

RECEIVED
RECEIVED FEB 27 2004

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Permit No. 15-7258

APPLICATION FOR PERMIT

APR 19 2004

Department of Water Resources
Eastern Region To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of Applicant Richard V & Diane R Allen living Trust Phone 208-766-2461
Mailing address 414 N Main, Malad Idaho 83252
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 14S Range 36E Sec. 9, in the _____ 1/4,
N4W 1/4, SW 1/4, Govt. Lot _____, B.M., Owaida County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:

Amount <u>.2</u> for <u>Irrigation</u>	purposes from <u>1 April</u> to <u>31 October</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>20</u> for <u>Aesthetic</u>	purposes from <u>1 Jan</u> to <u>31 Dec</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>.02</u> for <u>Stockwater</u>	purposes from <u>1 Jan</u> to <u>31 Dec</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount _____ for _____	purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)	
Amount _____ for _____	purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)	
Amount _____ for _____	purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)	
5. Total quantity to be appropriated is (a) .20 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source Well and pump to an irrigation system, supply for an aesthetic pond, and water trough for stockwater
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is 10" inches; proposed depth of well is 300' feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW.
 - b. Stockwatering; list number and kind of livestock. 6 horses, 3 cows, 4 sheep & 50 chickens
 - c. Municipal; show name of municipality.
 - d. Domestic; show number of households.
 - e. Other; describe fully. a 1 acre pond ten feet deep. The 20 acre foot amount is to allow for evaporation and infiltration

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	36E	9											10/5-J						10

Total number of acres to be irrigated 10

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: _____

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

David H. Allen Trustee
Signature of Applicant (and title, if applicable)

Received by David H. Allen Date 2-27-2004 Time 11:43 AM Preliminary check by David H. Allen

Fee \$ 100.00 Receipted by David H. Allen # FD29569 Date 2-27-2004

Publication prepared by SC Date 3/18/04 Published in Idaho Enterprise

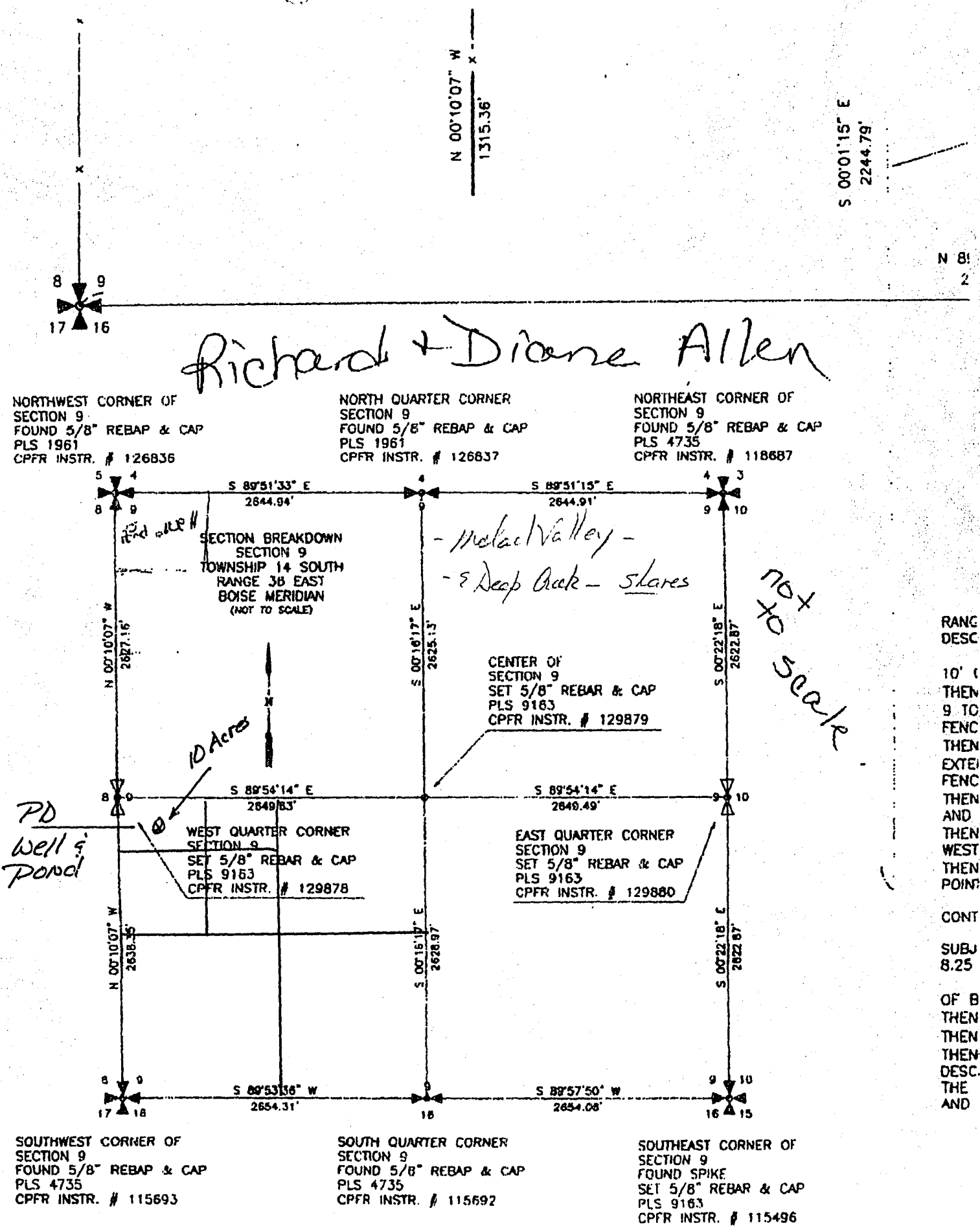
Publication approved 4/7/04 SC Date 4/7/04

