86.67</u>

Total acres 86.67

9. Describe any other water rights used for the same purpose as described above _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 29-0239 Decreed to Mouish (allotment No. 72)
in case of USA vs. Hebner
dated 4/8/1929 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Toponce Creek tributary to Portneuf River

4. Date or priority 7/6/1868

5. Water is used for the following purpose:

amount 1.679 cfs for Irrigation purposes from 4/15 to 9/15
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 1.679 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Not Listed

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>06S</u>	<u>38E</u>	<u>36</u>									X					X			<u>83.97</u>

Total acres 83.97

9. Describe any other water rights used for the same purpose as described above _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 29-0240 Decreed to Charlie Rizoka
in case of USA vs. Hibner
dated 4/8/1929 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Tonpance Creek tributary to Portneuf River

4. Date or priority 7/6/1868

5. Water is used for the following purpose:

amount 0.862 cfs for Irrigation purposes from 4/15 to 9/15
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 0.862 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Not Listed

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
<u>6S</u>	<u>38E</u>	<u>36</u>												X			X		<u>43.72</u>

Total acres 43.72

9. Describe any other water rights used for the same purpose as described above _____

4
19000m.E.

T 5 S

TOPONCE

26

25

Place of use

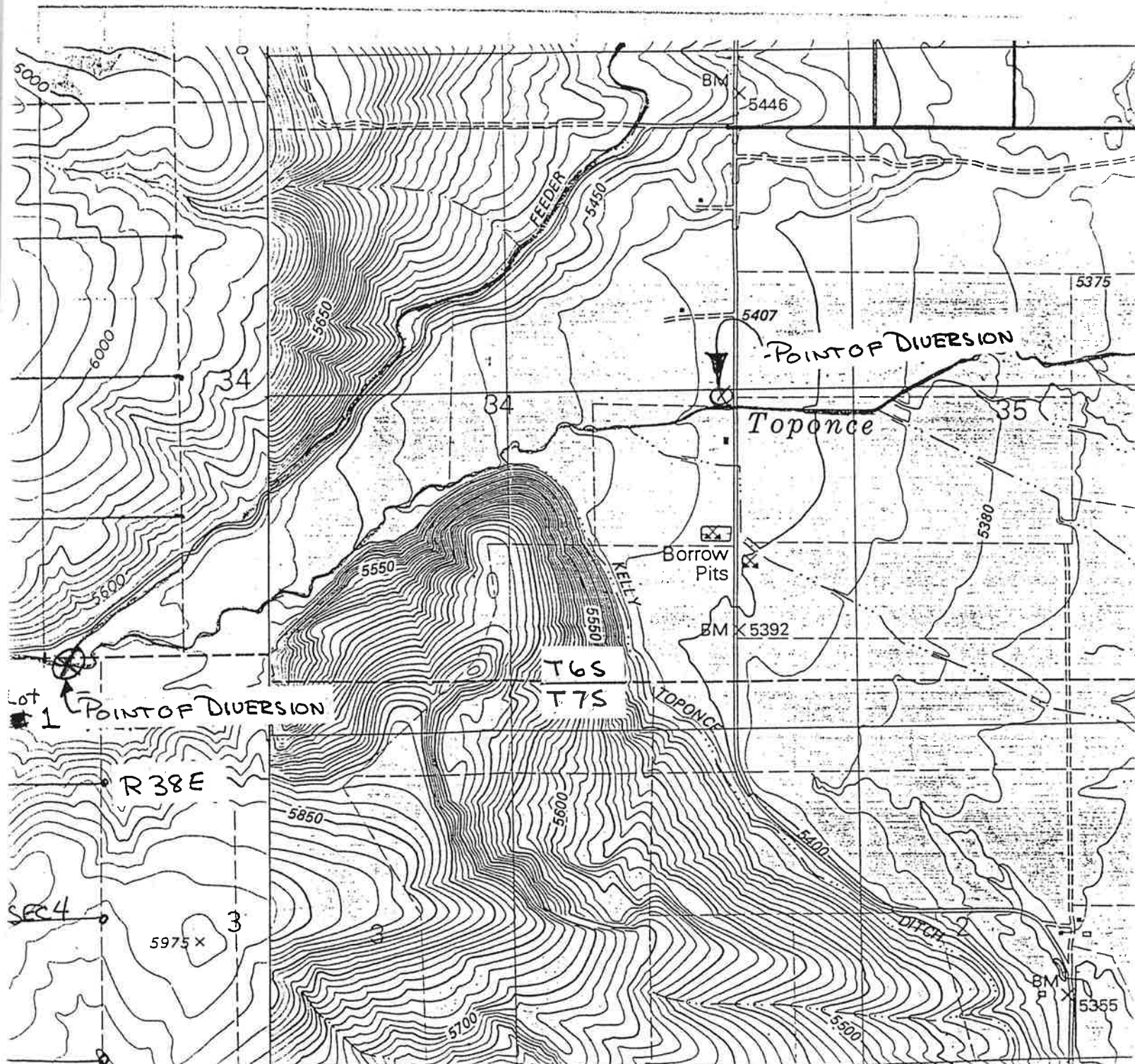
ROAD

R 38 E



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

C. V. Cattle Co. Inc. by J. W. Sedona Rex
(Signature of Applicant)

Subscribed and sworn to before me this 27th day of March, 19 92

Betty J. Thompson
(Notary Public)

BETTY J. THOMPSON, NOTARY PUBLIC

My commission expires RESIDING AT IDAHO FALLS, IDAHO

MY COMMISSION EXPIRES: 6-30-94

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee \$50.00Receipted by HWT #E016556 Date 7-22-91Published in Caribou County Sun Copies of protest forwarded by _____Pub. dates 4-16 & 23-92 Hearing held by _____ Date _____Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 5782 IN) **PRELIMINARY ORDER**
THE NAME OF C.V CATTLE INC.)

This matter having come before the Idaho Department of Water Resources (department), the department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. In 1984 Transfer #2327 was voided by the Department because the applicants, Rondo & Delos Perkins failed to provide evidence of ownership as requested by IDWR.
