

Maximum Diversion Rate: 0.06 CFS
Maximum Diversion Volume: 10.6 AF

US DEPT OF AGRICULTURE
FOREST SERVICE
2306 S HILAND AVE
BURLEY ID 83318

SOURCE:
BENNETT SPRING
POMERELLE SPRING

TRIBUTARY:
HOWELL CREEK
HOWELL CREEK

BENEFICIAL USE

PERIOD OF USE

DIVERSION RATE

ANNUAL
DIVERSION
VOLUME

10.6 AF

9.2 AF

10.3 AF

0.06 CFS

POMERELLE SPRING NW¼NE¼NE¼ Sec. 11, Twp 13S, Rge 24E, B.M. CASSIA County
BENNETT SPRING L3 (NW¼NE¼NW¼) Sec. 1, Twp 13S, Rge 24E, B.M. CASSIA County

Twp	Rge	Sec
13S	24E	1
13S	24E	2
13S	24E	11

[illegible]

Twp	Rge	Sec
13S	24E	2

NE				NW				SW				SE				Totals
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
															X	

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 45-07745

PLACE OF USE: COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	24E	1										X	X						
13S	24E	2				X									X	X	X	X	
13S	24E	11	X	X															

CONDITIONS OF APPROVAL

- Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 45-F.
- A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
- The right holder shall maintain a measuring device of a type approved by the Department as part of the diverting works at Bennett Spring.
- Right 45-7745 authorizes total annual storage volume of 10.6 acre-feet, comprised of 0.91 acre-feet to be used for the initial filling or carryover storage of the pond, 0.18 acre-feet to be used for the initial filling or carryover storage of the enclosed storage tank, 0.3 acre-feet for the replacement of losses caused by evaporation from the pond, and up to 10.3 acre-feet for additional refills for commercial from storage use.
- The pond established by the storage of water under this right shall not exceed a total capacity of 0.91 acre-feet or a total surface area of 0.14 acres.
- The right holder shall maintain an impermeable liner in the pond to eliminate seepage losses.
- Prior to diverting water during the irrigation season under this water right, the water right holder and its agents/operators shall inquire of and obtain express approval from the watermaster that water can be diverted under this water right.
- During the irrigation season, any water flowing into an upstream reservoir from Pomerelle Spring must be measured and passed through the reservoir to the Howell Creek channel unless the watermaster expressly approves storage of the surface water flows.
- To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Acres
45-0311	Irrigation	0.06	2.8

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit approval shall be reduced by the same proportion as the reduction to the mitigation rights.

State of Idaho
Department of Water Resources
Water Right License
WATER RIGHT NO. 45-07745

10. Commercial & Commercial from Storage use is for snow making at Pomerelle Ski Resort.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

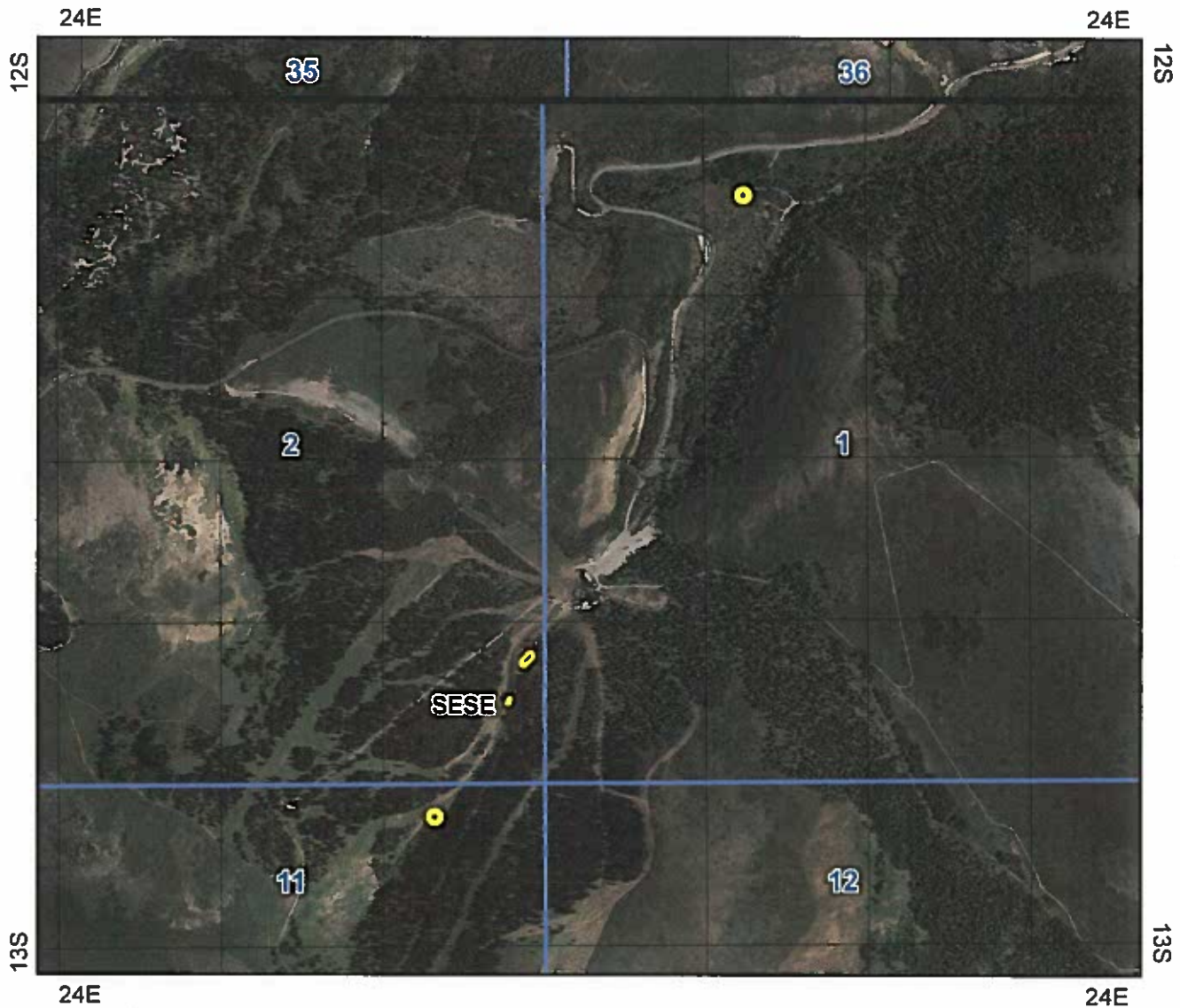
Signed this 7th day of February, 2018.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources
Attachment to Water Right License
45-7745

