

6-11-2010

# Buell v. Idaho Dept. of Transp. Clerk's Record Dckt. 37404

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# LAW CLERK

Vol 1 of 2

IN THE SUPREME COURT OF THE STATE OF IDAHO

VOLUME ONE OF ONE

CASE NO. 37404-2010

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In the Matter of the Driver's License Suspension of

JAMES KEVIN BUELL

-----  
JAMES KEVIN BUELL  
Petitioner-Appellant

v.

IDAHO DEPARTMENT OF TRANSPORTATION  
Respondent-Respondent on Appeal.

---

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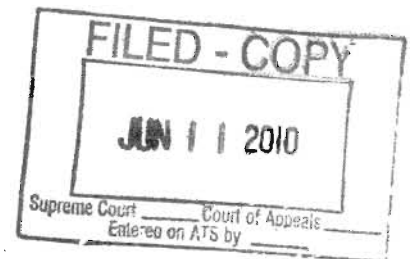
Appealed from the District Court of the  
First Judicial District of the State of Idaho,  
In and for the County of Benewah.

Honorable FRED M. GIBLER,  
Judge

---

JAMES E. SIEBE  
Attorney for Petitioner-Appellant  
P.O. Box 9045  
Moscow, ID 83843

SUSAN K. SERVICK  
Special Deputy Attorney General  
Attorney for Respondent-Respondent on Appeal  
P.O. Box 2900  
Coeur d'Alene, ID 83816



# 37404

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14. SUPPLEMENTAL AGENCY RECORD, filed November 28, 2008 - - - -	61

SIEBE LAW OFFICES  
JAMES E. SIEBE, ISBN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

FILED  
BENEWAH COUNTY  
J. MICHELE REYNOLDS, CLERK

2007 OCT 10 PM 3:20

BY: CJR, DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

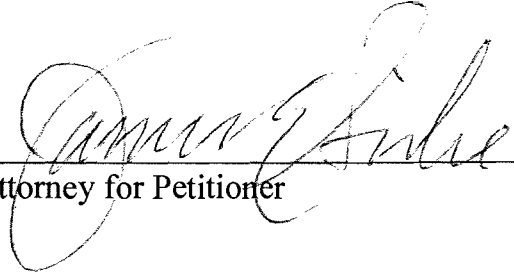
JAMES KEVIN BUELL,	)	
	)	Case No. <u>C107-488</u>
Petitioner,	)	
	)	ITD File No. 486A01291698
v.	)	
	)	
STATE OF IDAHO,	)	PETITION FOR
TRANSPORTATION DEPARTMENT,	)	JUDICIAL REVIEW
	)	
Respondent.	)	Fee Category: G3
	)	Fee: \$88.00
_____	)	

COMES NOW, Petitioner James Kevin Buell, by and through his attorney of record, James E. Siebe, of Moscow, Idaho, and pursuant to I.C. § 67-5270 et seq., hereby respectfully petitions this Court for Judicial Review of Idaho Transportation Department Findings of Fact, Conclusions of Law and Preliminary Order dated August 31, 2007, which became a final order on September 14, 2007. A copy of said Findings of Fact,

Conclusions of Law and Preliminary Order is attached hereto as Exhibit A. Said order was entered following a hearing held pursuant to I.C. § 49-326(4).

DATED this 10 day of October, 2007.

SIEBE LAW OFFICES

By   
Attorney for Petitioner

CERTIFICATE OF SERVICE

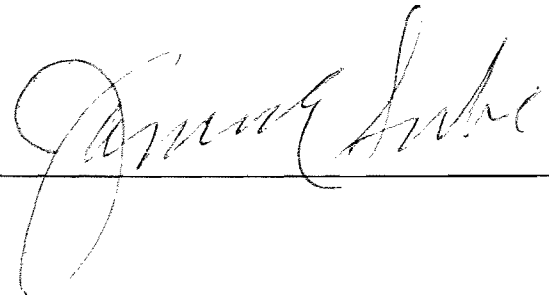
I hereby certify that on the \_\_\_\_\_ day of October, 2007, I served a true and correct copy of the foregoing document by the following method, addressed to the following:

Driver Services  
Idaho Transportation Dept.  
P.O. Box 7129  
Boise, ID 83707-1129

\_\_\_\_ U.S. Mail  
\_\_\_\_ Hand Delivery  
\_\_\_\_ Overnight Mail  
☒ Facsimile  
(208) 334-8739  
(208) 332-2002

Hon. Fred M. Gibler  
P.O. Box 527  
Wallace, ID 83873

\_\_\_\_ U.S. Mail  
\_\_\_\_ Hand Delivery  
\_\_\_\_ Overnight Mail  
☒ Facsimile  
(208) 753-3581



2007 OCT 15 AM 9:24

BY: CJR DEPUTY

SIEBE LAW OFFICES  
JAMES E. SIEBE, ISBN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,

Petitioner,

v.

STATE OF IDAHO,  
TRANSPORTATION DEPARTMENT,

Respondent.

Case No. CV 07-488

ITD File No. 486A01291698

AMENDED  
PETITION FOR  
JUDICIAL REVIEW

COMES NOW, Petitioner James Kevin Buell, by and through his attorney of record, James E. Siebe, of Moscow, Idaho, and pursuant to I.C. § 67-5270 et seq., hereby respectfully petitions this Court for Judicial Review of Idaho Transportation Department Findings of Fact, Conclusions of Law and Preliminary Order dated August 31, 2007, which became final on October 5, 2007. A copy of said Findings of Fact, Conclusions of

Law and Preliminary Order is attached hereto as Exhibit A. Said order was entered following a hearing held pursuant to I.C. § 49-326(4).

DATED this 15 day of October, 2007.

SIEBE LAW OFFICES

By 

Attorney for Petitioner

CERTIFICATE OF SERVICE

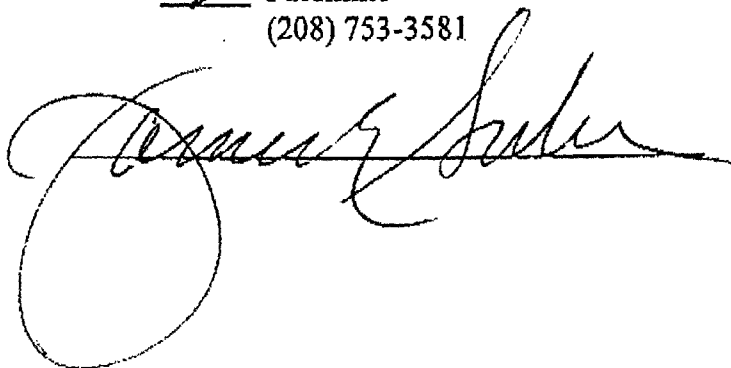
I hereby certify that on the 10 day of October, 2007, I served a true and correct copy of the foregoing document by the following method, addressed to the following:

Driver Services  
Idaho Transportation Dept.  
P.O. Box 7129  
Boise, ID 83707-1129

☐ U.S. Mail  
☐ Hand Delivery  
☐ Overnight Mail  
☒ Facsimile  
(208) 334-8739  
(208) 332-2002

Hon. Fred M. Gibler  
P.O. Box 527  
Wallace, ID 83873

☐ U.S. Mail  
☐ Hand Delivery  
☐ Overnight Mail  
☒ Facsimile  
(208) 753-3581





In the Matter of the  
Driving Privileges of

JAMES KEVIN BUELL,  
License No. [REDACTED]

File No. 486A01291698

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND PRELIMINARY ORDER

THIS MATTER came on for hearing on August 31, 2007, by telephone conference. The respondent participated in the hearing with his attorney, James E. Siebe.

The Hearing Examiner, having heard the testimony of the witnesses, having taken official notice of the records of the Department, and having considered the matter herein, and being advised in the premises and the law, makes the following:

FINDINGS OF FACT

I.

The driver argued that the Notice of Disqualification was defective because it cited Idaho Code § 49-326(1)(E) as one of the grounds for the disqualification which is not applicable to the current disqualification. However, the notice also cited Idaho Code § 49-335, which is applicable.

II.

Records of the Department, which records were introduced and received in evidence, demonstrate that while driving a non-commercial motor vehicle, respondent received a conviction for driving under the influence on July 10, 2007, in the District Court of the First Judicial District Court in and for the County of Bonner, State of Idaho arising out of an incident which occurred on October 21, 2006.

III.

The court ordered suspension for driving under the influence arising out of the same incident was for three (3) months, effective October 21, 2006, however the driver acknowledges that he had full privileges from October 21, 2006, to November 21, 2006, and was without commercial driving privileges only from November 21, 2006, through the present.

SEP - 4 2007

## IV.

The driver must be held to know the laws of the State of Idaho, particularly as they apply to his commercial driving privileges. Further, the State Department of Transportation cannot be estopped by the alleged actions of a prosecuting attorney. There is no estoppel against the state except in its proprietary capacity.

## V.

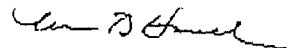
IDAPA 39.02.70, regulations of the Department of Transportation preclude the issuance of a restricted permit to respondent for commercial driving.

PRELIMINARY ORDER

Based upon the Findings of Fact and Conclusions of Law entered herein the hearing examiner enters the following preliminary order subject to the terms and conditions set forth in Appendix A, which is attached and made a part of this document;

That JAMES KEVIN BUELL is disqualified from operating a commercial motor vehicle for a period of one year pursuant to the provisions of Idaho Code. It is recommended that his disqualification be made retroactive to November 21, 2006, the actual date he ceased having commercial driving privileges arising out of the same incident. His class D privileges shall not be affected. The respondent shall not be allowed entry into the restricted license program for commercial driving.

DATED this 31st day of August, 2007.



---

MICHAEL B. HOWELL  
Hearing Examiner

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 1st day of September, 2007, I mailed a true and accurate copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER by depositing the same in the United States mail, postage prepaid, addressed to:

JAMES KEVIN BUELL  
c/o James E. Siebe  
Attorney at Law  
PO Box 9045  
Moscow, ID 83843

*James E. Siebe*

---

**THIS IS A PRELIMINARY ORDER OF THE HEARING OFFICER.** It can and will become final without further action of the Hearing Officer unless any party petitions for reconsideration to the Hearing Officer issuing this Preliminary Order or petitions for review to the Director.

Any party may file a petition for the Hearing Officer's reconsideration of this Preliminary Order within fourteen (14) days of the service date of this Order. The Hearing Officer issuing this Preliminary Order will dispose of the 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. (Parties should not combine a petition for reconsideration to the Hearing Officer with a petition for review to the Director. If a party wishes to petition the Director after receiving a ruling from the Hearing Officer on a petition for reconsideration, the petition to the Director should be filed according to the following provisions.)

Within fourteen (14) days after:

- (a) the service date of this Preliminary Order,
- (b) the service date of the Hearing Officer's denial of a petition for reconsideration from this Preliminary Order, or
- (c) the failure within twenty-one (21) days of the Hearing Officer to grant or deny a petition for reconsideration from this Preliminary Order, any party may in writing petition for review or take exceptions to any part of this Preliminary Order and file briefs in support of the party's position on any issue in this proceeding to the Director. Otherwise, this Preliminary Order will become a Final Order of the Department.

If any party petitions for review before or takes exceptions to this Preliminary Order to the Director, opposing parties shall have twenty-one (21) days to respond before the Director to the petition for review or exceptions. Written briefs in support of or taking exceptions to this Preliminary Order shall be filed with the Director. The Director may review this Preliminary Order on its own motion.

If the Director reviews this Preliminary Order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to this Preliminary Order and may schedule oral argument in the matter before issuing a Final Order. The Director 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 Director may remand the matter to the Hearing Officer for further evidentiary hearings if further factual development of the record is necessary before issuing a Final Order.

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:

- (a) A hearing was held,
- (b) The final agency action was taken,
- (c) The party seeking review of the Order resides, or
- (d) The real property of 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.

RAMI AMARO  
Special Deputy Attorney General  
P.O. Box 796  
Hayden, Idaho 83835  
Telephone: (208) 662-8348  
Fax: (208) 762-8096  
ISB #5848  
Attorney for Respondent – Idaho Transportation Department

FILED  
BENEWAH COUNTY  
J. MICHELE REYNOLDS, CLERK

2008 AUG 26 PM 12:10

BY: CJA .DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,

Appellant,

v.

STATE OF IDAHO, DEPARTMENT OF  
TRANSPORTATION,

Respondent.

Case No. CV 2007-488

**SUPPLEMENTAL AGENCY  
RECORD**

COMES NOW, Respondent, State of Idaho, Transportation Department (hereinafter "Respondent"), by and through its attorney, RAMI AMARO of the AMARO LAW OFFICE, Special Deputy Attorney General, and files with this Court the following supplemental Agency Record. Petitioner has fourteen (14) days from the date of filing this supplementation within which to object to the same or to request additions to the Agency Record. If no objection is made or addition requested, the record shall be deemed complete and settled as of the fourteenth (14<sup>th</sup>) day after the filing of this supplementation. The Petitioner's brief shall then be due approximately thirty-five (35)

SUPPLEMENTAL AGENCY RECORD-1.  
S:\State of Idaho\Buell\Pleadings\Supp. A.R..doc

days later and Respondent's brief shall be due approximately twenty-eight (28) days after receipt of Petitioner's brief, or according to any scheduling order entered herein.

I hereby certify that, to the best of my knowledge and belief, the enclosed documents are true and correct, and that, together with the original Agency Record filed in this matter, the Agency Record filed with this Court is complete (unless an addition is requested). The Department has retained the original file.

DATED this 23 day of August 2008.

AMARO LAW OFFICE

By: 

RAMI AMARO  
Special Deputy Attorney General

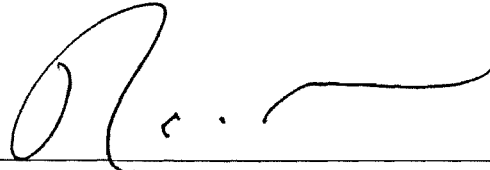
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 24 day of August 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

James Siebe  
Attorney at Law  
PO BOX 9045  
Moscow, ID 83843

☒ U.S. Mail  
☐ Overnight Delivery  
☐ Hand Delivered  
☐ Facsimile (208) 882-8769

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "R. C. [unclear]", written over a horizontal line.

