

LLC filed application for transfer no. 79466. All four transfers were protested and the contested case hearings were held before the Hearing Officer James Cefalo on March 18 and 19, 2015.

First, the Hearing Officer issued a preliminary order approving transfer no. 79466 on May 29, 2015. No exceptions were filed and the order became final by operation of law. No party appealed the order concerning transfer no. 79466.

Second, the Hearing Officer issued a preliminary order denying transfer no. 79384 on May 29, 2015. The applicant filed exceptions with the Director. The Director issued a final order denying this transfer on October 13, 2015. No party appealed the final order concerning transfer no. 79384.

Third, the Hearing Officer issued an amended preliminary order approving transfer no. 79357 with certain conditions on June 1, 2015. The applicant filed exceptions with the Director. The Director issued and served an amended final order approving the transfer on November 12, 2015. No party appealed the final order concerning transfer no. 79357.

Finally, the Hearing Officer issued an amended preliminary order approving transfer no. 79380 with certain conditions on June 1, 2015. The applicant filed exceptions with the Director. The Director issued and served an amended final order approving the transfer on November 12, 2015. Petitioner Richard Parrott appealed the amended final order concerning transfer no. 79380 on December 9, 2015. The Petitioner then filed an amended petition for judicial review on December 11, 2015. The Petitioner then filed a document with the Court on December 21, 2015, labeled A-1, B-2, and B-3. In the document listed as A-1, the Petitioner apparently hand wrote the message "Submitted to insure the record – and add this water transfer [no. 79357] to the review." It is this filing that gives rise to the present motion.

ARGUMENT

I. The Court Should Clarify This Case Only Concerns the Amended Final Order for Transfer No. 79380.

The Director issued and served the amended final order for transfer no. 79357 on November 12, 2015. By law, the Petitioner was required to file any appeal by December 10, 2015, or twenty-eight (28) days after the date of service of the final order. *See Idaho Code § 67-5273(2); I.R.C.P. 84(b)(1)*. The Petitioner did not file a timely appeal. Instead, the Petitioner only filed an appeal with respect to transfer no. 79380. *See Petition for Judicial Review* at 1 (Dec. 9, 2015) (caption only lists transfer no. 79380); *Amended Petition for Judicial Review* at 1 (Dec. 11, 2015) (caption only lists transfer no. 79380).

The failure to file a timely appeal is jurisdictional and causes automatic dismissal pursuant to Idaho law. *See Idaho Code § 67-5273(2); I.R.C.P. 84(n); City of Eagle v. IDWR*, 150 Idaho 449, 454 (2011); *Johnson v. State (In re Johnson)*, 153 Idaho 246, 250-51 (2012). Although the Petitioner has not filed a formal or amended petition for judicial review identifying that he seeks to appeal the final order for transfer no. 79357, the filing on December 21, 2015 raises the issue since it indicates that he wants to “add this water transfer number to the review.” *See Document* at A-1 (Dec. 21, 2015).

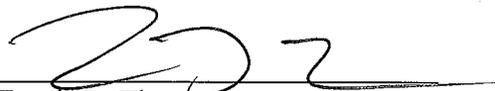
Counsel for Cedar Ridge raised the issue at the January 14, 2016 status conference. At the conference the Court requested a filing to address the issue. Accordingly, Cedar Ridge moves the Court for an order clarifying the scope of this appeal to ensure that the Petitioner does not attempt to address the final order for transfer no. 79357 in his briefing or arguments to the Court. The Director’s final order for transfer no. 79357 was not appealed and cannot be addressed through the present case. An order from the Court would clarify the scope of this appeal and ensure the parties only address the final order in transfer no. 79380.

CONCLUSION

The Petitioner failed to timely appeal the Director's amended final order approving transfer no. 79357. Since the failure to file a timely appeal is jurisdictional, there is no legal basis to address that order in this current matter. Given the confusion of the Petitioner's filing on December 21, 2015, Cedar Ridge respectfully requests the Court to clarify the scope of the present appeal. No oral argument is requested.

Respectfully submitted this 21st day of January, 2016.

BARKER ROSHOLT & SIMPSON LLP



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of January, 2016, I served true and correct copies of the foregoing upon the following by the method indicated:

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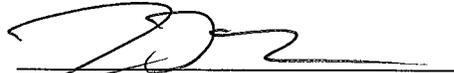
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