This map depicts the COMMERCIAL STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



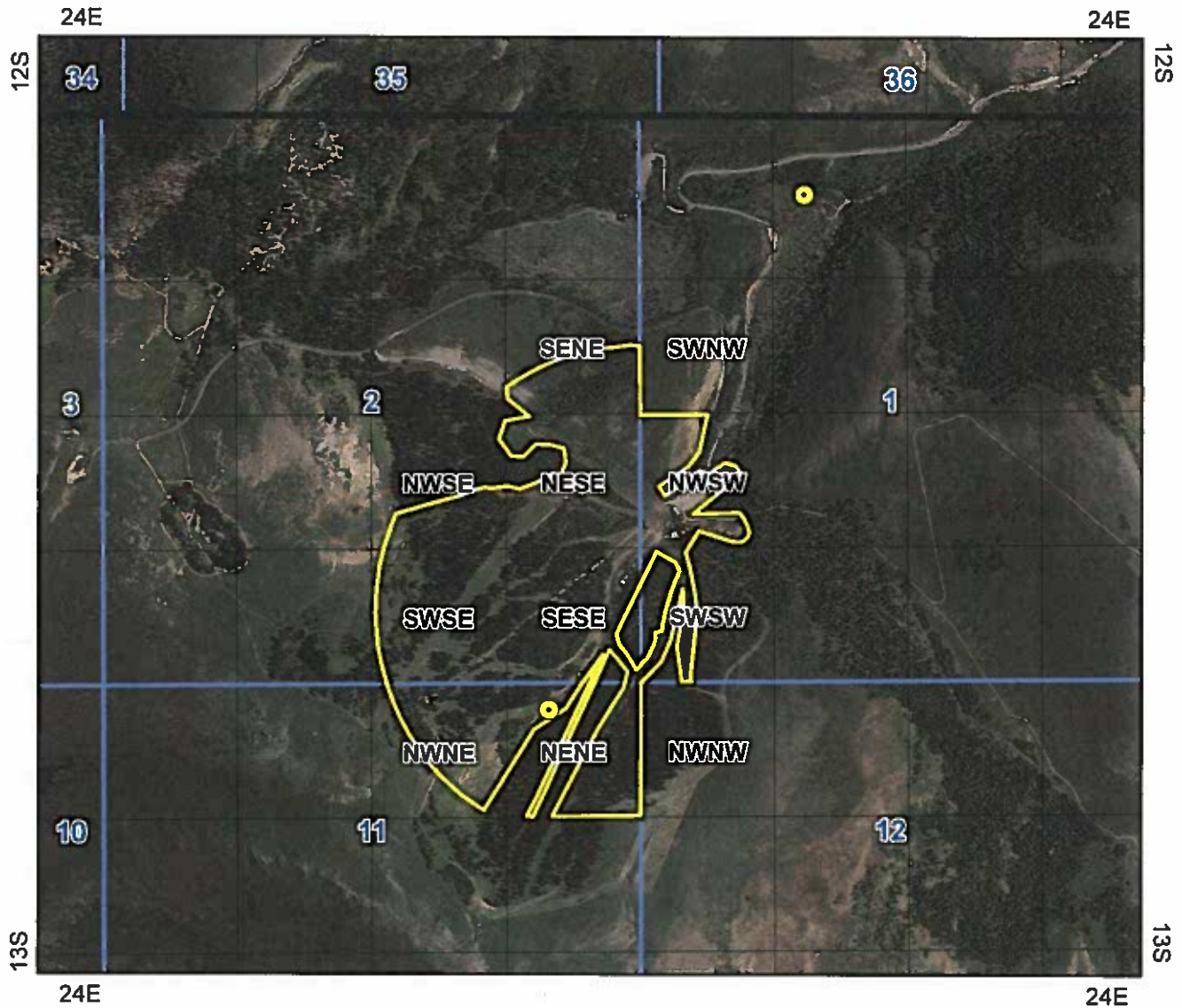
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.175 0.35 0.7 Miles



