

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

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 78371, FORMERLY 71690)	)	FINAL ORDER
IN THE NAME OF THE TERTELING	)	DISMISSING
COMPANY, INC.	)	CONTESTED CASE
	)	

On April 14, 2006, the Idaho Department of Water Resources ("Department") issued a *Recommended Order Dismissing Contested Case* ("Recommended Order") in the above captioned matter.

Any party thereafter had fourteen (14) days under the Department's Rules of Procedure in which to file a petition for reconsideration or exceptions to the Recommended Order with the Director of the Department or fifteen (15) days to request a hearing pursuant to Idaho Code §42-1701A(3).

No petitions, exceptions, or requests for hearing were filed to the Recommended Order. In accordance with Rule 720 of the Department's Rules of Procedure, a recommended order will become final only after review and issuance of a final order by the Director. In accordance with Rules 720 and 740 of the Department's Rules of Procedure, and after review, the Director hereby adopts the Recommended Order in its entirety.

ORDER

IT IS HEREBY ORDERED that the Recommended Order of the Department entered on April 14, 2006, as attached hereto, is adopted as a Final Order of the Department.

Dated this 22nd day of June, 2016.



Gary Spackman
Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 21, 2016

TERTELING COMPANY INC
3858 GARDEN CENTER WAY STE 300
BOISE ID 83703

RE: Transfer No. 78371 (Formerly 71690)

Dear Permit Holder(s):

Enclosed is a Final Order Dismissing Contested Case as a result of the Recommended Order Dismissing Contested Case issued April 14, 2006, copy attached. Please note that the final order was issued pursuant to section 67-5246, Idaho Code. Also enclosed is an informational sheet that explains how a party may respond to a final order.

Sincerely,

A handwritten signature in blue ink that reads "Darla Block".

Darla Block
Technical Records Specialist
Water Allocation Bureau

Enclosure(s)

c: CHARLES L HONSINGER / HONSINGER LAW PLLC
DANA L HOFSTETTER / HOFSTETTER LAW OFFICE

CERTIFICATE OF SERVICE

I hereby certify that on **June 23, 2016** I mailed a true and correct copy, postage prepaid, of the foregoing FINAL ORDER (**FINAL ORDER DISMISSING CONTESTED CASE**) to the person(s) listed below:

RE: Final Order in the Matter of Transfer No. 78371 (Formerly 71690)

**TERTELING COMPANY INC
3858 GARDEN CENTER WAY STE 300
BOISE ID 83703**

**CHARLES L HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701**

**DANA L HOFSTETTER
HOFSTETTER LAW OFFICE
608 W FRANKLIN ST
BOISE ID 83702**



**Darla Block
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

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

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

BEFORE THE DEPARTMENT OF WATER RESOURCES

FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 71690 IN THE NAME OF)
THE TERTELING COMPANY, INC.)
_____)

**RECOMMENDED ORDER
DISMISSING CONTESTED
CASE**

Pursuant to Protestant's *Withdrawal of Protest* filed with the Idaho Department of Water Resources ("Department") on April 11, 2006, IT IS HEREBY ORDERED that the Edwards Family LLC protest is DISMISSED, with prejudice, and the hearing scheduled in this matter is VACATED. The Department retains full discretion to consider any and all evidence it considers relevant, and the Applicant retains the right to object to consideration of the same, including the *Affidavit of Norman C. Young* filed with the Department on April 11, 2006.

PROCEDURAL RIGHTS

This is the recommended order of the Hearing Officer. It will not become final without action of the Director of the Idaho Department of Water Resources. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer will dispose of any 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.

Within fourteen (14) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position with the Director or Director's designee on any issue in the proceeding. If no party files exceptions to the recommended order with the Director or Director's designee, the Director or Director's designee will issue a final order within fifty-six (56) days after:

SUPPORT DATA

- i. The last day a timely petition for reconsideration could have been filed with the hearing officer;
- ii. The service date of a denial of a petition for reconsideration by the hearing officer; or
- iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration by the hearing officer.

Written briefs in support of or taking exceptions to this recommended order shall be filed with the Director or Director's designee. Opposing parties shall have fourteen (14) days to respond. The Director or Director's designee may schedule oral argument in the matter before issuing a final order. The Director or Director's designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Dated this 14th day of April, 2006.

A handwritten signature in black ink, appearing to read "Peter R. Anderson", written over a horizontal line.

Peter R. Anderson
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of April, 2006, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

CHARLES L. HONSINGER
RINGERT CLARK
PO BOX 2773
BOISE ID 83701-2773

DANA L HOFSTETTER
HOFSTETTER LAW OFFICE
608 W FRANKLIN ST
BOISE ID 83702


Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources