

RECEIVED

OCT 05 2020

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

\$50 fee Received by KU Recept No. C109328 Date 10-5-2020

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code, in which to complete development of a water right and file proof of beneficial use of water. There is a FILING FEE of \$50.00 to be included with this form when filed with IDWR.

Permit no. 63-32225 Date proof is due February 1, 2021 Name(s) of permit holder(s) Intermountain Sewer & Water Corp. Mailing address P.O. Box 344 City Meridian State ID Zip 83680 Telephone no. Email

Describe what work has been completed toward the development of this water right: If no work has been completed, show "none".

The Permittee has undergone extensive planning, financing, and investment activities related to the project. The Permittee has also submitted an application for an amendment to its water right to IDWR to legitimize the project, and has also been pursuing the Elmore County Land Use and Building Department's approval. Please see more details in the attached Narrative.

Costing \$

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

County and state approval processes have taken longer than expected, prohibiting actual work from beginning on the project. There have also been delays due to COVID-19.

Please see attached Narrative for more details.

Permit holder(s) request an extension for 3 year(s).

Signature of Gregory B. Johnson Date 9/30/2020

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Department has reviewed the explanation for delay and concludes the reason(s) for delay meets the requirements for approval of the Request for Extension of Time as provided by Section(s) 42-204 and/or 42-218, Idaho Code.

IT IS HEREBY ORDERED that the permit is REINSTATED with the priority date advanced to , 20 .

IT IS HEREBY ORDERED that the above request for extension of time is APPROVED, and the time within which to submit proof of beneficial use is extended to SEPTEMBER 8, 20 22 .

Signed this 26th day of JANUARY, 20 21

Angela M. Grimm ANGELO M. GRIMM WATER RIGHTS SECTION MANAGER

SCANNED OCT 14 2020

NARRATIVE SUPPORTING REQUEST FOR EXTENSION OF TIME

PERMIT NO. 63-32225

I. Permit History

This Permit was granted in 2007 for purposes of building a very large planned community near Mountain Home in an area known as Mayfield Springs Planned Community. This community is planned to include over two thousand homes, commercial businesses, a school, fire station, and more. In essence, this is a project to create a small new city, with absolutely no existing infrastructure. Due to the complexities in getting a project this size planned, financed, approved, and constructed, an extension of time for its development/beneficial use proof deadline is needed to enable this project to move forward at this time, in light of the extensive delays it has experienced. Without the certainty of an extension, the project and its investors will not be able to proceed as planned, as significant investments and expenditures will be out at risk or lost altogether.

This Permit was originally granted a five (5) year development period from 2007 to February 1, 2012. Near the end of the initial development period, an extension of time was granted, extending the proof deadline to February 1, 2017. In January of 2016, approximately one (1) year early, the Permittee filed another request for extension. The Permittee applied early for the extension because this Permit is associated with a very large residential and commercial development project requiring significant capital investment, and the Permittee was hesitant to invest in the project without the certainty of an extension.

Idaho Department of Water Resources ("IDWR") acknowledged the importance of the certainty of an extension and granted the extension one (1) year early, bringing the new proof deadline to February 1, 2021. Accordingly, the extension was granted for four (4) years instead of five (5) due to it being requested early. When IDWR granted that extension, it provided a supplemental letter to the Permittee, explaining that the permit **would** be granted another one (1) year extension at the new proof date of February 1, 2021, due to IDWR only being authorized to give a four (4) year extension because of the early request. A true and correct copy of that letter is attached hereto for your reference.

By virtue of this letter and the express grant made by IDWR within it, the Permittee is entitled to another one (1) year extension. Accordingly, the new proof deadline should be set no earlier than February 1, 2022, in any event.