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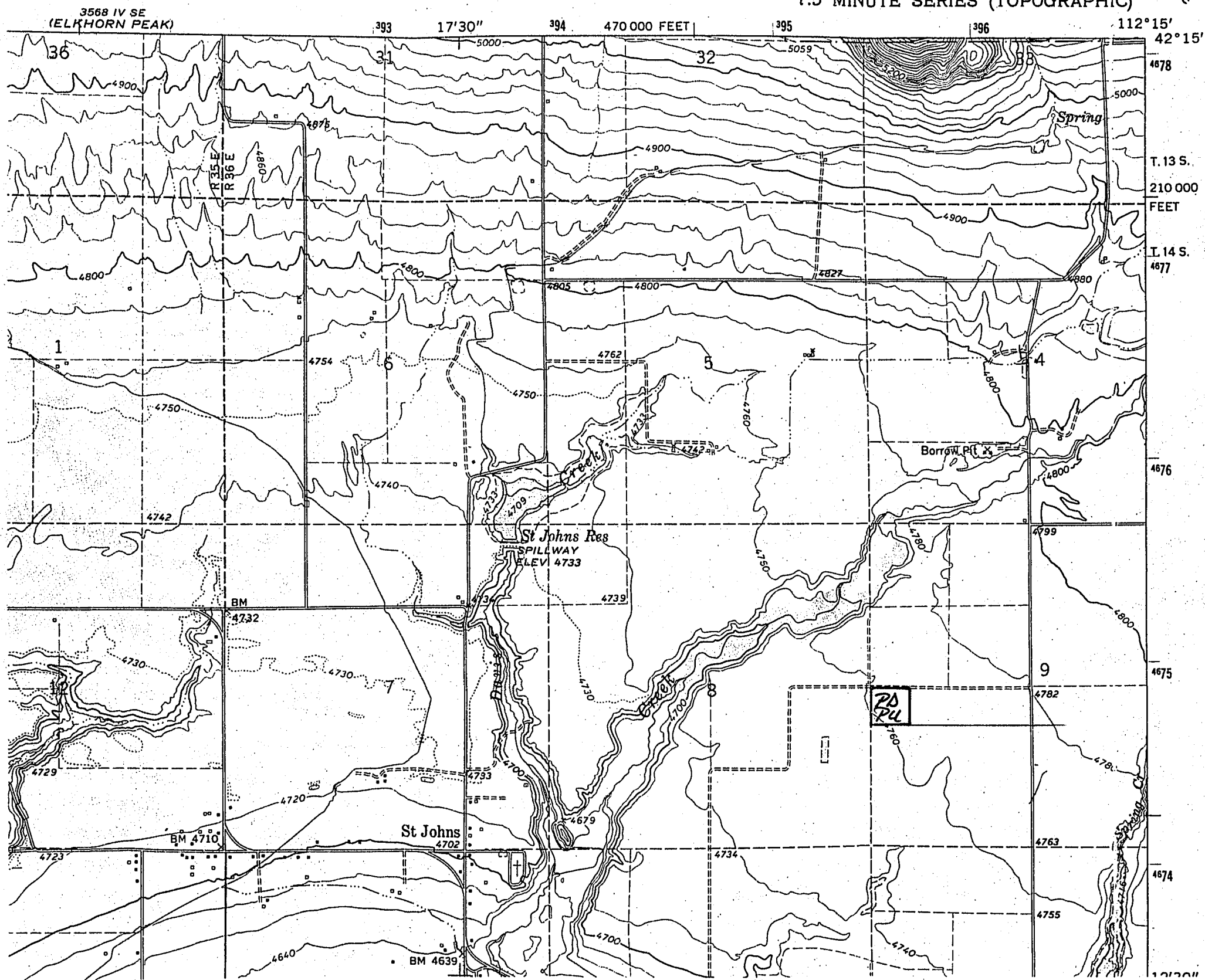
Richard Allen