DS02038 DIN2 \* DRIVER LICENSE SYSTEM 10/12/07  
MAP1211-1 DPPA: Y DRIVER RECORD STOP 10:39  
DL NO: [REDACTED] LIF: CLASS: A OPR STATUS: VALID  
NAME: BUELL, JAMES KEVIN PTS: 0/ 0/ 0 CDL STATUS: DISQUAL

SEG.	DOC #	DATE	-----DESC-----	DISP	PTS	---TO---	--ACTION---
CITN	280000757057	07/07/99	BASIC RULE	GLTP	3		INFR
CITN	050000828933	10/13/00	STOP SIGN	GLTP	3		INFR
CITN	280000876280	05/16/01	BASIC RULE	GLTP	3		INFR
SUSP	486CR0606261	10/21/06	DUI	CSUS		01/19/07 07/31/07	REIN OP
SUSP	486CR0606261	10/21/06	DUI	CSUS		01/19/07 07/31/07	REIN CD
MFLM	A01188533	12/22/06	COURT PAPERS				
COMM	000000000	05/04/07	10-YEAR CHECK: ID*				
CITN	090000105055	07/10/07	DUI	GLTP	0		MISD
DISQ	486A01291698	07/10/07	DUI CDL NCV			07/10/08	CD
L190	486A01291698	07/19/07	DIS/CRT CONV				
STOP	A01291698	07/19/07	98 - LIFETIME CDL RECORDS				
L06J	486CR0606261	07/26/07	SR22 REC/FEE REQ				
MFLM	A01297985	07/27/07	SR-22 INSURANCE RECEIVED				
COMM	000000000	07/31/07	ADDRESS CHANGE BY: 60023 DIN6 DL [REDACTED]				
L051	486CR0606261	07/31/07	SR-22 REINSTATE				
MFLM	A01292262	07/31/07	CHANGE ADDRESS INFO				

CSR/ETR-SEL PF1-FWD PF2-BWD PF7-DIN1 PF8-RTN PF9-HELP CSR/PF11-DLR7 PF13-PRINT





IDAHO TRANSPORTATION DEPARTMENT  
P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8000  
[itd.idaho.gov](http://itd.idaho.gov)

January 17, 2008

Rami Amaro  
Amaro Law Office  
P.O. Box 796  
Hayden, Idaho 83835

Re: James Kevin Buell Judicial Review

Dear Ms. Amaro:

Enclosed is a copy of the DMV file for the above referenced matter. Please contact us if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heidi Lewis', followed by a horizontal line.

Heidi Lewis  
Legal Section

enclosure

DDS02037 DIN1 PROD \* 50047 DLN CURRENT 01/16/2008 14:30:57  
 DLN [REDACTED] LIC CLS A OPER VALID 450  
 SSN [REDACTED] EXEMPT PND CLS CDL VALID 450  
 PIC BUELLJK ISS LOC 050 3B BENE  
 NAME BUELL, JAMES KEVIN 05/04/1958 ISSUED 05/04/2007 10:22:50 BY SLA  
 SEX M HGT 6-00 HAIR BRO L= 040 AGE: 49 EXPIRES 05/04/2011 DCEA  
 WGT 190 EYES BRO R= 040 RCPT 050071240007 STKR  
 RES TRAN RN PREV DU FEES 028.50+  
 ADDR 349 CLOVER ST I/A I SURR I RECORD P  
 ST MARIES ID 83861 05 O/R MSC ANNUAL N  
 MAIL VOC DT Y DONOR Y  
 ADDR DPPA Y YRS 04 PHOTO Y  
 SIP ELIG

STOP 98 07/19/2007 LIFETIME CDL RECORDS  
 CODE

RSTRS

DDS AKA [REDACTED] ID CDLIS 01 05/04/2007 11:29:07  
 DLN MSG UC 05000 PTR Y CSOR  
 SOR  
 AKA PDPS 01 05/04/2007 11:27:48  
 NAME MSG IR 05000 PTR Y  
 SE UPDATED 10/16/2007 09:49:33 80072

RES 1-FWD 2-BWD 3-LST 8-RTN 10-HST 11-DIN2 12-CLR 13-PRNT 14-DIN3 21-DI15 24-SUB  
 AD

MAG



**IDAHO TRANSPORTATION DEPARTMENT**

Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

October 5, 2007

James Siebe  
Attorney at Law  
PO Box 9045  
Moscow ID 83843

RE: James Buell  
[REDACTED]

Dear Mr. Siebe:

Please find attached a copy of the department's September 7, 2007 letter to Mr. Howell requesting a motion of reconsideration of his recommendation in August 31, 2007 facts and findings and the October 5, 2007 letter to withdraw said motion. In the facts and findings sustaining the department's commercial driver licenses (CDL) one (1) year disqualification (DQ) action of your client, the hearing officer also recommended that the department backdate the license suspension and CDL DQ action to coincide with the arrest date of October 21, 2006.

The department has determined that it is not bound to comply with the recommendation made by the hearing officer to backdate the CDL DQ action. The hearing officer has verbally concurred with the department's decision and further indicated that a recommendation is not a ruling or order and as a result there is nothing for him to rule on regarding the motion for reconsideration.

The department has backdated Mr. Buell's non-commercial driving privileges suspension in accordance with the judge's order. However, based on the Federal Motor Carrier Safety Administration (FMCSA) rules and regulations, Mr. Buell's CDL DQ start date will coincide with the July 10, 2007 DUI conviction date. I have included a copy of our letter of October 1, 2007 to your client informing him of these amended DQ dates.

As indicated in this letter of October 1, 2007, an administrative hearing may be requested to the department as to this action. Under the provisions of I.C. 49-326(4) a hearing will be held within 20 days upon receipt of a written request.

In addition, for your convenience, I have attached a copy of the FMCSA interpretation of 49 CFR 383.51 relating to the required starting dates of CDL disqualifications.

If you have any questions, contact Hal Putnam, Driver Records Program Supervisor at (208) 334-4465 or e-mail him at [hal.putnam@itd.idaho.gov](mailto:hal.putnam@itd.idaho.gov).

Sincerely,

*Edward R. Pemble* *ETD*

Edward R. Pemble  
Driver Services Manager

Cc: Tim Thomas, DAG  
Mike Howell, Hearing Officer



**IDAHO TRANSPORTATION DEPARTMENT**

Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

October 5, 2007

Michael B. Howell  
380 4th St. Ste 104  
Boise ID 83702

RE: Motion for Reconsideration on Recommended Order  
James K. Buell  
[REDACTED]

Dear Mr. Howell:

On August 31, 2007, you conducted a hearing on behalf of the department with Mr. Buell. Mr. Buell was represented by his attorney James Siebe. The petitioner was seeking a reversal of the one (1) year disqualification of Mr. Buell's CDL privileges imposed by the department based on a July 10, 2007 DUI conviction. In your facts and findings, you sustained the departments DQ action.

On September 7, 2007 the department filed a motion for reconsideration of your recommendation to the department that the one (1) year CDL disqualification be backdated to November 21, 2006.

As the backdating was a recommendation, the department has determined that motion for reconsideration recommendation is not relevant and therefore is withdrawing its motion.

If you have any questions, contact Hal Putnam, Driver Records Program Supervisor at (208) 334-4465 or e-mail him at [hal.putnam@itd.idaho.gov](mailto:hal.putnam@itd.idaho.gov).

Sincerely,

*Edward R. Pemble*  
B & H

Edward R. Pemble  
Driver Services Manager

CC: James Siebe, Attorney at Law  
Tim Thomas, DAG

10/02/07: Per FMCSA

*Question 7:* Must the State use the date of conviction, rather than the offense date, to calculate the starting and ending dates for the driver disqualification period specified in 49 CFR 383.51?

*Guidance:* Yes, the State must use the date of conviction or a later date, rather than the offense date, as the basis for calculating the starting and ending dates for the driver disqualification period. The State may allow the driver additional time after the conviction date to appeal the conviction before the disqualification period begins. The use of the conviction date (or the date when all appeals are exhausted) ensures that the driver receives due process of law but (if the conviction is upheld) still serves the full disqualification period 49 CFR 383.51 requires. For example, a driver is cited for a disqualifying offense on May 1 and is convicted of the offense on July 1. If the offense date were used for the starting date of the disqualification, it would shorten the actual disqualification by 2 months. Using the conviction date or a later date when all appeals are exhausted ensures that the driver serves the full disqualification period.

# SIEBE LAW OFFICES

202 E. SECOND STREET - P.O. BOX 9045

MOSCOW, IDAHO 83843

PHONE: (208) 883-0622 FAX: (208) 882-8769

## FACSIMILE TRANSMISSION

☐ Urgent ☐ For Review ☐ Please Reply ☐ Please File

Date:	October 3, 2007	Pages Sent (including cover sheet):	2
Sent to facsimile number:	(208) 334-8739		
Please deliver to:	Hal Putnam, Driver Services Idaho Transportation Department		
RE:	James Kevin Buell License No. [REDACTED] File No. 486A01291698		

Message:	October 3, 2007 letter is attached.  Thank you.  Natalie Funk Legal Assistant
----------	--

If you do not receive all pages or they are unclear, please call the above listed number.

Original documents will:

- ☐ Not be sent
- ☐ Follow by regular mail

*The information contained in this facsimile is confidential information or attorney work product or both and is for the exclusive use of the intended recipient listed above. Any reading, disclosure, use, or reproduction of this communication other than by the intended recipient is prohibited. If you have received this communication in error, please notify us at the number above immediately and return the communication to us via U.S. mail.*

## SIEBE LAW OFFICES

Mailing Address  
P.O. Box 9045  
Moscow, ID 83843  
Fax: 208-882-8769

James E. Siebe  
Deborah L. McCormick  
Attorneys at Law  
*\*Certified Criminal Trial Specialist*

Moscow Office  
202 E. Second St.  
Ph: 208-883-0622

Coeur d'Alene Office  
608 Northwest Blvd., Ste. 101  
Ph: 208-765-8188

October 3, 2007

**BY FAX – (208) 334-8739**

Hal Putnam  
Idaho Transportation Department  
Driver Services  
P.O. Box 7129  
Boise, ID 83707-1129

RE: James Kevin Buell  
License No. [REDACTED]  
File No. 486A01291698

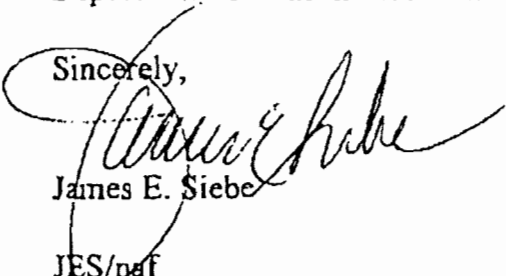
Dear Mr. Putnam:

As you know, on August 31, 2007, the hearing officer Michael Howell issued his Findings of Fact, Conclusions of Law and Preliminary Order as to Mr. Buell's CDL suspension.

In a conversation this morning with Mr. Howell on another matter, he brought to my attention that the Transportation Department filed a motion to reconsider, yet we have not received a copy of whatever was filed.

Please immediately fax us a copy of whatever it was that the Transportation Department filed in the above matter.

Sincerely,

  
James E. Siebe

JES/paf

cc: Michael B. Howell (by fax to (208) 331-1704)





IDAHO TRANSPORTATION DEPARTMENT  
Driver Services • P.O. Box 7129  
Boise ID 83707-1129

10007  
(208) 334-8735  
dmv.idaho.gov

PHONE: (208) 334-8736

BUELL, JAMES KEVIN

OCTOBER 01, 2007

349 CLOVER ST  
ST MARIES

ID 83861

LIC/IDENT NO: [REDACTED]  
FILE NUMBER: 486A01291698  
DATE OF BIRTH: [REDACTED]

NOTICE OF DISQUALIFICATION

ACCORDING TO THE COURT RECORD YOU WERE CONVICTED ON JULY 10, 2007  
FOR: DUI CDL HOLDER IN NON COMMERCIAL VEHICLE I.C. 49-335  
IN THE COURT OF: MAGISTRATE COURT BONNER COUNTY  
215 S 1ST AVE SANDPOINT ID 83864  
(208)265-1432

BY STATUTE, THE IDAHO TRANSPORTATION DEPARTMENT IS WITHDRAWING YOUR  
DRIVING PRIVILEGES TO OPERATE A COMMERCIAL MOTOR VEHICLE FOR  
366 DAYS EFFECTIVE JULY 10, 2007 THROUGH  
JULY 10, 2008, IDAHO CODE 49-326(1)(E) AND 49-335.  
NO RESTRICTED DRIVING PERMIT FOR CMV OPERATION

YOU MAY REQUEST AN ADMINISTRATIVE HEARING AS TO THE PROCEDURE OF THE  
DEPARTMENT'S ACTION. A HEARING WILL BE HELD WITHIN 20 DAYS AFTER  
RECEIPT OF A WRITTEN REQUEST, IDAHO CODE 49-326(4).

AT THE COMPLETION OF THE WITHDRAWAL PERIOD, YOU MAY BE REQUIRED TO  
PAY A REINSTATEMENT FEE, IDAHO CODE 49-328.

YOUR PRIVILEGE TO DRIVE ANY COMMERCIAL MOTOR VEHICLE IS NOT EFFECTIVE  
UNTIL YOU HAVE RECEIVED A REINSTATEMENT NOTICE FROM THIS OFFICE.

ENCLOSURES: REINSTATEMENT BILLING

FAX: (208) 265-1447  
Phone: (208) 265-1432

**Bonner County  
Clerk's Office**

# Fax

To: Hal

From: Junko

Fax: 208-334-8739

Pages: 1

Phone:

Date: 9/5/2007

Re: CR06-6281

CC:

☐ Urgent    ☐ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

• Comments:

BONNER COUNTY COURTHOUSE  
215 S. FIRST AVE.  
SANDPOINT, ID 83861

Date: 9.5.07To: HACFax No: /Phone: /From: Hied

Fax No: 208/265-1447

Bonner County

Phone: 208/265-1432

SUBJECT: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Total number of pages being transmitted, less cover sheet: \_\_\_\_\_

Advise if received: Yes \_\_\_\_\_ No \_\_\_\_\_

HAVE A GREAT DAY!!!

