

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF**

**FROM: KARL T. KLEIN
DEPUTY ATTORNEY GENERAL**

DATE: SEPTEMBER 11, 2020

SUBJECT: IN RE COVID-19 RESPONSE – CASE NO. GNR-U-20-01.

On Friday, March 13, 2020, Idaho's Governor declared a state of emergency to combat the spread of COVID-19, provide essential services, and limit public exposure. Among other things, the Governor suspended the requirement that persons be allowed to physically attend public meetings. The Commission, in turn, issued Order No. 34602 to foster safe procedures at the Commission. For example, the Commission began to conduct its certain meetings exclusively by telephone.

Since the Commission issued its order, the State's response to COVID-19 has evolved, and the Commission has resumed many of its normal operations. Accordingly, I recommend the Commission replace Order No. 34602 with a new order reflecting updated practices.

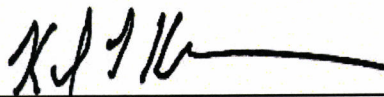
The new order would be like Order No. 34602 in noting the Commission remains open and that electronic filing and service is permitted. The new order would primarily differ from Order No. 34602 as follows:

1. **The new order would acknowledge persons may physically attend public meetings but encourage persons to remotely attend them.** To avoid situations that would cause persons or parties to gather in unacceptable numbers, the order would note the Commission allows persons to attend the Commission's public meetings and hearings either in-person or by telephone or other electronic means. The new order would, however, encourage remote attendance when possible.
2. **The new order would stress persons who physically attend meetings must observe safety precautions.** The new order would reflect updated guidelines and requirements

from the Governor and the District Board of Central District Health (CDH). The order would note that sick persons should not physically attend the Commission's meetings, and that persons who do physically attend must, when possible, either: (a) maintain at least six-foot physical distancing from other persons; or (b) wear a face covering that covers the person's nose and mouth when others are present and a physical distance of six feet cannot be maintained. The order would encourage persons both to maintain six-foot physical distancing *and* wear a face covering. The order also would remind persons to adhere to all CDH's safety directives in effect at the time the Commission's public proceeding is to occur. CDH Restriction Orders are available here: <https://www.cdhd.idaho.gov/dac-coronavirus-order.php>. The order would note the Commission may restrict the number of people who attend public proceedings to help maintain appropriate physical distancing.

COMMISSION DECISION

Does the Commission wish to issue an updated order consistent with the above discussion?



Karl T. Klein
Deputy Attorney General

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