208 766-0902

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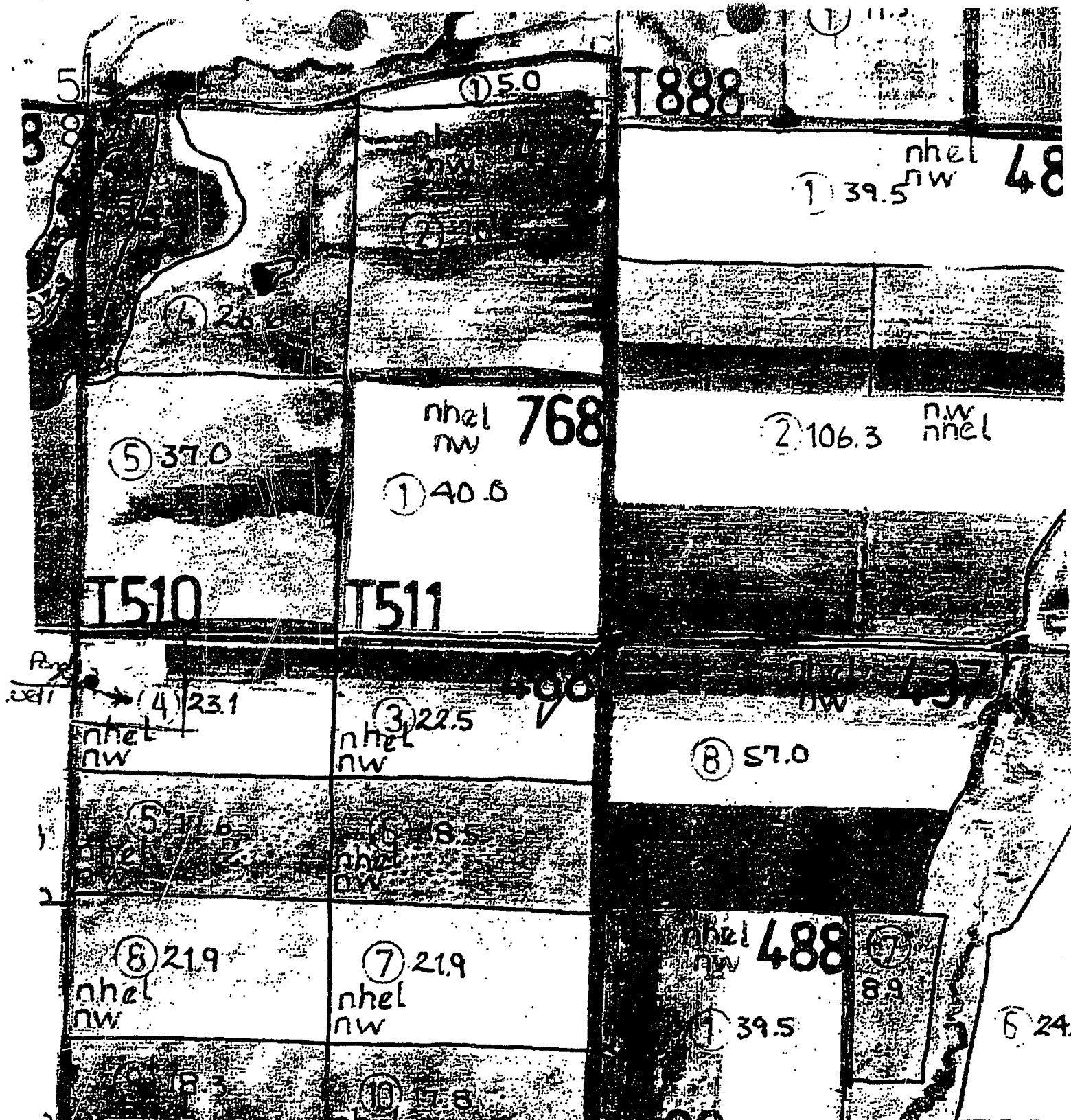