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

COURT MINUTES

JUDGE: BARBARA BUCHANAN CASE NO. CR-08-0261/CV-08-1861  
DIVISION: MAGISTRATE DATE: 12/22/08 TIME: 9:30 AM  
CLERK: SANDRA RASOR TAPE: 06-1198

STATE OF IDAHO IN THE MATTER OF THE  
SUSPENSION OF THE DRIVERS LICENSE

vs JAMES KEVIN BUELL

Plaintiff / Petitioner

Defendant / Respondent

Att. ROGER HANLON

Att. JAMES E. SIEBE

SUBJECT OF PROCEEDINGS BAC  
CHARGE

INDEX	SPEAKER	PHASE OF CASE
1603	J	Cells Case
	J	Present DEFENDANT W/ JS, ROGER HANLON
	J	COUNSEL?
	RH	WILL PLEAD TO DUI AND WILL MOVE TO DISMISS SUSPENSION PROCEEDINGS AND SET SENTENCING OUT 60 DAYS, I HAVE AGREED TO STIP THAT LICENSE SUSP COMMENCE ON DATE OF ARREST
1698	J	RETURN TO DATE OF ARREST AT SENTENCING?
	RH	YES
	JS	EXPLAINING CUL SITUATION
	J	MR BUELL PLEASE REVIEW AND SIGN RIGHTS FORM ON UNDERLYING DUI
1731	J	ANY QUESTION ABOUT RIGHTS OR PENALTIES ANY THREATS OR PROMISES
	DEF	NO
	J	HOW DO YOU PLEA TO DUI
	DEF	GUILTY
	J	ACCEPT GUILTY PLEA, DISMISS BAC, RETURN LICENSE, SET FOR SENTENCING WED FEB 28 <sup>TH</sup> 11 00 WITH JUDGE HEISE BRING EVALUATION TO SENTENCING
1809		END

CASE NO. CR-08-0261/CV-08-1861

DATE: 12/22/08

Page 1 of 1

COURT MINUTES

24

**SIEBE LAW OFFICES**  
JAMES E. SIEBE, ISBN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DISTRICT

**FEB 27 P 3 27**

MARIE SCOTT  
CLERK DISTRICT COURT  
CLERK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES KEVIN BUELL,

Defendant.

Case No. CR-2006-6261

**STIPULATION TO VACATE  
AND CONTINUE SENTENCING**

COME NOW the defendant, by and through his attorney of record, and the State of Idaho, by and through the Bonner County Prosecuting Attorney, and stipulate and agree to continue defendant's sentencing in the above-entitled matter, currently scheduled for Wednesday, February 28, 2007, to July, 2007, on the grounds and for the reasons that defendant is a CDL driver and requires time to make advance arrangements with his employer prior to his sentencing for DUI, so as not to jeopardize his employment.

DATED this 27 day of February, 2007.

BONNER COUNTY PROSECUTOR

SIEBE LAW OFFICES

By:

Roger Hanlon

By:

James E. Siebe  
Attorney for Defendant

STIPULATION TO VACATE AND CONTINUE SENTENCING - 1

From: BONNER COUNTY PROSECUTOR

1208263678

11/15/ 6 16:25

WZD P.004/005

11/15/2006 12:03 2698820769

SIDBE LAW OFFICES

STATE OF IDAHO  
COUNTY OF BONNER  
FIRST JUDICIAL DISTRICT

2006 NOV 16 A 9:01

SIDBE LAW OFFICES  
JAMES E. SIDBE, ISEN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Phone: (208) 883-0622  
Fax: (208) 882-8769

MAKIE SCOTT  
CLERK DISTRICT COURT  
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

IN THE MATTER OF THE )  
DRIVING PRIVILEGES OF: )

) Case No. CV-2006-0001861  
)

JAMES KEVIN BUELL, )

) STIPULATION TO VACATE AND  
) CONTINUE BAC/REFUSAL HEARING

Respondent. )

COME NOW the Respondent, JAMES KEVIN BUELL, by and through his attorney of record and the State of Idaho, by and through the Bonner County Prosecuting Attorney, and stipulate and agree to continue the BAC/refusal hearing in the above-captioned matter, currently scheduled for Friday, November 17, 2006, on the grounds and for the reasons that defense counsel has a conflict with a felony jury pretrial conference on November 17 in Kootenai County in *State v. Schwartz*, which matter commences trial on November 20; and a hearing Friday afternoon in another felony matter in Latah County, in *State v. Wright*.

STIPULATION TO VACATE AND CONTINUE REFUSAL HEARING - 1

From BONNER COUNTY PROSECUTOR

1708288728

11/16/06 8 18:26

W220 P.008/009

11/15/2006 12:53 2609888769

SIEBE LAW OFFICES

PAGE 03

Defense counsel is also still awaiting requested copies of the audiotapes, dispatch tapes and videotapes from the Bonner County Sheriff's Office.

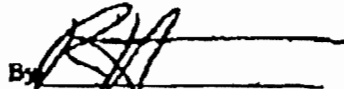
The parties further stipulate and agree that defendant JAMES KEVIN BUELL shall retain his driving privileges until a BAC/refusal hearing takes place in this matter.

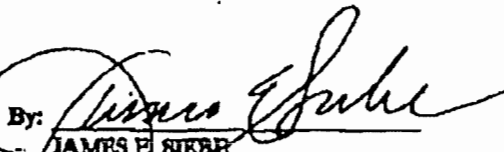
The parties respectfully request that the Court reset this matter over no sooner than December 18, due to defense counsel's felony and misdemeanor trial schedule the first two weeks of December.

DATED this 15 day of November, 2006.

BONNER COUNTY PROSECUTOR

SIEBE LAW OFFICES

By:   
ROGER HANLON  
Deputy Prosecutor

By:   
JAMES E. SIEBE  
Attorney for Defendant

STIPULATION TO VACATE AND CONTINUE REFUSAL HEARING - 1

**\*\* Transmit Conf. Report \*\***

P.1

Oct 5 2007 13:29

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
93311704	NORMAL	5,13:29	0'43"	2	O K	

**FAX TRANSMISSION COVER SHEET****TO****DATE:** 10/5/07**NUMBER OF PAGES:** 3**TIME:** 1:10 PM**NAME:** Mike Howell**OFFICE/ORGANIZATIONS:** DAG/Hearing Officer**LOCATION:** Boise, ID**FAX #:** (208) 331-1704**PHONE #:** (208) 336-3331**FROM****NAME OF SENDER:** Hal Putnam, Driver Records Program Supervisor**OFFICE /ORGANIZATION:** DRIVER SERVICES**LOCATION:** BOISE, IDAHO**FAX #:** (208) 332-4186**PHONE #:** (208) 334-4465**E-mail :** hal.putnam@itd.idaho.gov**COMMENTS:** Here is the letter to withdraw our motion for reconsideration. Call me if you have any questions





**IDAHO TRANSPORTATION DEPARTMENT**  
Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

## FAX TRANSMISSION COVER SHEET

TO

DATE: 10/5/07

NUMBER OF PAGES: 4 7

TIME: 11:42 AM

NAME: James Siebe

OFFICE/ORGANIZATIONS: Attorney at Law

LOCATION: Moscow, ID

FAX #: (208) 882-8769

PHONE #: (208) 883-0622

FROM

NAME OF SENDER: Hal Putnam, Driver Records Program Supervisor

OFFICE /ORGANIZATION: DRIVER SERVICES

LOCATION: BOISE, IDAHO

FAX #: (208) 332-4186

PHONE #: (208) 334-4465

E-mail : hal.putnam@itd.idaho.gov

COMMENTS: Here is the information your requested (originals mailed). Call me if you have any questions.



**IDAHO TRANSPORTATION DEPARTMENT**

Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

October 5, 2007

Michael B. Howell  
380 4th St. Ste 104  
Boise ID 83702

RE: Motion for Reconsideration on Recommended Order  
James K. Buell  
DL # [REDACTED]

Dear Mr. Howell:

On August 31, 2007, you conducted a hearing on behalf of the department with Mr. Buell. Mr. Buell was represented by his attorney James Siebe. The petitioner was seeking a reversal of the one (1) year disqualification of Mr. Buell's CDL privileges imposed by the department based on a July 10, 2007 DUI conviction. In your facts and findings, you sustained the departments DQ action.

On September 7, 2007 the department filed a motion for reconsideration of your recommendation to the department that the one (1) year CDL disqualification be backdated to November 21, 2006.

As the backdating was a recommendation, the department has determined that motion for reconsideration recommendation is not relevant and therefore is withdrawing its motion.

If you have any questions, contact Hal Putnam, Driver Records Program Supervisor at (208) 334-4465 or e-mail him at [hal.putnam@itd.idaho.gov](mailto:hal.putnam@itd.idaho.gov).

Sincerely,

Edward R. Pemble  
Driver Services Manager

CC: James Siebe, Attorney at Law  
Tim Thomas, DAG

## \*\* Transmit Conf. Report \*\*

P. 1

Oct 5 2007 13:26

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
912088828769	NORMAL	5, 13:26	2'04"	8	* O K	



## IDAHO TRANSPORTATION DEPARTMENT

Driver Services • P.O. Box 7129

Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

## FAX TRANSMISSION COVER SHEET

TO

DATE: 10/5/07NUMBER OF PAGES: 2 7TIME: 11:42 AMNAME: James SiebeOFFICE/ORGANIZATIONS: Attorney at LawLOCATION: Moscow, IDFAX #: (208) 882-8769PHONE #: (208) 883-0622

FROM

NAME OF SENDER: Hal Putnam, Driver Records Program SupervisorOFFICE /ORGANIZATION: DRIVER SERVICESLOCATION: BOISE, IDAHOFAX #: (208) 332-4186PHONE #: (208) 334-4465E-mail : hal.putnam@itd.idaho.govCOMMENTS: Here is the information your requested (originals mailed). Call me if you  
have any questions

# SIEBE LAW OFFICES

202 E. SECOND STREET - P.O. BOX 9045  
MOSCOW, IDAHO 83843  
PHONE: (208) 883-0622 FAX: (208) 882-8769

## FACSIMILE TRANSMISSION

☐ Urgent ☐ For Review ☐ Please Reply ☐ Please File

Date:	August 14, 2007	Pages Sent (including cover sheet):	2
Sent to facsimile number:		(208) 334-8739	
Please deliver to:		Idaho Transportation Department, Driver Services	
RE:	James Kevin Buell License No. [REDACTED] File No. 486A01291698		

Message:	August 14, 2007 letter to Michael Howell is attached.  Thank you.  Natalie Funk Legal Assistant
----------	--

If you do not receive all pages or they are unclear, please call the above listed number.

Original documents will:

- ☐ Not be sent
- ☐ Follow by regular mail

*The information contained in this facsimile is confidential information or attorney work product or both and is for the exclusive use of the intended recipient listed above. Any sending, disclosure, use, or reproduction of this communication other than by the intended recipient is prohibited. If you have received this communication in error, please notify us at the number above immediately and return the communication to us via U.S. mail.*

# SIEBE LAW OFFICES

Mailing Address  
P.O. Box 9045  
Moscow, ID 83843  
Fax: 208-882-8769

James E. Siebe\*  
Deborah L. McCormick  
Attorneys at Law  
*\*Certified Criminal Trial Specialist*

Moscow Office  
202 E. Second St.  
Ph: 208-883-0622

Coeur d'Alene Office  
608 Northwest Blvd., Ste. 101  
Ph: 208-765-8188

August 14, 2007

**BY FAX – (208) 331-1704**

Michael B. Howell  
380 South Fourth Street, Suite 104  
Boise, ID 83702

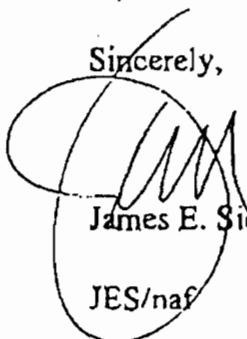
RE: James Kevin Buell  
License No. [REDACTED]  
File No. 486A01291698

Dear Mr. Howell:

We are in receipt of the Idaho Transportation Department's Notice of Telephone Hearing for August 16, 2007 at 11:00 a.m. (MT) relative to the disqualification of Mr. Buell's CDL privileges. Because of a previously scheduled out-of-town commitment later this week and back-to-back jury trials beginning on August 20, 2007, I would like to request a continuance of this hearing to a date in September. Please advise as to when this hearing may be rescheduled.

Thank you for your considerations.

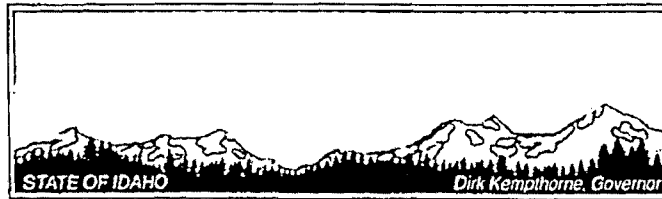
Sincerely,



James E. Siebe

JES/naf

cc: Idaho Transportation Department (by fax to (208) 334-8739)



TRANSPORTATION DEPARTMENT  
PO BOX 7129 - BOISE, ID - 83707-1129 - (208) 334-8000

## FAX TRANSMISSION COVER SHEET

TO

DATE: 9/7/07

NUMBER OF PAGES: 3

TIME: 3:21 PM

NAME: Michael B. Howell

OFFICE/ORGANIZATIONS: HOWELL & VAIL, LLP

LOCATION: \_\_\_\_\_

FAX #: 331-1704

PHONE #: 336-3331

FROM

NAME OF SENDER: JANET

OFFICE /ORGANIZATION: DRIVER SERVICES

LOCATION: BOISE, IDAHO

FAX #: (208) 334-8739

PHONE #: (208) 334-8729

COMMENTS: Motion for Reconsideration on Recommended Order - James K. Buell



**IDAHO TRANSPORTATION DEPARTMENT**

Driver Services • P.O. Box 7129

Boise ID 83707-1129

(208) 334-8735

dmv.idaho.gov

September 7, 2007

Michael B. Howell  
380 4th St. Ste 104  
Boise ID 83702

RE: Motion for Reconsideration on Recommended Order  
James K. Buell  
DL # [REDACTED]

Dear Mr. Howell:

On August 31, 2007, you conducted a hearing on behalf of the department with Mr. Buell. Mr. Buell was represented by his attorney, James Siebe. The petitioner was seeking a reversal of the one (1) year disqualification of Mr. Buell's CDL privileges imposed by the department based on a DUI conviction.

We are requesting a reconsideration of your recommendation to the department that the one (1) year CDL disqualification be back dated to November 21, 2006. After review of the file and court documents, at no time was Mr. Buell non-commercial or commercial privileges suspended or disqualified.

On October 21, 2006 Mr. Buell refused to submit to BAC testing and at that time his license was seized and he was issued an unrestricted driving permit. On October 26, 2006, through his attorney Mr. Buell requested a hearing on the proposed suspension due to the refusal with the appropriate court. A hearing was set for November 17, 2006. On November 15, on behalf of Mr. Buell, his attorney filed a stipulation to vacate and continue the refusal hearing due to scheduling conflicts. In addition to the continuance of the hearing, the stipulation also agreed that Mr. Buell's driving privileges remain valid until a hearing was conducted. This stipulation agreed to by the court on November 16, 2006. On December 22, 2006 an order was signed by the court vacating and dismissing the license suspension proceedings on the refusal.

On July 10, 2007 Mr. Buell was convicted of DUI and his license was suspended by the court for 90 days commencing Oct 21, 2006, the day of the incident.