However, the requested deadline of February 1, 2024, is more appropriate in this situation, due to the size, complexity, and significant investment that a project of this size requires, as discussed

SCANNED

OCT 14 2020

above. Accordingly, the **extension should be granted in its entirety** so that the Permittee has the certainty it needs to continue to move forward and make investments in the project. Without the certainty of this extension, the Permittee and its investors will not have the assurance they need to continue to make significant expenditures, as those expenditures may be futile if this deadline is not extended. It is also important to note that significant expenditures and progress has been made, and if the deadline is not extended, then all progress and expenditures made thus far will also all be for naught. The logistics of planning, financing, and constructing a planned community requires certainty. The proposed beneficial use deadline of February 1, 2024, will give this project the certainty it needs to continue making investments and moving forward.

II. Permit Development Delays

Pursuant to Idaho Code § 42-204, the Permittee requests an additional extension of two years, which shall be additive to the one (1) year extension discussed above. This extension is being requested due to governmental delays associated with permitting processes, as well as the unanticipated and devastating pandemic that is occurring as a result of the novel coronavirus (“COVID-19”). Each of these delays and their impact on the development of this water right are discussed at more length below.

A. Delays Due to Elmore County Permitting Process

The Permittee has experienced significant delays associated with the Elmore County land use permitting process. Discussions with various county agencies have been ongoing since 2019; however, the process with Elmore County has not gone smoothly and has been full of unanticipated hurdles that are not attributable to the Permittee. For example, the County did not, for much of that time, have a director for their land use and building department. In spite of that, the Permittee diligently proceeded and attempted to move the process forward with the interim director. Furthermore, in August of 2019, the Permittee received word that the County had repealed their planned community ordinance altogether, which had been the basis of all the preparation completed thus far to advance the project. After several weeks of discussions, that matter was resolved and the County indicated that it would be leaving the ordinance in place, as the proper procedure for repealing the ordinance had not been followed.

Thereafter, the Permittee met with the Elmore County interim director for the Land Use and Building Department and the Elmore County prosecuting attorney several times in order to prepare for neighborhood meetings, which were scheduled and held on February 19, 2020, and March 3, 2020. The COVID-19 shutdown followed shortly thereafter, making meetings with agencies difficult, and essentially halting planning efforts.

Elmore County has since hired a permanent director for the Land Use and Building Department. In discussing this matter with them, the new director has required that the Permittee submit new pre-application forms and hold new neighborhood meetings with a wider notice radius. The pre-application form is anticipated to be submitted the at the end of September, 2020, and neighborhood meetings are anticipated to be held during the month of October, 2020. In order to diligently prosecute its application and move things forward as quickly as possible, the Permittee will be requesting permission to submit the application prior to completion of the neighborhood meetings.

Accordingly, the Permittee has experienced more than a one-year delay in its progress due to the hurdles it has had to face with Elmore County. Accordingly, an extension in the amount of at least one year is needed to recoup the Permittee for its lost time due to these governmental delays which have been beyond the control of the Permittee. However, the Permittee reserves its right to later seek development delay credit from IDWR under Idaho Code § 42-204 in the event that additional delays are encountered with Elmore County Land Use and Building or other county agencies as the project moves forward.

B. Delays Due to IDWR Water Right Permit Amendment

The Permittee has sought to amend this Permit to add additional points of diversion necessary for the efficient use and development of the Permit. Permittee also filed a Transfer application to change the place of use and to add points of diversion for an existing irrigation right (63-32616) as part of its overall plan for development and use of water for the planned community. The application for amendment of the Permit was filed on January 31, 2020, and was protested by three (3) individuals. The Transfer application was filed the same date and was protested by one individual. Both matters were consolidated and proceeded pursuant to IDWR's administrative process for handling protested matters.