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Department of Water Resources
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This map depicts the COMMERCIAL FROM STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



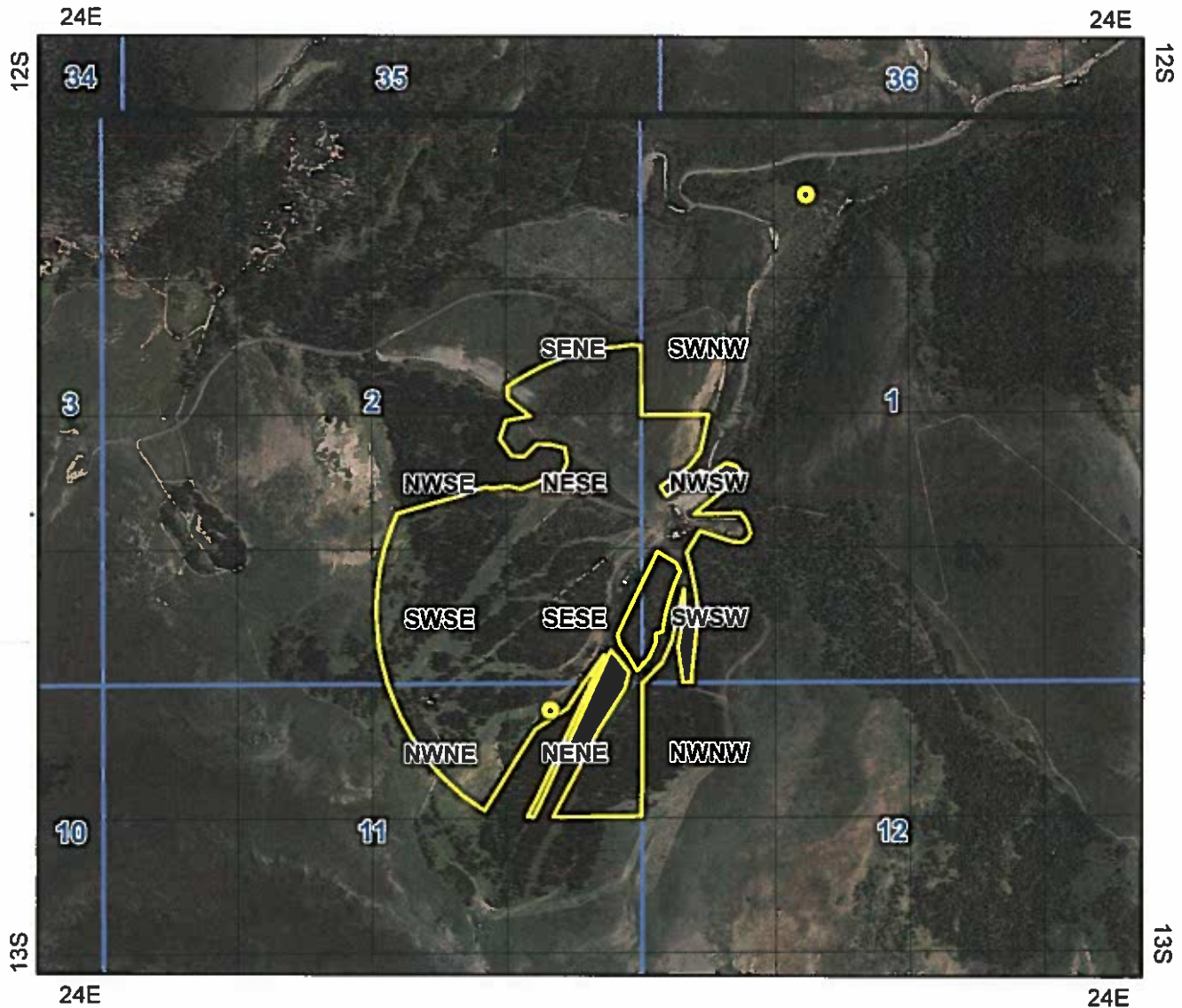
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.2 0.4 0.8 Miles



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This map depicts the COMMERCIAL place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.2 0.4 0.8 Miles

- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 12, 2018

US DEPT OF AGRICULTURE
FOREST SERVICE
2306 S HILAND AVE
BURLEY ID 83318

RE: License No. 45-7745

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

cc: Water District 45F

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2018 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

RE: WATER RIGHT NO. 45-7745

**US DEPT OF AGRICULTURE
FOREST SERVICE
2306 S HILAND AVE
BURLEY ID 83318**

**WATER DISTRICT 45F
DONALD GUNDERSON
1047 E 1000 S
ALBION ID 83311**



**Denise Maline
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document 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 of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department 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 fourteen (14) 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 part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

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 matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (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 its service date 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 sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or 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,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.