At no time was Mr. Buell officially informed by the court, a law enforcement officer or by the department that his CDL privileges were withdrawn until our notification letter

was sent on July 19, 2007. In reality, the information provided by the court orders and stipulation would indicate that his license was not suspended and he was informed of that. Therefore, Mr. Buell has only served zero (0) days of suspension/disqualification. Thus, backdating the disqualification in this case would result in giving Mr. Buell credit for time he never served.

We therefore respectfully request that you reconsider your recommendation to the department to backdate Mr. Buell's CDL disqualification as we feel that it would not provide for the minimum 1 year period as required by Idaho statute.

If you have any questions, contact Hal Putnam, Driver Records Program Supervisor at (208) 334-4465 or e-mail him at [hal.putnam@itd.idaho.gov](mailto:hal.putnam@itd.idaho.gov).

Sincerely,



Edward R. Pemble  
Driver Services Manager



In the Matter of the  
Driving Privileges of

JAMES KEVIN BUELL,  
License No. [REDACTED]

) File No. 486A01291698

) FINDINGS OF FACT,  
) CONCLUSIONS OF LAW  
) AND PRELIMINARY ORDER  
)

THIS MATTER came on for hearing on August 31, 2007, by telephone conference. The respondent participated in the hearing with his attorney, James E. Siebe.

The Hearing Examiner, having heard the testimony of the witnesses, having taken official notice of the records of the Department, and having considered the matter herein, and being advised in the premises and the law, makes the following:

FINDINGS OF FACT

I.

The driver argued that the Notice of Disqualification was defective because it cited Idaho Code § 49-326(1)(E) as one of the grounds for the disqualification which is not applicable to the current disqualification. However, the notice also cited Idaho Code § 49-335, which is applicable.

II.

Records of the Department, which records were introduced and received in evidence, demonstrate that while driving a non-commercial motor vehicle, respondent received a conviction for driving under the influence on July 10, 2007, in the District Court of the First Judicial District Court in and for the County of Bonner, State of Idaho arising out of an incident which occurred on October 21, 2006.

III.

The court ordered suspension for driving under the influence arising out of the same incident was for three (3) months, effective October 21, 2006, however the driver acknowledges that he had full privileges from October 21, 2006, to November 21, 2006, and was without commercial driving privileges only from November 21, 2006, through the present.

IV.

The driver argued that Idaho Code § 49-335 is unconstitutional as applied to this driver.

V.

The driver states that he made an agreement with the Sentencing Court and the Prosecuting Attorney in the underlying criminal matter that arose out of the same incident, and may not have entered his plea of guilty if he had been aware that the Department would disqualify him from operating a commercial vehicle for one year. He argued that the State of Idaho, Department of Transportation is estopped from disqualifying the driving privileges of the driver because of his reliance upon the representations of the prosecuting attorney.

VI.

Respondent holds a Class A, B or C driver's license.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS OF LAW

I.

The Notice of Hearing was not defective and gave the driver adequate notice of the grounds for his disqualification.

II.

Idaho Code, Section 49-335(1)(a), provides that a person is disqualified from operating a commercial motor vehicle for a period of one year if convicted of operating a motor vehicle while under the influence of alcohol. This disqualification is mandatory and distinct from and in addition to any suspension entered by the court or the Department of Transportation from a criminal conviction for driving under the influence.

III.

Idaho Code, Section 49-335 must be presumed constitutional for purposes of these proceedings since the determination of constitutionality of a legislative act rests with a judicial body alone and not with an administrative agency or its hearing officer.

IV.

The driver must be held to know the laws of the State of Idaho, particularly as they apply to his commercial driving privileges. Further, the State Department of Transportation cannot be estopped by the alleged actions of a prosecuting attorney. There is no estoppel against the state except in its proprietary capacity.

V.

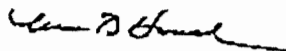
IDAPA 39.02.70, regulations of the Department of Transportation preclude the issuance of a restricted permit to respondent for commercial driving.

PRELIMINARY ORDER

Based upon the Findings of Fact and Conclusions of Law entered herein the hearing examiner enters the following preliminary order subject to the terms and conditions set forth in Appendix A, which is attached and made a part of this document;

That JAMES KEVIN BUELL is disqualified from operating a commercial motor vehicle for a period of one year pursuant to the provisions of Idaho Code. It is recommended that his disqualification be made retroactive to November 21, 2006, the actual date he ceased having commercial driving privileges arising out of the same incident. His class D privileges shall not be affected. The respondent shall not be allowed entry into the restricted license program for commercial driving.

DATED this 31st day of August, 2007.



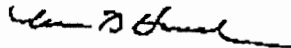
---

MICHAEL B. HOWELL  
Hearing Examiner

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 1st day of September, 2007, I mailed a true and accurate copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER by depositing the same in the United States mail, postage prepaid, addressed to:

JAMES KEVIN BUELL  
c/o James E. Siebe  
Attorney at Law  
PO Box 9045  
Moscow, ID 83843



**THIS IS A PRELIMINARY ORDER OF THE HEARING OFFICER.** It can and will become final without further action of the Hearing Officer unless any party petitions for reconsideration to the Hearing Officer issuing this Preliminary Order or petitions for review to the Director.

Any party may file a petition for the Hearing Officer's reconsideration of this Preliminary Order within fourteen (14) days of the service date of this Order. The Hearing Officer issuing this Preliminary Order will dispose of the 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. (Parties should not combine a petition for reconsideration to the Hearing Officer with a petition for review to the Director. If a party wishes to petition the Director after receiving a ruling from the Hearing Officer on a petition for reconsideration, the petition to the Director should be filed according to the following provisions.)

Within fourteen (14) days after:

- (a) the service date of this Preliminary Order,
- (b) the service date of the Hearing Officer's denial of a petition for reconsideration from this Preliminary Order, or
- (c) the failure within twenty-one (21) days of the Hearing Officer to grant or deny a petition for reconsideration from this Preliminary Order, any party may in writing petition for review or take exceptions to any part of this Preliminary Order and file briefs in support of the party's position on any issue in this proceeding to the Director. Otherwise, this Preliminary Order will become a Final Order of the Department.

If any party petitions for review before or takes exceptions to this Preliminary Order to the Director, opposing parties shall have twenty-one (21) days to respond before the Director to the petition for review or exceptions. Written briefs in support of or taking exceptions to this Preliminary Order shall be filed with the Director. The Director may review this Preliminary Order on its own motion.

If the Director reviews this Preliminary Order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to this Preliminary Order and may schedule oral argument in the matter before issuing a Final Order. The Director 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 Director may remand the matter to the Hearing Officer for further evidentiary hearings if further factual development of the record is necessary before issuing a Final Order.

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:

- (a) A hearing was held,
- (b) The final agency action was taken,
- (c) The party seeking review of the Order resides, or
- (d) The real property of 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.

# SIEBE LAW OFFICES

202 E. SECOND STREET - P.O. BOX 9045

MOSCOW, IDAHO 83843

PHONE: (208) 883-0622 FAX: (208) 882-8769

## FACSIMILE TRANSMISSION

☐ Urgent ☐ For Review ☐ Please Reply ☐ Please File

Date:	August 15, 2007	Pages Sent (including cover sheet):	2
Sent to facsimile number:		(208) 334-8739	
Please deliver to:		Idaho Transportation Department, Driver Services	
RE:	James Kevin Buell License No. [REDACTED] File No. 486A01291698		

Message:	August 15, 2007 letter to Michael Howell is attached.  Thank you.  Natalie Funk Legal Assistant
----------	--

If you do not receive all pages or they are unclear, please call the above listed number.

Original documents will:

- ☐ Not be sent
- ☐ Follow by regular mail

*The information contained in this facsimile is confidential information or attorney work product or both and is for the exclusive use of the intended recipient listed above. Any reading, disclosure, use, or reproduction of this communication other than by the intended recipient is prohibited. If you have received this communication in error, please notify us at the number above immediately and return the communication to us via U.S. mail.*

# SIEBE LAW OFFICES

Mailing Address  
P.O. Box 9045  
Moscow, ID 83843  
Fax: 208-882-8769

James E. Siebe\*  
Deborah L. McCormick  
Attorneys at Law  
\*Certified Criminal Trial Specialist

Moscow Office  
202 E. Second St.  
Ph: 208-883-0622

Coeur d'Alene Office  
608 Northwest Blvd., Ste. 101  
Ph: 208-765-8188

August 15, 2007

BY FAX - (208) 331-1704

Michael B. Howell  
380 South Fourth Street, Suite 104  
Boise, ID 83702

Attention: Evelyn

RE: James Kevin Buell  
License No. [REDACTED]  
File No. 486A01291698

Dear Evelyn:

This will confirm our rescheduling of the telephone hearing relative to the above matter from August 16, 2007 to Friday, August 31, 2007 at 11:00 a.m. (MT).

We hereby waive the twenty-day hearing period.

Sincerely,



Natalie Funk  
Legal Assistant

cc: Idaho Transportation Department (by fax to (208) 334-8739)

**TRANSPORTATION DEPARTMENT**

P.O. BOX 7129 • BOISE, ID • 83707-1129 • (208) 334-8000

Date: August 6, 2007

JAMES KEVIN BUELL  
c/o James Siebe  
P.O. Box 9045  
Moscow, ID 83843

Lic/Ident No.: [REDACTED]  
File No.: 486A01291698  
Date of Birth: [REDACTED]

**NOTICE OF TELEPHONE HEARING**

A hearing will be held pursuant to your request regarding the suspension or disqualification of your driving privileges for the reason set out in the Notice of Disqualification dated July 19, 2007.

The hearing will be conducted by telephone conference call on August 16, 2007 at 11:00 a.m. (mountain time). The telephone call will be placed to:  
☐ you, at telephone #:

☒ your attorney: James Siebe  
at telephone #: (208) 883-0622

**If this telephone number is incorrect or none is listed, immediately contact Evelyn at (208) 336-3331, extension 3. If you fail to provide a telephone number, it will be concluded that you failed to appear at the hearing. Failure to appear will result in a determination being made in your absence.**

The hearing officer presiding at the hearing will be:

Michael B. Howell  
380 South Fourth Street, Suite 104  
Boise, ID 83702.

The hearing will be conducted according to the provisions of Title 67, Chapter 52, Idaho Code, and the rules of practice and procedures of the Idaho Transportation Department. This hearing provides you or your attorney an opportunity to appeal on your behalf. If you need further assistance, please call (208) 336-3331.

cc: Idaho Transportation Department, Driver Services Section

- An Equal Opportunity Employer -

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**IDAHO TRANSPORTATION DEPARTMENT**

Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

August 3, 2007

Michael B. Howell  
Howell & Vail  
380 S. 4<sup>th</sup> Street, Suite 104  
Boise, ID 83702

Re: In the matter of the Driving Privileges of James Kevin Buell, DL [REDACTED]

Dear Mr. Howell:

This letter is to confirm that you will be representing the Idaho Transportation Department as an Administrative Hearing Officer in the above Matter. The driver's privileges are currently withdrawn for DUI CDL in non commercial vehicle; 49-335, Idaho Code.

Please schedule the hearing within 20 days of the date of the hearing request received date and send notice of the hearing to the driver/attorney of the date, time and telephone number you will call for the hearing. The notice of hearing and copy of the driver's file needs to be mailed seven days prior to the scheduled hearing.

Enclosed is a copy of the Administrative Record in this matter. The Administrative Record includes all documents on file with the Department. Specifically this file contains:

- Administrative Hearing Case Sheet
- Hearing Request Received Letter
- Request for Hearing
- File Copy of Notice of Disqualification
- Electronic Mailing Confirmation for Notice of Disqualification
- Screen Prints of Disqualification Abstract
- Screen Prints of Conviction Abstract from Bonner County
- Complete Driver License Record

If any further information is necessary regarding this record, please contact this office at (208) 334-8729.

Sincerely,

Edward R. Pemble  
Driver Services Manager

ERP:jf

Enclosure: Administrative Record



IDAHO TRANSPORTATION DEPARTMENT  
Driver Services • P.O. Box 7129  
Boise ID 83707-1129

50015  
(208) 334-8735  
dmv.idaho.gov

PHONE: (208) 334-8736

BUELL, JAMES KEVIN

AUGUST 02, 2007

349 CLOVER ST  
ST MARIES

ID 83861

LIC/IDENT NO: [REDACTED]  
FILE NUMBER: 486A01291698  
DATE OF BIRTH: [REDACTED]

ADMINISTRATIVE HEARING CASE SHEET - NON ALS

ATTORNEY'S INFORMATION

ATTORNEY'S NAME: JAMES SIEBE  
ADDRESS: 202 E SECOND ST  
PO BOX 9045  
MOSCOW  
IDAHO

83843

PHONE NUMBER: 208.883.0622

DRIVER'S INFORMATION

PHONE NUMBER:

REASON: DUI CDL HOLDER IN NON COMMERCIAL VEHICLE I.C. 49-335

EFFECTIVE PERIOD OF WITHDRAWAL: 080607 - 080608

HEARING REQUEST RECEIVED DATE: 080207

ELIGIBLE FOR RLP (Y/N): NO

PLEASE SCHEDULE AN ADMINISTRATIVE HEARING FOR THE ABOVE SUBJECT.

SIGNATURE:

[Handwritten signature]

DATE:

8-1-07

Idaho Department of Transportation  
Bureau of Motor Vehicle Services  
Boise, Idaho 83726-0001  
(208) 334-8735



IDAHO TRANSPORTATION DEPARTMENT  
Driver Services • P.O. Box 7129  
Boise ID 83707-1129

50015  
(208) 334-8735  
dmv.idaho.gov

PHONE: (208) 334-8736

BUELL, JAMES KEVIN

AUGUST 02, 2007

349 CLOVER ST  
ST MARIES

ID 83861

LIC/IDENT NO: [REDACTED]  
FILE NUMBER: 486A01291698  
DATE OF BIRTH: [REDACTED]

REQUEST FOR HEARING RECEIVED

THE IDAHO TRANSPORTATION DEPARTMENT HAS RECEIVED YOUR REQUEST FOR AN  
ADMINISTRATIVE HEARING FOR:  
DUI CDL HOLDER IN NON COMMERCIAL VEHICLE I.C. 49-335

THE CASE FILE HAS BEEN REFERRED TO OUR HEARING SECTION FOR SCHEDULING.

YOU WILL BE NOTIFIED AT A LATER DATE OF THE TIME AND INFORMATION  
REGARDING THE SCHEDULED HEARING. IN THE MEANTIME, IF YOUR PRIVILEGES  
ARE CURRENTLY WITHDRAWN, YOU WILL HAVE NO DRIVING PRIVILEGES, AS THE  
WITHDRAWAL WILL NOT BE STAYED.