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Richard Allen

208 766-0902

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U.S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SCS - CPA - 16
7-31

CONSERVATION PLAN MAP

Owner Richard Allen Operator _____
County Oacida State Zdchu Date Feb 2003
Approximate acres _____ Approximate scale 1" = 660'
Cooperating with Oacida Soil & water Conservation District _____
Plan identification _____ Photo number _____
Assisted by _____ USDA Soil Conservation Service

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 15-07258

Priority: February 27, 2004

Maximum Diversion Rate: 0.20 CFS

This is to certify, that RICHARD V & DIANE R ALLEN LIVING TRUST
4 N MAIN
MALAD ID 83252

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/31	0.20 CFS	
STOCKWATER	01/01 to 12/31	0.02 CFS	
AESTHETIC STORAGE	01/01 to 12/31		20.0 AF

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 9, Twp 14S, Rge 36E, B.M., ONEIDA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S 36E 9																	10.0
Total Acres:																	10

PLACE OF USE: STOCKWATER & AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S 36E 9																	X

CONDITIONS OF APPROVAL

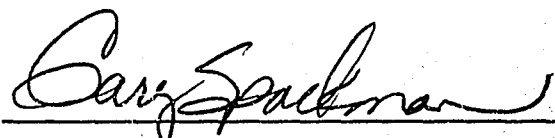
1. Proof of application of water to beneficial use shall be submitted on or before April 01, 2009.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
6. Stockwater use is for 6 horses, 3 range cattle, 4 sheep and 50 chickens.

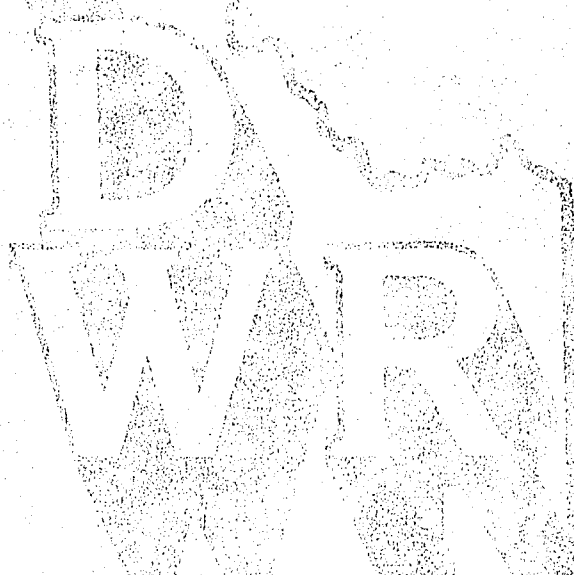
Page 2

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 15-07258

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 determine the amount of water diverted from power records and shall annually report the information to the Department.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of April, 2004.


KARL J DREHER, Director





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 10, 2004

Legal Notice Department
IDAHO ENTERPRISE
PO BOX 205
MALAD CITY ID 83252

RE: Application for Permit No. 15-7258

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before April 5, 2004. Your cooperation is appreciated.

Sincerely

Sharla Cox
Administrative Assistant

Mailed
3/10/04
sc

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

15-7258

RICHARD V & DIANE R ALLEN LIVING TRUST
4 NORTH MAIN
MALAD ID 208 766 2461

Point(s) of Diversion: NWSW S9 T14S R36E, ONEIDA County
Source GROUND WATER

Use: IRRIGATION	04/01 To 10/31	0.2 CFS	
Use: STOCKWATER	01/01 To 12/31	0.02 CFS	
Use: AESTHETIC STORAGE	01/01 To 12/31		20 AFA
Total Diversion:		0.2 CFS	

Date Filed: 02/27/2004

Place Of Use: IRRIGATION, STOCKWATER, AESTHETIC STORAGE
T14S R36E S9 NWSW

Number of Acres 10

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before April 5, 2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on March 18 and 25, 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 10, 2004

RICHARD V & DIANE R ALLEN LIVING TRUST
4 NORTH MAIN
MALAD ID 208 766 2461

RE: Application for Permit No 15-7258

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right application. Please refer to the above referenced number in all future correspondence regarding this application.

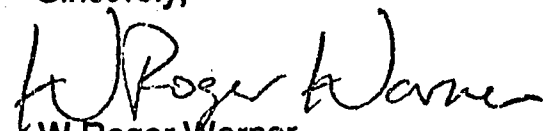
A legal notice of the application has been prepared and is scheduled for publication in the Idaho Enterprise on March 18 and 25, 2004. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

Please feel free to contact this office if you have any questions.

