

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 80195

This is to certify that: MKFT REAL ESTATE LLC
601 W RIVERSIDE AVE
5TH FLOOR
SPOKANE, WA 99201

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
57-11711	WR/LICENSE	11/1/2007	0.600 cfs	134.1 af	N/A	29.8	GROUND WATER
57-2271	WR/DECREED	3/30/1984	4,500 cfs	1012.5 af	N/A	225.0	GROUND WATER
57-2278	WR/DECREED	9/14/1964	2,800 cfs	630.0 af	N/A	140.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
57-11711	YES	YES	YES	YES	NO	NO
57-2271	NO	YES	YES	YES	NO	NO
57-2278	NO	YES	YES	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
57-11711	57-11876	0.520 cfs	116.1 af	25.8	531.0	57-11711	0.080 cfs	18.0 af	N/A	4.0
57-2271	57-2271	4,500 cfs	1012.5 af	225.0	531.0	N/A	N/A	N/A	N/A	N/A
57-2278	57-2278	2,800 cfs	630.0 af	140.0	531.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		7.820 cfs	1758.6 af	390.8	531.0		0.08 cfs	18.0 af	N/A	4.0

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 26th day of April, 2016.


for Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 57-2271

Transfer No. 80195

WATER RIGHT NO. 57-2271**As Modified by Transfer No. 80195**

In accordance with the approval of Transfer No. 80195, Water Right No. 57-2271 is now described as follows:

Right Holder: MKFT REAL ESTATE LLC
601 W RIVERSIDE AVE
5TH FLOOR
SPOKANE, WA 99201

Priority Date: 3/30/1964

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 10/15

Diversion Rate

4.500 cfs

4.500 cfs

Diversion Volume

1012.5 af

1012.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 25 Twp 04S Rge 01W OWYHEE County
GROUND WATER	SWSE	Sec 26 Twp 04S Rge 01W OWYHEE County
GROUND WATER	SESW	Sec 26 Twp 04S Rge 01W OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01W	25											25.0						25.0
04S	01W	26									40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	320.0
04S	01W	34	3.0			5.0	25.0												33.0
04S	01W	35	14.0	38.0			40.0	40.0	11.0	10.0									153.0

Right Acre Limit: 225.0

POU Total Acres: 531.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 225 acres within the authorized place of use in a single irrigation season.
2. Rights 57-2271, 57-2278, and 57-11876 when combined shall not exceed the irrigation of 390.8 acres.
3. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 and after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 1/17/2003.

Transfer No. 80195

WATER RIGHT NO. 57-2271
As Modified by Transfer No. 80195

CONDITIONS OF APPROVAL

4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. The following rights are diverted through point(s) of diversion described above: 57-2271, 57-2278, and 57-11876.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 57-2278**As Modified by Transfer No. 80195**

In accordance with the approval of Transfer No. 80195, Water Right No. 57-2278 is now described as follows:

Right Holder: MKFT REAL ESTATE LLC
601 W RIVERSIDE AVE
5TH FLOOR
SPOKANE, WA 99201

Priority Date: 9/14/1964

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

3/01

to

To

10/31

Diversion Rate

2.800 cfs

2.800 cfs

Diversion Volume

630.0 af

630.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSW
GROUND WATER SWSE
GROUND WATER SESW

Sec 25 Twp 04S Rge 01W Owyhee County
Sec 26 Twp 04S Rge 01W Owyhee County
Sec 26 Twp 04S Rge 01W Owyhee County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01W	25											25.0						25.0
04S	01W	26									40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	320.0
04S	01W	34	3.0		5.0	25.0													33.0
04S	01W	35	14.0	38.0			40.0	40.0	11.0	10.0									153.0

Right Acre Limit: 140.0

POU Total Acres: 531.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 140 acres within the authorized place of use in a single irrigation season.
2. Rights 57-2271, 57-2278, and 57-11876 when combined shall not exceed the irrigation of 390.8 acres.
3. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 1/17/2003.