CC:JAMES SIEBE

SIEBE LAW OFFICES  
JAMES E. SIEBE, ISBN 2362  
202 E. Second St.  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

STATE OF IDAHO TRANSPORTATION DEPARTMENT

IN THE MATTER OF THE )  
WITHDRAWAL OF THE )  
COMMERCIAL DRIVING )  
PRIVILEGES OF: )

JAMES KEVIN BUELL, )

Respondent. )  
\_\_\_\_\_ )

License/Identification: [REDACTED]

File No. 486A01291698

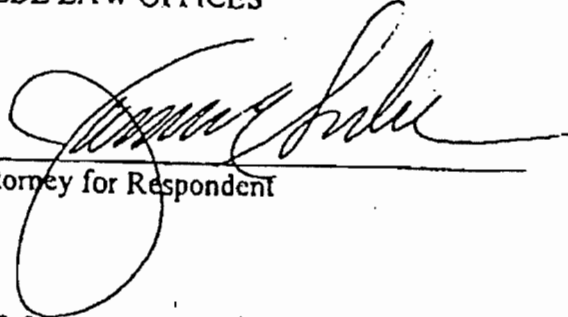
REQUEST FOR  
ADMINISTRATIVE HEARING

COMES NOW Respondent, James Kevin Buell, by and through his attorney of record, and pursuant to Idaho Code Section 49-326(4), hereby requests an administrative hearing on the proposed withdrawal of Respondent's driving privileges. In making this request, Respondent reserves any objections he may have to such a proceeding under the Idaho Code, the United States and Idaho Constitutions, and the Idaho Rules of Evidence.

Respondent can be reached c/o James E. Siebe at (208) 883-0622 during normal daytime hours.

RESPECTFULLY SUBMITTED this 1 day of August, 2007.

SIEBE LAW OFFICES

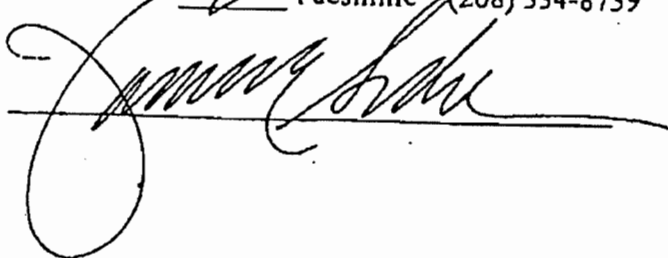
By   
Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 1 day of August, 2007, I served a true and correct copy of the foregoing document by the method indicated and addressed to the following:

Driver Services  
Idaho Transportation Department  
P.O. Box 7129  
Boise, ID 83707-1129

☐ U.S. Mail  
☐ Hand Delivery  
☐ Overnight Mail  
☒ Facsimile (208) 334-8739



# SIEBE LAW OFFICES

202 E. SECOND STREET, P.O. BOX 9045  
MOSCOW, IDAHO 83843  
PHONE: (208) 883-0622 FAX: (208) 882-8769

## FACSIMILE TRANSMISSION

☐ Urgent ☐ For Review ☐ Please Reply ☐ Please File

Date: 08/01/07

Pages Sent (including cover sheet): 3

Sent to facsimile number: 208-334-8739

Please deliver to: Driver Services

RE: In the Matter of: James Kevin Buell, License [REDACTED] File #486A01291698

### MESSAGE:

Attached is our Request for Administrative Hearing in the above-referenced matter.

Deb McCormick

If you do not receive all of the pages or if they are unclear, please call our office at the number listed above.

Original documents will:

☐ Not be sent

☐ Follow by regular mail

*This communication is confidential and may contain attorney work product. It is for the exclusive use of the intended recipient listed above. You are hereby notified that reviewing, disclosing, reproducing or disseminating this information is strictly prohibited by all others. If you have received this fax in error, please notify us immediately at the number listed for our office and return the communication to us via U.S. mail.*



IDAHO TRANSPORTATION DEPARTMENT  
Driver Services • P.O. Box 7129  
Boise ID 83707-1129

50015  
(208) 334-8735  
dmv.idaho.gov

PHONE: (208) 334-8736

BUELL, JAMES KEVIN

JULY 19, 2007

313 RIVERVIEW PARK  
ST MARIES

ID 83861

LIC/IDENT NO: RA353697A  
FILE NUMBER: 486A01291698  
DATE OF BIRTH: 05-04-1958

NOTICE OF DISQUALIFICATION

ACCORDING TO THE COURT RECORD YOU WERE CONVICTED ON JULY 10, 2007  
FOR: DUI CDL HOLDER IN NON COMMERCIAL VEHICLE I.C. 49-335  
IN THE COURT OF: MAGISTRATE COURT BONNER COUNTY  
215 S 1ST AVE SANDPOINT ID 83864  
(208)265-1432

BY STATUTE, THE IDAHO TRANSPORTATION DEPARTMENT IS WITHDRAWING YOUR  
DRIVING PRIVILEGES TO OPERATE A COMMERCIAL MOTOR VEHICLE FOR  
366 DAYS EFFECTIVE AUGUST 06, 2007 THROUGH  
AUGUST 06, 2008 , IDAHO CODE 49-326(1)(E) AND 49-335.  
NO RESTRICTED DRIVING PERMIT FOR CMV OPERATION

YOU MAY REQUEST AN ADMINISTRATIVE HEARING AS TO THE PROCEDURE OF THE  
DEPARTMENT'S ACTION. A HEARING WILL BE HELD WITHIN 20 DAYS AFTER  
RECEIPT OF A WRITTEN REQUEST, IDAHO CODE 49-326(4).

AT THE COMPLETION OF THE WITHDRAWAL PERIOD, YOU MAY BE REQUIRED TO  
PAY A REINSTATEMENT FEE, IDAHO CODE 49-328.

YOUR PRIVILEGE TO DRIVE ANY COMMERCIAL MOTOR VEHICLE IS NOT EFFECTIVE  
UNTIL YOU HAVE RECEIVED A REINSTATEMENT NOTICE FROM THIS OFFICE.

ENCLOSURES: REINSTATEMENT BILLING

I, RICK CLENDENNING certify that I am an official custodian of the records of the Idaho Transportation Department, Bureau of Motor Vehicles, and that this/these copy(s) is/are a true and correct copy(s) of the original on file with said Department.

  
SIGNATURE

8-2-07  
DATE





**IDAHO TRANSPORTATION DEPARTMENT**  
Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

**CERTIFICATE OF MAILING MANIFEST**

**Mailer's Name and Address**  
Driver Services  
P.O. Box 7129  
Boise, ID 83707-1129

**Page: 1 of 2**  
**Date: 07-24-2007**  
**Manifest: 17839**  
**Total Items: 1**

<b>File Num</b>	<b>Address</b>	<b>DL Num</b>
486A01291698	BUELL, JAMES KEVIN 313 RIVERVIEW PARK ST MARIES, ID 83861	RA353697A

	<b>Pieces</b>	<b>Postage</b>	<b>Cost</b>
<b>Page Totals:</b>	1	0.39	0.39
<b>Cum. Page Totals:</b>	1	0.39	0.39
<b>Manifest Totals:</b>	1	0.39	0.39

# CERTIFICATE OF MAILING MANIFEST

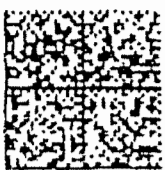
Maller's Name and Address  
Driver Services  
P.O. Box 7129  
Boise, ID 83707-1129

Page: 2 of 2  
Date: 07-24-2007  
Manifest: 17839  
Total Items: 1

## United States Postal Service Certificate of Bulk Mailing

MAILER: Prepare this statement in ink. Affix meter stamp or uncanceled postage stamps covering fee in the block to the right. Present for certification.

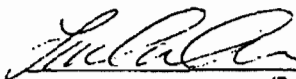
Meter stamp or postage (uncanceled) stamps in payment of fee to be affixed here and canceled by postmarking, including date.

<b>Fee for Certificate</b>			Use Current Rate Chart		016-28507-137 <b>\$05.500</b> 07.24.2007 US POSTAGE	
Up to 1,000 pieces (1 certificate for total number)						
For each additional 1,000 pieces, or fraction						
Duplicate Copy						
Number of Identical Pieces	Class of Mail	Postage on Each	Number of Pieces to the Pound	Total Number of Pounds	Total Postage Paid	Fee Paid
538	First	\$ 0.41	26.6667	20.1000	\$ 219.76	\$ 5.50
Mailed For Idaho Transportation Department			Mailed By Autosort, Inc.			

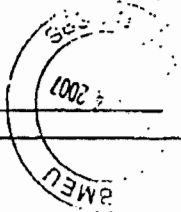
### Postmaster's Certificate

Manifest # 17839

It is hereby certified that the above-described mailing has been received and number of pieces and postage verified.

  
(Postmaster or Designee)

PS Form 3606, May 1992



54

JDS02060 DSP4  
MAP1203A PRODDRIVERS LICENSE SYSTEM  
SUSPENSION HOLD FILE MAINTENANCE08/02/2007  
10:28:07

REQUESTOR 50015

DRIVER NO [REDACTED] DATE OF BIRTH [REDACTED]

NAME BUELL, JAMES KEVIN

LIC CLASS A

ADDRESS

OPER VALID

349 CLOVER ST

CDL VALID

ST MARIES ID 83861

RLP BY

COURT ST ID

SUSP AUTH D REASON C52C

CASE NUMBER A01291698

COURT 486

PROOF N SR22 N

EFFECTIVE DATE 08/06/2007

SUSP TYPE DIS

FEE P LIC

COURT/RLP \_/\_/\_

UNTIL \_/\_/\_

W/J INTRLK

LTR NO 190

LTR DATE 07/19/2007

DOC A01291698

OPER LICENSE SUSPND

DAYS 0000

SUSP UNTIL DATE 00/00/0000

REIN DATE \_/\_/\_

REIN CODE

STAY \_/\_/\_

UNTIL \_/\_/\_

REASON

COMMERCIAL LICENSE

DAYS 0366

SUSP UNTIL DATE 08/06/2008

REIN DATE \_/\_/\_

REIN CODE

STAY \_/\_/\_

UNTIL \_/\_/\_

REASON

E/R FLAG

ACD CODE

ACD DTL

ACD LINK W0002

OFF-REF

OFF-LOC

EXTENT

PF4-UPD PF6-DEL PF7-DIN1 PF8-RTN PF9-HELP PF10-DSP5 PF15-DLR1

JDS02005 DCV5  
MAP1197 PRODDRIVERS LICENSE SYSTEM  
CONVICTION UPDATE/DELETE08/02/2007  
11:21:45  
POST DATE:  
07/16/2007

REQUESTOR 50015

DRIVER NO [REDACTED] DATE OF BIRTH [REDACTED]

NAME BUELL, JAMES KEVIN

COUNT 0

VEH PLATE	7DF	VEH STATE	ID	CVEH N	HAZ N	INTRLK N
CITATION NO	000105055 ID 2	ARREST DATE	10/21/2006	TIME	0445	
DESCRIPTION		LOCATION	090			
ACCIDENT		REDUCED FROM				
SPEED CITED	000 POSTED 00					
DOCUMENT NO	ISTAR7197	COURT TYPE	MAG	CITY 486	STATE	ID
CASE NO	CR0606261			SANDPOINT		

CONV CODE	DI1 . 0	IDAHO CODE	18-8004	ORD	M
ACD CODE	ACD DTL	FINES	0412 . 50	PTS	0
JAIL	0003 D DAYS	SUSP FINES	0000 . 00	DISP	1
SUSPENDED	0002 D DAYS	COSTS	087 . 50	BAC	. 17
PROBATION	0730 D DAYS	SUSP COSTS	000 . 00	E/R FLAG	
		CDL HOLDER Y		ACD LINK	C0004
CONVICTION	07/10/2007	OFF-LOC		OFF-REF	

ENT-LOOKUP PF1-FWD PF2-BWD PF4-UPD PF6-DEL PF7-DIN1 PF8-RTN PF11-DCV3 PF12-CLR

**IDAHO TRANSPORTATION DEPARTMENT**Driver Services • P.O. Box 7129  
Boise ID 83707-1129(208) 334-8735  
dmv.idaho.gov

50015-IA

(208) 334-8736

REQUESTED BY: BUELL, JAMES KEVIN

PAGE 1

349 CLOVER ST  
ST MARIES ID 83861**LEGAL****D R I V E R L I C E N S E R E C O R D**

08/02/2007

**FOR:**

BUELL, JAMES KEVIN

LICENSE NO: [REDACTED]

ISSUE TYPE: DL

BIRTH DATE: [REDACTED]

CLASS: A

349 CLOVER ST

ISSUED: 05/04/2007

OPR STATUS: VALID

ST MARIES

ID 83861

EXPIRES: 05/04/2011

CDL STATUS: VALID

DRV TRAIN: YES

RSTR: NONE

TYPE	DATE	DESC	CLS	DOC #
CITN	06/16/99	BASIC RULE	LOC:KOOTENAI	
CONV	07/07/99	GLTP PTS:3	CRT:COEUR D'ALENE	6151STAR9204
ORD:	INFR			
FINE:	20.50	COSTS: 32.50	JAIL DAYS: 0	PROBATION: 0 BAC: .
CITN	09/22/00	STOP SIGN	LOC:BENEAH	
CONV	10/13/00	GLTP PTS:3	CRT:ST MARIES	3841STAR0304
ORD:	INFR			
FINE:	20.50	COSTS: 32.50	JAIL DAYS: 0	PROBATION: 0 BAC: .
CITN	05/04/01	BASIC RULE	LOC:KOOTENAI	PST:55 CIT: 67
CONV	05/16/01	GLTP PTS:3	CRT:COEUR D'ALENE	6151STAR1149
ORD:	INFR			
FINE:	20.50	COSTS: 32.50	JAIL DAYS: 0	PROBATION: 0 BAC: .
SUSP	10/21/06	DUI	CSUS TO 01/19/07 REIN 07/31/07 OPR 486CR0606261	
			TO 01/19/07 REIN 07/31/07 CDL	
			MFLM A01281747	
MFLM	12/22/06	COURT PAPERS		A01188533
COMM	05/04/07	10-YEAR CHECK: ID*		000000000

CONTINUED

**IDAHO TRANSPORTATION DEPARTMENT**Driver Services • P.O. Box 7129  
Boise ID 83707-1129(208) 334-8735  
dmv.idaho.gov

50015-IA

(208) 334-8736

REQUESTED BY: BUELL, JAMES KEVIN

PAGE 2

349 CLOVER ST  
ST MARIES ID 83861**LEGAL****DRIVER LICENSE RECORD 08/02/2007**

FOR:

BUELL, JAMES KEVIN

LICENSE NO: [REDACTED]

ISSUE TYPE: DL

BIRTH DATE: [REDACTED]

CLASS: A

349 CLOVER ST

ISSUED: 05/04/2007

OPR STATUS: VALID

ST MARIES

ID 83861

EXPIRES: 05/04/2011

CDL STATUS: VALID

DRV TRAIN: YES

RSTR: NONE

TYPE	DATE	DESC	CLS	DOC #
CITN	10/21/06	DUI	LOC: BONNER	
CONV	07/10/07	GLTP PTS: 0	CRT: SANDPOINT	4861STAR7197
ORD:	MISD			
FINE:	412.50	COSTS: 87.50	JAIL DAYS: 3	PROBATION: 730 BAC: .
L190	07/19/07	DIS/CRT CONV		486A01291698
L06J	07/26/07	SR22 REC/FEE REQ		486CR0606261
MFLM	07/27/07	SR-22 INSURANCE RECEIVED		A01297985
COMM	07/31/07	ADDRESS CHANGE BY: 60023 DIN6	DL: 050071240007	000000000
L051	07/31/07	SR-22 REINSTATE		486CR0606261
MFLM	07/31/07	CHANGE ADDRESS INFO		A01292262
MFLM	07/31/07	REINSTATED FILES		A01292262
COMM	08/02/07	HEARING REQ: 20 070802	HELD: CC YYMMDD ACT: #	000000000
L02I	08/02/07	ADMIN HEAR N/A		486A01291698

CONTINUED

**IDAHO TRANSPORTATION DEPARTMENT**Driver Services • P.O. Box 7129  
Boise ID 83707-1129(208) 334-8735  
dmv.idaho.gov

50015-IA

(208) 334-8736

REQUESTED BY: BUELL, JAMES KEVIN

PAGE 3

349 CLOVER ST  
ST MARIES ID 83861**LEGAL****DRIVER LICENSE RECORD 08/02/2007****FOR:**

BUELL, JAMES KEVIN

LICENSE NO: [REDACTED]

ISSUE TYPE: DL

BIRTH DATE: [REDACTED]

CLASS: A

349 CLOVER ST

ISSUED: 05/04/2007

OPR STATUS: VALID

ST MARIES

ID 83861

EXPIRES: 05/04/2011

CDL STATUS: VALID

DRV TRAIN: YES

RSTR: NONE

TYPE	DATE	DESC	CLS	DOC #
L021	08/02/07	REQUEST FOR HEAR		486A01291698
PEND	08/06/07	DUI CDL NCV	OPR	486A01291698
		TO 08/06/08	CDL	
			MFLM	A01291698

12 MONTH POINTS: 0 24 MONTH POINTS: 0 36 MONTH POINTS: 0

POINTS ASSESSED ARE FOR DEPARTMENTAL USE ONLY, IN DETERMINING SUSPENSIONS  
FOR POINTS OR HABITUAL VIOLATIONS.

\*\*\* ACTION PENDING \*\*\*

\*\*\* ACTION PENDING \*\*\*

END OF EXISTING RECORD

CONTINUED



**IDAHO TRANSPORTATION DEPARTMENT**

Driver Services • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8735  
dmv.idaho.gov

50015-IA

(208) 334-8736

REQUESTED BY: BUELL, JAMES KEVIN

PAGE 4

349 CLOVER ST  
ST MARIES ID 83861

**LEGAL**

**D R I V E R L I C E N S E R E C O R D**

08/02/2007

**FOR:**

BUELL, JAMES KEVIN

LICENSE NO:

BIRTH DATE:

349 CLOVER ST

ST MARIES

ID 83861

ISSUED: 05/04/2007

EXPIRES: 05/04/2011

ISSUE TYPE: DL

CLASS: A

OPR STATUS: VALID

CDL STATUS: VALID

DRV TRAIN: YES

RSTR: NONE

-----  
TYPE      DATE      DESC      CLS      DOC #  
-----

AS AN EMPLOYEE OF THE TRANSPORTATION DEPARTMENT, I AM AN  
OFFICIALLY APPOINTED CUSTODIAN OF DRIVING RECORDS. I  
HEREBY CERTIFY THE FOREGOING IS A TRUE AND CORRECT COPY  
OF THE ORIGINAL DRIVING RECORDS OF THIS DEPARTMENT.

AUGUST 02, 2007

  
CUSTODIAN OF DRIVER RECORDS

SECTION 49-203 IDAHO CODE PROHIBITS THE RELEASE OF PERSONAL INFORMATION  
CONTAINED IN DRIVER LICENSE RECORDS TO UNAUTHORIZED PARTIES, WITHOUT THE  
EXPRESS WRITTEN CONSENT OF THE INDIVIDUAL THE INFORMATION PERTAINS TO.  
AS AN AUTHORIZED REQUESTOR YOU MAY RECEIVE THIS INFORMATION BUT YOU MAY  
NOT RE-RELEASE OR RE-SELL IT.

\*\*\*END OF DLR PRINT\*\*\*



RAMI AMARO  
Special Deputy Attorney General  
P.O. Box 796  
Hayden, Idaho 83835  
Telephone: (208) 662-8348  
Fax: (208) 762-8096  
ISB #5848  
Attorney for Respondent – Idaho Transportation Department

FILED  
BENEWAH COUNTY  
J. MICHELE REYNOLDS, CLERK  
2008 NOV 28 PM 2:55

BY: CJR .DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,

Appellant,

v.

STATE OF IDAHO, DEPARTMENT OF  
TRANSPORTATION,

Respondent.

Case No. CV 2007-488

**SUPPLEMENTAL AGENCY  
RECORD**

COMES NOW, Respondent, State of Idaho, Transportation Department (hereinafter "Respondent"), by and through its attorney, RAMI AMARO of the AMARO LAW OFFICE, Special Deputy Attorney General, and files with this Court a supplemental document recently added to the Agency Record. This document consists of the court reporter's estimate to prepare a transcript of the administrative proceeding. Petitioner has fourteen (14) days from the date of filing this transcript within which to object or otherwise request additions to the Agency Record. If no objection is made or addition requested, the record shall be deemed complete and settled as of the fourteenth (14<sup>th</sup>) day after the filing of this transcript. The Petitioner's brief shall then be due approximately thirty-five (35) days later and Respondent's brief shall be due SUPPLEMENTAL AGENCY RECORD-1.

S:\State of Idaho\Buell\Pleadings\Supplemental Agency Record (2008 11 14--ND).doc



November 3, 2008

RAMI AMARO, ESQ.  
Amaro Law Office  
P.O. Box 796  
Hayden, ID 83835

RE: James Kevin Buell, CDL Disqualification  
File #485A01291698, A.L.D., Date of Hearing: 8/31/07

Dear Ms. Amaro:

Per the request of the Supervisor of Driver Records,  
Hal Putnam, we are hereby providing you with an  
estimate of the transcription costs in the above  
entitled matter.

Cost of preparing an original plus two copies from the  
cassette tape provided by the state, with an estimated  
length of 16 minutes is:

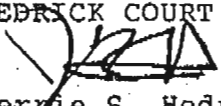
\$160.00

Delivery time is 10 working days from the date that we  
receive written authority to proceed from Petitioner's  
legal counsel. Petitioner's payment must be received  
prior to delivery of the transcript.

Thank you.

Sincerely,

HEDRICK COURT REPORTING

  
Jerrie S. Hedrick  
ICSR #61

cc: Hal Putnam

*Serving the legal community since 1978*

POST OFFICE BOX 578  
BOISE, IDAHO 83701  
208-336-9208

RAMI AMARO  
Special Deputy Attorney General  
P.O. Box 796  
Hayden, Idaho 83835  
Telephone: (208) 662-8348  
Fax: (208) 762-8096  
ISB #5848  
Attorney for Respondent – Idaho Transportation Department

FILED  
BENEWAH COUNTY  
MICHELE REYNOLDS, CLERK

2008 DEC -5 PM 2:28

BY: CJR .DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,

Appellant,

v.

STATE OF IDAHO, DEPARTMENT OF  
TRANSPORTATION,

Respondent.

Case No. CV 2007-488

**SECOND SUPPLEMENTAL  
AGENCY RECORD**

COMES NOW, Respondent, State of Idaho, Transportation Department (hereinafter "Respondent"), by and through its attorney, RAMI AMARO of the AMARO LAW OFFICE, Special Deputy Attorney General, and files with this Court a supplemental document recently added to the Agency Record. This document consists of the transcript of the administrative proceeding. Petitioner has fourteen (14) days from the date of filing this transcript within which to object or otherwise request additions to the Agency Record. If no objection is made or addition requested, the record shall be deemed complete and settled as of the fourteenth (14<sup>th</sup>) day after the filing of this transcript. The Petitioner's brief shall then be due approximately thirty-five (35) days

SECOND SUPPLEMENTAL AGENCY RECORD-1.

S:\State of Idaho\Buell\Pleadings\Second Supplemental Agency Record (2008 11 14--ND).doc

later and Respondent's brief shall be due approximately twenty-eight (28) days after receipt of Petitioner's brief, or according to any scheduling order entered herein.

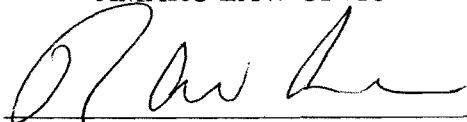
I hereby certify that, to the best of my knowledge and belief, the enclosed document is true and correct, and that, together with the original Agency Record I filed in this matter, the Agency Record filed with this Court is complete. The Department has retained the original file.

The following is a listing of the documents constituting the supplement to the Agency Record:

1. Transcript of the administrative proceeding held on August 31, 2007

DATED this 3 day of December 2008.

AMARO LAW OFFICE



RAMI AMARO

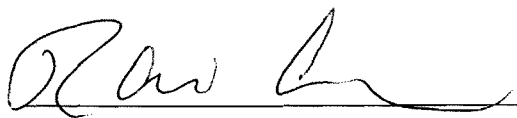
Special Deputy Attorney General

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 3rd day of December 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

James E. Siebe  
Attorney at Law  
PO Box 9045  
Moscow, Idaho 83843

X U.S. Mail  
       Overnight Delivery  
       Hand Delivered  
       Facsimile (208) 882-8769



SIEBE LAW OFFICES  
James E. Siebe, ISBN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

FILED  
BENEWAH COUNTY  
J. MICHELE REYNOLDS, CLERK

2009 JAN 12 AM 8:03

BY: CJR, DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,	)	Case No. CV-2007-0000488
	)	
Petitioner,	)	SECOND MOTION FOR
	)	ADDITION/CORRECTION
v.	)	TO AGENCY RECORD
	)	
STATE OF IDAHO,	)	
DEPARTMENT OF TRANSPORTATION,	)	
	)	
Respondent.	)	
_____	)	

Petitioner James Kevin Buell (hereafter "Buell") by and through Siebe Law  
Offices, hereby requests an addition/correction to the agency record pursuant to I.C. §§  
67-5275(3) and 67-5276.

Buell wishes to reference in his briefing the Notice of Suspension for Failure of  
Evidentiary Testing, which was issued to him on October 21, 2006, and a copy of which  
is attached hereto.

Said Notice of Suspension makes reference to commercial driving  
privileges with regard to both refusals and failures of evidentiary testing.


SECOND MOTION FOR ADDITION/  
CORRECTION TO AGENCY RECORD - 1

Therefore, the Notice of Suspension is relevant evidence with regard to the disqualification of Buell's commercial driving privileges, and it should be included in the Agency Record.

Therefore, Buell requests that the Notice of Suspension served on him on October 21, 2006, and attached hereto, be added to the agency record in this matter

DATED this 9<sup>th</sup> day of January, 2009.

SIEBE LAW OFFICES

By   
Attorney for Petitioner

CERTIFICATE OF SERVICE

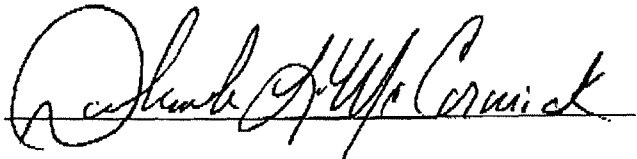
I hereby certify that on the 9<sup>th</sup> day of January, 2009, I served a true and correct copy of the foregoing document by the method indicated and addressed to the following:

Rami Amaro  
Special Deputy Attorney General  
P.O. Box 796  
Hayden, ID 83835

☐ U.S. Mail  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile (208) 762-8096

Hon. Fred M. Gibler  
P.O. Box 527  
Wallace, ID 83873

☐ U.S. Mail  
☐ Hand Delivery  
☐ Overnight Mail  
☒ Facsimile (208) 753-3581





# **NOTICE OF SUSPENSION** for Failure of Evidentiary Testing (Advisory for Sections 18-8002 and 18-8002A, Idaho Code)

OR # 06-13585

**Issued To:**  
**Last Name** Brill, James **First** K **Middle**   
**Mailing Address** 313 River Creek Drive  
St. Marks, ID 83861  
**City** St. Marks **State** ID **Zip** 83861

**County of Arrest**  **Date of Arrest**  **Time of Arrest**   
**License Class**  **Restrictions**   
**Out-of-State Driver's License Number**  **State**  **Operating CMV?** ☐ Yes ☒ No  
**Transporting Hazard?** ☐ Yes ☒ No

**Citation #** 125-055

## **SUSPENSION ADVISORY**

- I have reasonable grounds to believe that you were driving or were in physical control of a motor vehicle while under the influence of alcohol, drugs, or other intoxicating substances.
- You are required by law to take one or more evidentiary tests to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in your body. After submitting to the test(s) you may, when practical, at your own expense, have additional tests made by a person of your own choosing.
- You do not have the right to talk to a lawyer before taking any evidentiary tests to determine the alcohol concentration or presence of drugs or other intoxicating substances in your body.
- If you refuse to take or complete any of the offered tests pursuant to Section 18-8002, Idaho Code:
  - Your Idaho driver's license or permit will be seized if you have it in your possession, and if it is current and valid you will be issued a temporary permit. Non-resident licenses will not be seized and will be valid in Idaho for thirty (30) days from the service of this notice of suspension unless modified or restricted by the court, provided the license is valid in the issuing state. If you were operating a commercial motor vehicle, any temporary permit issued will not provide commercial driving privileges of any kind.
  - You have a right to submit a written request within seven (7) days to the Magistrate Court of Baker County for a hearing to show cause why you refused to submit to or complete evidentiary testing and why your driver's license should not be suspended.
  - If you do not request a hearing or do not prevail at the hearing, your license will be suspended by the court with absolutely no driving privileges for one (1) year if this is your first refusal; if this is not your first refusal in the last ten (10) years, your license will be suspended with absolutely no driving privileges for two (2) years.
- If you take and fail the evidentiary test(s) pursuant to Section 18-8002A, Idaho Code:
  - Your Idaho driver's license or permit will be seized if you have it in your possession, and if it is current and valid you will be issued a temporary permit. Non-resident licenses will not be seized and shall be valid in Idaho for thirty (30) days from the service of this notice of suspension, provided the license is valid in the issuing state. If you were operating a commercial motor vehicle, any temporary permit issued will not provide commercial driving privileges of any kind.
  - I will serve you with this **NOTICE OF SUSPENSION** that becomes effective thirty days from the date of service on this **NOTICE**, suspending your driver's license or privileges. If this is your first failure of an evidentiary test your driver's license or driving privileges will be suspended for ninety (90) days, with absolutely no driving privileges during the first thirty (30) days. You may request restricted driving privileges for the remaining sixty (60) days of the suspension. Restricted driving privileges will not allow you to operate a commercial motor vehicle. If this is not your first failure of an evidentiary test within the last five (5) years, your driver's license or driving privileges will be suspended for one (1) year with absolutely no driving privileges of any kind during that period.
  - You have the right to an administrative hearing on the suspension before the **IDaho TRANSPORTATION DEPARTMENT** to show cause why you failed the evidentiary test and why your driver's license should not be suspended. The hearing must be made in writing and be received by the department within seven (7) calendar days from the date of service of this **NOTICE OF SUSPENSION**. You also have the right to judicial review of the Hearing Officer's decision.