Sincerely,


W Roger Warner
Water Rights Supervisor

WRW:sc

3105
AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF ONEIDA)

Kristine D. Smith, being duly sworn, deposes and says: that she is the publisher of *The Idaho Enterprise*, a weekly newspaper published at Malad City, in the county of Oneida and State of Idaho; that said newspaper has been and is in general circulation in the county aforesaid, and in the vicinity of Malad City, that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 27 consecutive weeks in the regular and entire issue of said newspaper during the period of time of publication, and was published in the newspaper proper and not a supplement; that said newspaper has been established and regularly published for more that seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with 3-18, 2004, and ending with the issue of 3-25, 2004.

Kristine D. Smith
STATE OF IDAHO)

COUNTY OF ONEIDA)

On this 2nd day of April in the year of 2004 before me, Kristine D. Smith, a Notary Public, personally appeared Kristine D. Smith, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Lugene P. Hill
Notary public of Idaho Lugene P. Hill
Residing at 20 N. Main Malad, ID 83252
My commission expires: 5-13-2004

NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

15-7258
RICHARD V & DIANE R ALLEN
LIVING TRUST
4 NORTH MAIN
MALAD ID 208 766-2461
Point(s) of Diversion: NWSW S9
T14S R36E, ONEIDA County
Source GROUND WATER
Use: IRRIGATION 04/01 To
10/31 0.2 CFS
Use: STOCKWATER 01/01 To
12/31 0.02 CFS
Use: AESTHETIC STORAGE
01/01 To 12/31 20 AFA

Total Diversion: 0.2 CFS

Date Filed: 02/27/2004

Place Of Use: IRRIGATION,
STOCKWATER, AESTHETIC
STORAGE

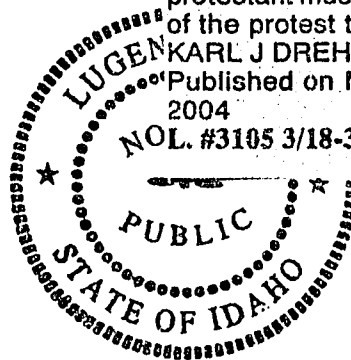
T14S R36E S9 NWSW

Number of Acres 10

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KARL J DREHER, Director
Published on March 18 and 25, 2004



RECEIVED

APR 07 2004

Department of Water Resources
Eastern Region

MEMORANDUM

Date: April 23, 2004
To: Water Right File 15-7258
From: kwalker *kw*
Re: Permit Review

While reviewing this application I noticed that the place of use description shown on application was different than what was portrayed on the map accompanying the application. The legal description says the place of use is located in the SWSW of Sec. 9. The maps attached to the application clearly show the place of use in the NWSW of Sec. 9. The advertisement also describes the place of use to be located in the NWSW, Sec. 9. Since the advertisement was correct I am recommending approval with the place of use located in NWSW, Sec. 9.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 27, 2004

RICHARD V & DIANE R ALLEN LIVING TRUST
4 N MAIN
MALAD ID 83252

RE: Permit No. 15-7258

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

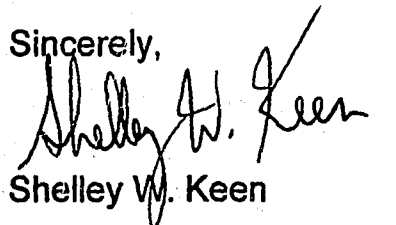
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, 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 208-327-7946.

Sincerely,



Shelley W. Keen
Water Rights Supervisor

SWK:klr

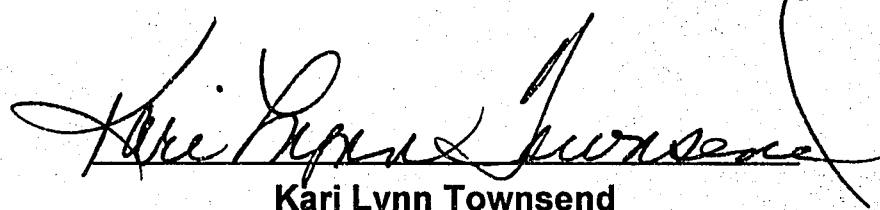
Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2004 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 15-7258

**RICHARD V & DIANE R ALLEN LIVING TRUST
4 N MAIN
MALAD ID 83252**


**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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. 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 Idaho Water Resource Board (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 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 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.