



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 27, 2005

Donna Bybee
Robert Bybee
2014 E 1800 N
Terreton, Idaho 83450

IM Family Limited Partnership
c/o Ball
8006 Bent Oak Lane
Spring, Texas 77379

Paul Gunderson
1555 E 1500 N
Hamer, Idaho 83425

EW Pike
PIKE SMITH
PO Box 2949
Idaho Falls, Idaho 83403-2949

**RE: APPLICATION FOR TRANSFER NO. 70627 IN THE NAME OF ROBERT OR
DONNA BYBEE**

Dear Parties:

Today the Department issued a Final Order in the above referenced matter. The Department also sent accompanying information titled "Explanatory Information to Accompany a Final Order." In this particular matter, the explanatory information sheet incorrectly includes a paragraph titled "Request for Hearing" as one of the actions the parties can pursue, since a hearing has already been requested and denied. The other explanatory information is correct.

If you have questions, please feel free to contact me at (208) 287-4800.

Sincerely,

L. GLEN SAXTON, P.E.
Administrator
Water Management Division

c: Ron Carlson - IDWR

**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) 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.