**THIS SUSPENSION FOR FAILURE OR REFUSAL OF THE EVIDENTIARY TEST(S) IS SEPARATE FROM ANY OTHER SUSPENSION ORDERED BY THE COURT.**

— PLEASE REFER TO THE BACK OF THIS SUSPENSION NOTICE FOR MORE INFORMATION —

**NOTICE OF SUSPENSION:** If you have failed the evidentiary test(s), your driving privileges are hereby suspended per #5 above, commencing thirty (30) days from the date of service of this notice.

**NOTE:** If a blood or urine test was administered, the department may serve a *Notice of Suspension* upon receipt of the test results.

☐ **Evidentiary Test Failure:** §18-8002A ☒ **Refusal:** (original copy to court) §18-8002 ☐ **Urine/Blood Analysis Pending:** §18-8002A

### **This Section Provides Temporary Driving Privileges.**

(If the driver was operating a commercial vehicle, this permit will not provide commercial driving privileges of any kind.)

If issued, this permit grants the same driving restrictions and privileges as those granted by the license/permit seized (except as indicated above), and shall be valid for thirty (30) days from the date you were served this *Notice of Suspension* for failure or refusal of the evidentiary test(s), unless it is canceled or restricted by the court.

Permit Issued? ☒ Yes ☐ No License Surrendered? ☒ Yes ☐ No  
 A permit was not issued because the license was: ☐ Suspended ☐ Not in Possession ☐ Invalid  
☐ Expired ☐ Issued by Another Jurisdiction ☐ Not Licensed

**Signature of Temporary Licensee** (If you are issued a permit, it is not valid until you sign it)  
**Signature of Reporting Officer**  
**Print Name and ID Number of Reporting Officer**  
**Agency**  
**Supervisor**

White Copy (if failure) to TTD (to court if refusal) Yellow Copy to Law Enforcement Pink Copy to Court (if failure) Goldenrod Copy to Driver



FILED  
BENEWAH COUNTY  
MICHAEL S. REYNOLDS, CLERK

2009 JAN 21 PM 4:42

BY: CJR, DEPUTY

SIEBE LAW OFFICES  
James E. Siebe, ISBN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,	)	Case No. CV-2007-0488
	)	
Petitioner,	)	SECOND ORDER FOR
	)	ADDITION/CORRECTION
v.	)	TO AGENCY RECORD
	)	
STATE OF IDAHO,	)	
TRANSPORTATION DEPARTMENT,	)	
	)	
Respondent.	)	

THIS MATTER having come before the Court on Petitioner's Second Motion for  
Addition/Correction to Agency Record and good cause appearing;

IT IS HEREBY ORDERED that the Notice of Suspension for Failure of Evidentiary  
Testing, which was issued to Petitioner on October 21, 2006 and a copy of which is attached to  
Petitioner's Second Motion, is hereby added to the agency record in this matter.

DATED this 21 day of January, 2009.

Fred M. Siebe  
Judge

SECOND ORDER FOR ADDITION/  
CORRECTION TO AGENCY RECORD - 1

CERTIFICATE OF SERVICE

I hereby certify that on the 22<sup>nd</sup> day of January, 2009, I served a true and correct copy of the foregoing document by the method indicated and addressed to the following:

Rami Amaro  
Special Deputy Attorney General  
P.O. Box 796  
Hayden, ID 83835

☐ U.S. Mail  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile (208) 762-8096

Siebe Law Offices  
P.O. Box 9045  
Moscow, ID 83843

☐ U.S. Mail  
☐ Hand Delivered  
☐ Overnight Mail  
☒ Facsimile (208) 882-8769

CJR

SUSAN K. SERVICK  
Special Deputy Attorney General  
618 North 4<sup>th</sup> Street  
PO Box 2900  
Coeur d'Alene, Idaho 83816  
Phone: (208) 667-1486  
Fax: (208) 667-1825  
ISBN 3443

Attorney for Respondent -  
Idaho Department of Transportation

FILED  
BENEFIT COUNTY  
RECEIVED REYNOLDS, CLARK

2009 DEC 29 AM 10:53

JY: CZR DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,

Appellant,

vs.

STATE OF IDAHO, DEPARTMENT OF  
TRANSPORTATION,

Respondent.

CASE NO. CV 07-488

ORDER ON PETITION FOR JUDICIAL  
REVIEW

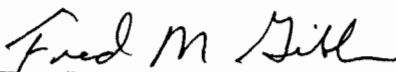
THIS MATTER, having come before the Court on December 18, 2009, for oral argument on the Appellant's Petition for Judicial Review. The Appellant was represented by attorney James Siebe and the Department was represented by Special Deputy Attorney General Susan K. Servick.

The Court, having reviewed the record submitted on appeal, having reviewed the briefing on file herein and having heard the arguments of counsel, made its decision in open court, those findings are adopted herein.

Accordingly, this Court concludes that the Findings of Fact and Conclusions of Law issued by the Administrative Hearing Examiner in this matter are **AFFIRMED**.

**IT IS SO ORDERED.**

Dated December 28, 2009.

  
FRED M. GIBLER  
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the ORDER ON PETITION FOR JUDICIAL REVIEW were transmitted, December 29<sup>th</sup>, 2009 by the following method, to:

James E. Siebe  
Attorney at Law  
PO Box 9045  
Moscow, ID 83842  
Fax: 208 882-8769

☒ Fax  
☐ US Mail

Susan K. Servick  
Attorney at Law  
PO Box 2900  
Coeur d' Alene, ID 83816  
Fax: 208 667-1825

☒ Fax  
☐ US Mail

CJR  
Clerk of the Court

**SIEBE LAW OFFICES**

JAMES E. SIEBE, ISBN 2362

202 E. Second Street

P.O. Box 9045

Moscow, ID 83843

Telephone: (208) 883-0622

Facsimile: (208) 882-8769

FILED  
BENEWAH COUNTY  
TIMOTHY REYNOLDS, CLERK

2010 FEB -5 PM 12:29

BY CJR, DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL,

Petitioner,

vs.

STATE OF IDAHO,

TRANSPORTATION DEPARTMENT,

Respondent.

JAMES KEVIN BUELL,

Appellant,

vs.

STATE OF IDAHO,

TRANSPORTATION DEPARTMENT,

Respondent.

Case No. CV-2007-488

**NOTICE OF APPEAL**

Filing Fee: \$86.00

**TO: THE ABOVE-NAMED RESPONDENT (SPECIAL DEPUTY  
ATTORNEY GENERAL) AND THE CLERK OF THE  
ABOVE-ENTITLED COURT**

1. The above-named Appellant, James Kevin Buell, appeals against the Idaho Transportation Department, to the Supreme Court of the State of Idaho, from the final agency decision dated August 13, 2007, upholding Mr. Buell's license suspension, the Notice of Disqualification for his CDL dated July 19, 2007, and the District Court's Order on Petition for Judicial Review, affirming the aforesaid decisions, entered by the Honorable Fred M. Gibler on December 28, 2009, and served on appellant's counsel on December 29, 2009.

2. The party has a right to appeal to the Supreme Court, and the Order described in paragraph 1 above is an appealable order under and pursuant to I.A.R. 11(f).

3. The preliminary statement of the issue on appeal which the appellant then intends to assert in the appeal is as follows: whether an administrative CDL license disqualification violates double jeopardy principles under a multi-factored *Hudson* analysis.

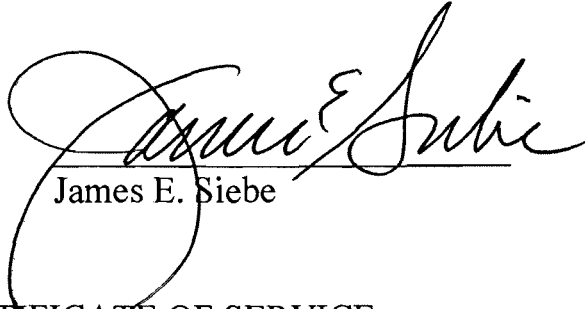
However, pursuant to I.A.R. 17(f), this preliminary statement of the issue to be appealed does not prevent appellant from asserting other issues on appeal.

4. Appellant requests preparation of the Court Clerk's Record. Appellant will pay the balance of the fees for preparation upon receipt of said estimate. The necessary transcripts and record for the appeal to District Court have been prepared and Appellant has paid the fees for preparation thereof, and this matter was submitted without argument, so Appellant anticipates the record will be *de minimis* in size.

5. Appellant requests that no additional documents be included in the clerk's record other than those automatically included under I.A.R. 28.

6. Counsel certifies by his signature hereunder that service of this Notice of Appeal has been made upon the reporter of the Honorable Fred M. Gibler, District Judge, that the \$100 estimated fee for preparation of the clerk's record has been paid concurrently with the filing of this Notice, that counsel will mail the fee for preparation of any transcript if any such estimate is received, and that service has been made upon all other parties required to be served pursuant to I.A.R. 20.

DATED this 3 day of <sup>February</sup>~~January~~, 2010.

  
James E. Siebe

CERTIFICATE OF SERVICE

I hereby certify that on the 4 day of <sup>February</sup>~~May~~, 2010, I served a true and correct copy of the foregoing document by the method indicated and addressed to the following:

Susan K. Servick ( ) U.S. Mail  
Special Deputy Attorney General ( ) Hand Delivered  
P.O. Box 2900 ( ) Overnight Mail  
Coeur d'Alene, ID 83816 (x) Facsimile (208) 667-1825

Driver Services ( ) U.S. Mail  
Idaho Transportation Department ( ) Hand Delivered  
P.O. Box 7129 ( ) Overnight Mail  
Boise, ID 83707-1129 (x) Facsimile (208) 332-4124

Honorable Fred M. Gibler ( ) U.S. Mail  
P.O. Box 527 ( ) Hand Delivered  
Wallace, ID 83873 ( ) Overnight Mail  
(x) Facsimile (208) 753-3581

Byrl Cinnamon (x) U.S. Mail  
P.O. Box 2821 ( ) Hand Delivered  
Hayden, ID 83835 ( ) Overnight Mail  
( ) Facsimile





**SIEBE LAW OFFICES**  
JAMES E. SIEBE, ISBN 2362  
202 E. Second Street  
P.O. Box 9045  
Moscow, ID 83843  
Telephone: (208) 883-0622  
Facsimile: (208) 882-8769

FILED  
BENEWAH COUNTY  
J. Michele Reynolds, Clerk

2010 FEB -8 AM 8:49

BY: CJR DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

JAMES KEVIN BUELL, )  
)  
Petitioner, )

vs. )

STATE OF IDAHO, )  
TRANSPORTATION DEPARTMENT, )  
)  
Respondent. )

Case No. CV-2007-488

**AMENDED NOTICE OF APPEAL**

JAMES KEVIN BUELL, )  
)  
Appellant, )

Filing Fee: \$101.00

vs. )

STATE OF IDAHO, )  
TRANSPORTATION DEPARTMENT, )  
)  
Respondent. )

AMENDED NOTICE OF APPEAL - 1

**TO: THE ABOVE-NAMED RESPONDENT (SPECIAL DEPUTY  
ATTORNEY GENERAL) AND THE CLERK OF THE  
ABOVE-ENTITLED COURT**

1. The above-named Appellant, James Kevin Buell, appeals against the Idaho Transportation Department, to the Supreme Court of the State of Idaho, from the final agency decision dated August 13, 2007, upholding Mr. Buell's license suspension, the Notice of Disqualification for his CDL dated July 19, 2007, and the District Court's Order on Petition for Judicial Review, affirming the aforesaid decisions, entered by the Honorable Fred M. Gibler on December 28, 2009, and served on appellant's counsel on December 29, 2009.

2. The party has a right to appeal to the Supreme Court, and the Order described in paragraph 1 above is an appealable order under and pursuant to I.A.R. 11(f).

3. The preliminary statement of the issue on appeal which the appellant then intends to assert in the appeal is as follows: whether an administrative CDL license disqualification violates double jeopardy principles under a multi-factored *Hudson* analysis.

AMENDED NOTICE OF APPEAL - 2

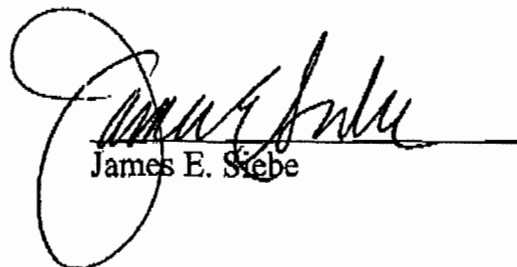
However, pursuant to I.A.R. 17(f), this preliminary statement of the issue to be appealed does not prevent appellant from asserting other issues on appeal.

4. Appellant requests preparation of the Court Clerk's Record. Appellant will pay the balance of the fees for preparation upon receipt of said estimate. The necessary transcript for the appeal to District Court have been prepared and Appellant has paid the fees for preparation thereof.

5. Appellant requests that no additional documents be included in the clerk's record other than those automatically included under I.A.R. 28.