2. In July of 1991 the Department was advised that Rondo Perkins was diverting the water addressed in voided transfer application # 2327 through the Toponce Feeder Canal. At this time Mr. Perkins was advised by the Department that he was not authorized to continue this diversion without an approved transfer of the subject water rights.
3. Mr. Perkins filed application for transfer #5782 on July 15, 1991. The application was revised in March of 1992. The application was advertised in April of 1992. While no protests were received at least one right was found to belong to the Shonshone-Bannock Tribe.
4. The applicant had written permission from the Bureau of Indian Affairs to use these rights through Dec. 1993.
5. Later correspondence with the attorney for the Tribes revealed that the Tribes were not willing to allow right # 29-00238 to be transferred by CV Cattle Inc. (Mr. Perkins).
6. The applicant has not provided proof of ownership of rights #29-00236, 29-00239 & 29-00240.
7. On May 8, 2000 the applicant was again asked to provide proof or evidence that allowed him to transfer the subject rights. As of July 7, 2000 the Department has received no response..

CONCLUSIONS OF LAW

1. Section 42-204, Idaho Code, provides in pertinent part as follows:
 - If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information with thirty (30) days, the department may void the record of said application and notify the applicant of such action.
2. The applicant has not responded to the department and has not provided the information requested.
3. The department should void the record of the application pursuant to Section 42-204, Idaho Code.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Application No. 5782 amended in the name of CV Cattle Inc. is **VOIDED** pursuant to the provisions of Section 42-204, Idaho Code.

Dated this 10 day of July, 2000.



Regional Supervisor

July 10, 2000

Dear Interested Party:

The accompanying order is a “**preliminary order**” issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Director within fourteen (14) days of the service date of this order. The Director will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243 (3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any party of a preliminary order and may file briefs in support of the party's position on any issue on the proceeding to the Directory. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL AGRUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matter filed with the Director in connection with the preliminary order shall be served on all other parties to the proceeding in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after it issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to section 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,