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WATER RIGHT NO. 57-2278
As Modified by Transfer No. 80195

CONDITIONS OF APPROVAL

4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. The following rights are diverted through point(s) of diversion described above: 57-2271, 57-2278, and 57-11876.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 57-11711
As Modified by Transfer No. 80195

In accordance with the approval of Transfer No. 80195, Water Right No. 57-11711 is now described as follows:

Right Holder: HART CREEK RANCH LLC
 24597 COLLETT RD
 OREANA, ID 83650

Priority Date: 11/1/2007

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	0.080 cfs	18.0 af
			0.080 cfs	18.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 25 Twp 04S Rge 01W OWYHEE County
GROUND WATER	SWSE	Sec 26 Twp 04S Rge 01W OWYHEE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01W	25											4.0						4.0

POU Total Acres: 4.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. This right is for the use of trust water and is subject to review 5 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
3. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Transfer No. 80195

WATER RIGHT NO. 57-11876
As Modified by Transfer No. 80195

In accordance with the approval of Transfer No. 80195, Water Right No. 57-11876 is now described as follows:

Right Holder: MKFT REAL ESTATE LLC
 601 W RIVERSIDE AVE
 5TH FLOOR
 SPOKANE, WA 99201

Priority Date: 11/1/2007

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

03/01

to

To

11/15

Diversion Rate

0.520 cfs

0.520 cfs

Diversion Volume

116.1 af

116.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 25 Twp 04S Rge 01W Owyhee County
GROUND WATER	SWSE	Sec 26 Twp 04S Rge 01W Owyhee County
GROUND WATER	SESW	Sec 26 Twp 04S Rge 01W Owyhee County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01W	25											25.0						25.0
04S	01W	26									40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	320.0
04S	01W	34	3.0			5.0	25.0												33.0
04S	01W	35	14.0	38.0			40.0	40.0	11.0	10.0									153.0

Right Acre Limit: 25.8

POU Total Acres: 531.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 25.8 acres within the authorized place of use in a single irrigation season.
2. Rights 57-2271, 57-2278, and 57-11876 when combined shall not exceed the irrigation of 390.8 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