6. Counsel certifies by his signature hereunder that service of this Notice of Appeal has been made upon the reporter of the Honorable Fred M. Gibler, District Judge, that the \$100 estimated fee for preparation of the clerk's record has been paid concurrently with the filing of this Notice, that counsel has paid for the Court Reporter's transcript, and that service has been made upon all other parties required to be served pursuant to I.A.R. 20.

DATED this 5 day of February, 2010.

  
James E. Siebe

AMENDED NOTICE OF APPEAL - 3

# CERTIFICATE OF SERVICE

I hereby certify that on the 5 day of February, 2010, I served a true and correct copy of the foregoing document by the method indicated and addressed to the following:

Susan K. Servick  
Special Deputy Attorney General  
P.O. Box 2900  
Coeur d'Alene, ID 83816

( ) U.S. Mail  
( ) Hand Delivered  
( ) Overnight Mail  
(☒) Facsimile (208) 667-1825

Driver Services  
Idaho Transportation Department  
P.O. Box 7129  
Boise, ID 83707-1129

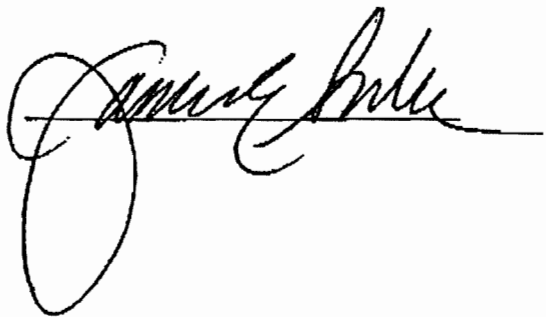
( ) U.S. Mail  
( ) Hand Delivered  
( ) Overnight Mail  
(☒) Facsimile (208) 332-4124

Honorable Fred M. Gibler  
P.O. Box 527  
Wallace, ID 83873

( ) U.S. Mail  
( ) Hand Delivered  
( ) Overnight Mail  
(☒) Facsimile (208) 753-3581

Byrl Cinnamon  
P.O. Box 2821  
Hayden, ID 83835

( ) U.S. Mail  
( ) Hand Delivered  
( ) Overnight Mail  
(☒) Facsimile



AMENDED NOTICE OF APPEAL - 4

Case: CV-2007-0000488 Current Judge: Fred M. Gibler  
James Kevin Buell vs. State of Idaho Transportation Department

James Kevin Buell vs. State of Idaho Transportation Department

Date	Code	User	Judge
10/10/2007	NCOC	CAROL	New Case Filed - Other Claims Fred M. Gibler
		CAROL	Filing: G3 - All Other Actions Or Petitions, Not Demanding \$ Amounts Paid by: James E. Siebe Receipt number: 0003238 Dated: 10/10/2007 Amount: \$88.00 (Check) For: Buell, James Kevin (plaintiff) Fred M. Gibler
	APER	CAROL	Plaintiff: Buell, James Kevin Appearance James E Siebe Fred M. Gibler
	PETN	CAROL	Petition For Judicial Review Fred M. Gibler
10/15/2007	PETN	CAROL	Amended Petition For Judicial Review Fred M. Gibler
	PETN	CAROL	Exparte Petition For Stay Pending Judicial Review Fred M. Gibler
	ORDR	CAROL	Exparte Order For Stay Pending Judicial Review Fred M. Gibler
2/26/2008	NOAP	CAROL	Notice Of Appearance Fred M. Gibler
	APER	CAROL	Defendant: State of Idaho Transportation Department Appearance Rami Amaro Fred M. Gibler
2/28/2008		CAROL	Filing: U - Miscellaneous Fees Use Miscellaneous Schedule!!!! Paid by: Rami Amaro Receipt number: 0000540 Dated: 2/28/2008 Amount: \$.00 (Cash) For: State of Idaho Transportation Department (defendan Fred M. Gibler
8/25/2008	PETN	CAROL	Petition For Scheduling Conference Fred M. Gibler
	HRSC	CAROL	Hearing Scheduled (Hearing Scheduled 10/17/2008 10:45 AM) Scheduling Conference Fred M. Gibler
		CAROL	Notice Of Hearing Fred M. Gibler
8/26/2008	REPO	CAROL	Supplemental Agency Record Fred M. Gibler
8/29/2008	MOTN	CAROL	Motion For Addition/Correction To Agency Record Fred M. Gibler
	NOTC	CAROL	Notice Of Petitioner's Request For Preparation Of Transcript Fred M. Gibler
9/4/2008	ORDR	CAROL	Order For Addition/Correction To Agency Record Fred M. Gibler
10/14/2008	STIP	CAROL	Stipulation For Vacation Of Scheduling Conference And To Briefing Scheduling Fred M. Gibler
	HRVC	CAROL	Hearing result for Hearing Scheduled held on 10/17/2008 10:45 AM: Hearing Vacated Scheduling Conference Fred M. Gibler
	ORDR	CAROL	Order Vacating Scheduling Conference And Setting Briefing Schedule Fred M. Gibler
11/7/2008	NOTC	CAROL	Notice Of Ordering Transcript Fred M. Gibler
11/28/2008	REPO	CAROL	Supplemental Agency Record Fred M. Gibler
12/8/2008	REPO	CAROL	Second Supplemental Agency Record Fred M. Gibler
12/15/2008	OBJC	CAROL	Objection To Agency Record And Request For Copy Of Recording Of Administrative Hearing Fred M. Gibler
12/19/2008	ORDR	CAROL	Order For Copy Of Recording Of Administrative Hearing Fred M. Gibler

James Kevin Buell vs. State of Idaho Transportation Department

Date	Code	User	Judge
12/29/2008	NOTC	CAROL	Notice Of No Objection To Petitioner's Request For Copy Of Recording Of Administrative Hearing Fred M. Gibler
1/12/2009	MOTN	CAROL	Second Motion For Addition/Correction To Agency Record Fred M. Gibler
1/22/2009	ORDR	CAROL	Second Order For Addition/Correction To Agency Record Fred M. Gibler
2/3/2009	HRSC	CAROL	Hearing Scheduled (Status 03/13/2009 01:00 PM) Scheduling Conference Fred M. Gibler
	NTHR	CAROL	Notice of Scheduling Conference Fred M. Gibler
3/13/2009	CMIN	CAROL	Court Minutes Hearing type: Status Hearing date: 3/13/2009 Time: 1:00 pm Fred M. Gibler
	DCHH	CAROL	Hearing result for Status held on 03/13/2009 01:00 PM: District Court Hearing Held Court Reporter: Byrl Cinnamon Number of Transcript Pages for this hearing estimated: less than 100 pages Scheduling Conference Fred M. Gibler
3/19/2009	HRSC	CAROL	Hearing Scheduled (Hearing Scheduled 06/12/2009 01:00 PM) Oral Argument Fred M. Gibler
		CAROL	Notice Of Hearing Fred M. Gibler
3/25/2009	STIP	CAROL	Stipulated Briefing Schedule Fred M. Gibler
4/14/2009	SUBC	CAROL	Notice Of Substitution Of Counsel Fred M. Gibler
	APER	CAROL	Defendant: State of Idaho Transportation Department Appearance Susan K Servick Fred M. Gibler
4/17/2009	MOTN	CAROL	Motion For Extension Of Time To April 24, 2009 To File Petitioner's Brief Fred M. Gibler
4/20/2009	ORDR	CAROL	Order Granting Extension Of Time To April 24, 2009 To File Petitioner's Brief Fred M. Gibler
4/24/2009	BREF	CAROL	Petitioner's Brief Fred M. Gibler
5/21/2009	STIP	CAROL	Stipulation For Extension Of Time To May 27, 2009 To File Respondent's Brief Fred M. Gibler
5/27/2009	BREF	CAROL	Respondent's Brief Fred M. Gibler
5/29/2009	ORDR	CAROL	Order Granting Extension Of Time To May 27, 2009 To File Respondent's Brief Fred M. Gibler
6/11/2009	STIP	CAROL	Stipulation To Vacate And Continue Oral Argument Hearing Fred M. Gibler
6/12/2009	STIP	CAROL	Stipulation To Vacate And Continue Oral Argument Hearing Fred M. Gibler
	ORDR	CAROL	Order Vacating and Continuing Oral Argument Hearing Fred M. Gibler
	CONT	CAROL	Continued (Hearing Scheduled 07/17/2009 01:00 PM) Oral Argument Fred M. Gibler
7/16/2009	MOTN	CAROL	Motion To Vacate And Continue Oral Argument Hearing Fred M. Gibler

James Kevin Buell vs. State of Idaho Transportation Department

Date	Code	User	Judge
7/16/2009	CONT	CAROL	Hearing result for Hearing Scheduled held on 07/17/2009 01:00 PM: Continued Oral Argument
7/17/2009	ORDR	CAROL	Order Vacating and Continuing Oral Argument Hearing
7/21/2009	HRSC	CAROL	Hearing Scheduled (Hearing Scheduled 11/13/2009 01:00 PM) Oral Argument
	MOTN	CAROL	Motion To Vacate And Continue Oral Argument Hearing
7/22/2009	CONT	CAROL	Continued (Hearing Scheduled 12/18/2009 01:00 PM) Oral Argument
7/24/2009	ORDR	CAROL	Order Vacating And Continuing Oral Argument Hearing
12/16/2009	MOTN	CAROL	Motion for Court to Judicially Note File
12/24/2009	DCHH	CAROL	Hearing result for Hearing Scheduled held on 12/18/2009 01:00 PM: District Court Hearing Held Court Reporter: Byrl Cinnamon Number of Transcript Pages for this hearing estimated: less than 100 pages Oral Argument
	ORDR	CAROL	Order in RE: Stay of Suspension of Driving Privileges
12/29/2009	ORDR	CAROL	Order on Petition for Judicial Review
	CDIS	CAROL	Civil Disposition entered for: State of Idaho Transportation Department, Defendant; Buell, James Kevin, Plaintiff. Filing date: 12/29/2009
	STAT	CAROL	STATUS CHANGED: Closed
2/5/2010		CAROL	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Siebe, James E (attorney for Buell, James Kevin) Receipt number: 0006862 Dated: 2/5/2010 Amount: \$101.00 (Check) For: Buell, James Kevin (plaintiff)
	BNDC	CAROL	Bond Posted - Cash (Receipt 6863 Dated 2/5/2010 for 85.00)
	STAT	CAROL	STATUS CHANGED: Closed pending clerk action
	APSC	CAROL	Appealed To The Supreme Court
	STAT	CAROL	STATUS CHANGED: Inactive
	APDC	CAROL	Appeal Filed In District Court
	STAT	CAROL	STATUS CHANGED: Reopened
	NOTC	CAROL	Notice of Appeal
2/8/2010	BNDC	CAROL	Bond Posted - Cash (Receipt 6871 Dated 2/8/2010 for 15.00)
	NOTC	CAROL	Amended Notice of Appeal
	CERT	CAROL	Clerk's Certificate of Appeal

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

In the Matter of the	)	
Driver's License Suspension of:	)	
	)	
JAMES KEVIN BUELL.	)	
-----	)	
JAMES KEVIN BUELL,	)	
	)	Supreme Court No. 37404
Petitioner-Appellant,	)	
	)	CERTIFICATE OF EXHIBITS
v.	)	
	)	
IDAHO DEPARTMENT OF TRANSPORTATION,	)	
	)	
Respondent-Respondent on Appeal.	)	

I, CAROL RYAN, Deputy Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Benewah, do hereby certify:

That the following is a list of exhibits which were offered or admitted into evidence during the hearing/trial in this cause:

COURT'S EXHIBITS

DESCRIPTION

1

TRANSCRIPT OF ADMINISTRATIVE LICENSE  
HEARING FOR THE IDAHO DEPARTMENT OF  
TRANSPORTATION, dated August 31, 2007  
included with SECOND SUPPLEMENTAL AGENCY  
RECORD, filed December 5, 2008

I do further certify that all exhibits in the above entitled cause will be duly lodged with the Clerk of the Supreme Court along with the Clerk's Record as required by Rule 31 of the Idaho Appellate Rules. The Court Reporter's Transcript was not requested by Petitioner-Appellant.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at St. Maries, Idaho this 8<sup>th</sup> day of March, 2010.

J. MICHELE REYNOLDS  
Clerk of the District Court

By: Carol Ryan  
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

In the Matter of the	)	
Driver's License Suspension of	)	
	)	
JAMES KEVIN BUELL.	)	
-----	)	
JAMES KEVIN BUELL,	)	
Petitioner-Appellant,	)	
	)	
v.	)	SUPREME COURT NO. 37404
	)	
IDAHO DEPARTMENT OF	)	CERTIFICATE OF CLERK
TRANSPORTATION,	)	
	)	
Respondent-Respondent on	)	
Appeal.	)	

I, J. MICHELE REYNOLDS, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Benewah, do hereby certify that the foregoing Record in the above-entitled cause was compiled and bound under my direction and is a true, full and correct Record of, the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

I further certify that all documents, x-rays, charts and pictures offered or admitted in the above-entitled cause will be duly lodged with the Clerk of the Supreme Court along with the Court Reporter's Transcript and Clerk's Record (except for the exhibits which are retained in the possession of the undersigned), as required by Rule 31 of the Idaho Appellate Rules. (See Certificate of Exhibits if there are exhibits and no Reporter's Transcript or not listed in the Reporter's Transcript.)

CERTIFICATE OF CLERK

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of said Court at St. Maries, Idaho this 8<sup>th</sup> day  
of March, 2010.

J. MICHELE REYNOLDS  
Clerk of the District Court

By: Carol Ryan  
Deputy

CERTIFICATE OF CLERK

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

In the Matter of the  
Driver's License Suspension of

JAMES KEVIN BUELL.

-----  
JAMES KEVIN BUELL,  
Petitioner-Appellant,

v.

IDAHO DEPARTMENT OF  
TRANSPORTATION,

Respondent-Respondent on  
Appeal.

SUPREME COURT NO. 37404

CERTIFICATE OF SERVICE

I, CAROL RYAN, Deputy Clerk of the District Court of the First  
Judicial District of the State of Idaho, in and for the County of  
Benewah, do hereby certify that I have mailed, by United States Mail, or  
by interoffice mail, one copy of the CLERK'S RECORD to each of the  
Attorneys of Record in this case as follows:

James E. Siebe  
Attorney at Law  
PO Box 9045  
Moscow, ID 83843

Susan K. Servick  
Special Deputy Attorney General  
PO Box 2900  
Coeur d'Alene, ID 83816

IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
the seal of said Court at St. Maries, Idaho this 15<sup>th</sup> day of March,  
2010.

J. MICHELE REYNOLDS  
Clerk of the District Court

By:

Carol Ryan  
Deputy

cc: Supreme Court/Court of Appeals

CERTIFICATE OF SERVICE