Transfer No. 80195

WATER RIGHT NO. 57-11876
As Modified by Transfer No. 80195

CONDITIONS OF APPROVAL

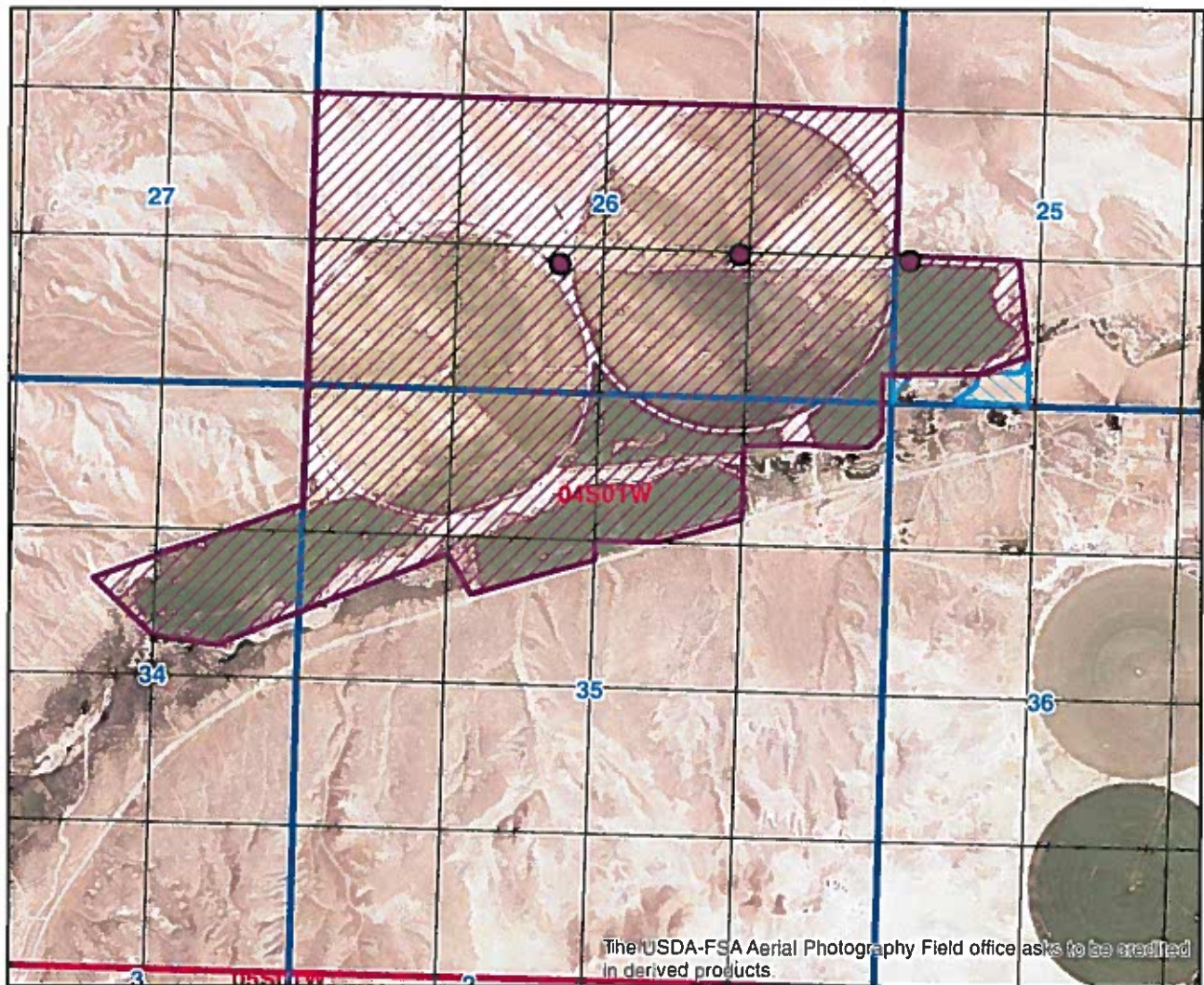
5. The following rights are diverted through point(s) of diversion described above: 57-2271, 57-2278, and 57-11876.
6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
7. This right is for the use of trust water and is subject to review 5 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

State of Idaho
Department of Water Resources

Attachment to Application for Transfer of Water Right

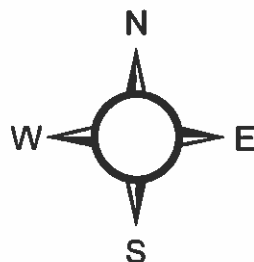
Transfer No. 80195 Water Right Nos. 57-2271, 57-2278, 57-11876, & 57-11711

This map depicts the IRRIGATION point(s) of diversion and place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



Legend

- Transfer POD
- ▨ Transfer POU
- ▨ 57-11711
- ▨ Township/Range
- ▨ Sections
- ▨ QQ



Note the POD(S) for 57-11711 are the two Transfer POD locations in the SWSE Section 26 and the SWSW Section 25

2015 aerial imagery



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

April 27, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

MKFT REAL ESTATE LLC
601 W RIVERSIDE AVE
5TH FLOOR
SPOKANE WA 99201

Re: Transfer No: 80195
Water Right No(s): 57-2271, 57-2278, 57-11711

Transfer Approval Notice

Dear Water Right Holder <and other Interested Persons>:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 the APPLICANT 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.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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)334-2190.

Sincerely,

 Rachel Neely for:

Nick Miller

Western Regional Manager

Enclosure

CC:

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 80195

Water Right No(s): 57-2271, 57-2278, 57-11711

**MKFT REAL ESTATE LLC
601 W RIVERSIDE AVE
5TH FLOOR
SPOKANE WA 99201**

**SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706**



**Rachel Neely
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.