Attached hereto is the "Technical Memorandum" prepared by Permittee's experts, Mountain Waterworks, explaining the overall planning and purposes for the application to amend the Permit and the Transfer application. This Technical Memorandum is being provided to you to illustrate and explain the basis and rationale for the applications for purposes of this request for extension, to further illustrate the planning involved in a large scale planned community, and not for you to render any decision as to the merits of the applications. Indeed, Cynthia Bridge Clark has been appointed the IDWR Hearing Officer as to both applications and a hearing was held on August 27, 2020 to address both applications. As of the date of this request for extension, a decision from the IDWR Hearing Officer has not yet been rendered. The point is for purpose of

this request for extension the Permittee has been proceeding in this water right amendment process diligently and in good faith.¹

Despite the Permittee's attempts to diligently prosecute the application for amendment, the Permittee will experience, at a minimum, a nine (9) month² delay, and likely more, depending on how long it takes to get a decision from the IDWR Hearing Officer and whether there are any further requests for reconsideration or appeals. This process is out of the Permittee's control, and cannot be shortened by the Permittee's efforts. Accordingly, the Permittee should be granted an additional extension for the delay due to this water right amendment application process before IDWR. As the attached Technical Memorandum explains, the reasoning behind the amendment application and the Transfer application is to add points of diversion and to efficiently utilize both rights. Without knowing whether these applications are approved, conditionally approved or denied, the Permittee cannot fully complete its water right planning and use for such a large planned community. Accordingly, this nine (9) month delay should also be taken into consideration by IDWR when considering approval of this extension. However, the Permittee reserves its right to later seek development delay credit from IDWR under Idaho Code § 42-204 in the event that additional delays are encountered with IDWR as the project moves forward.

C. Delays Due to COVID-19

COVID-19 and the ensuing pandemic hit the United States in early 2020, disrupting the economy; lending markets; construction activities; production of goods and supplies; freight and shipping; federal, state, and local government operations; and everyday life, in almost every sense. As you are aware, mandatory "stay home" orders were put into place, shutting down government offices and places of business. For example, on March 13, 2020, President Trump declared a national emergency related to COVID-19, and on March 25, 2020, the Idaho Department of Health and Welfare implemented an "Order to Self-Isolate" for all individuals living in Idaho. This required individuals to "self-isolate at their place of residence" and

¹ Permittee further notes that it diligently proceeded with IDWR and the protestants to have the matter heard and Permittee believes that the hearing held on August 27, 2020 was one of the only hearings held before IDWR since the COVID-19 pandemic began. Permittee could have delayed the matter further but instead diligently proceeded so that it could obtain the necessary approvals and it could properly plan for the development and beneficial use of the water right system.

² To arrive at an extension of nine (9) months, the Permittee calculated the time in between January 31, 2020 (when the Permittee filed the application for amendment) and August 27, 2020 (the date of the hearing on the application), which is seven (7) months. The Permittee then added two (2) month to this period to allow the Hearing Officer to issue a decision on the application for amendment and any requests for reconsideration to be filed. Obviously, additional appeals and delays could occur which are beyond the Permittee's control and thus using nine (9) months is a conservative calculation.

“business and governmental agencies to cease nonessential operations at physical locations.”³
This Order lasted until April 30, 2020.⁴

As you are probably aware, each state has chosen to approach the pandemic differently. While Idaho began its staged reopening process at the end of April, other states, such as California, have been much more restrictive and prohibited businesses from reopening for a much longer period of time than Idaho did. The uncertainty and restrictions of other states have significantly delayed freight time and production of goods, making it difficult for businesses to engage in interstate commerce and complete projects at this time. While the self-isolation order ended on April 30th, life has been very different as Idaho has entered its staged reopening process. Every individual, business, and government agency has had to change their normal course of operation to adapt to the new challenges presented by trying to carry on everyday life while following CDC guidelines, mandates, and the like. This has had significant impacts on the economy and supply chains, and the lending markets have been flooded as they struggle to keep up with new COVID-19 related subsidies, refinancing, and more.

The shut downs and stay home orders have resulted in significant delays, where the full impacts and length of delays are still unknown. The construction industry in particular has been significantly impacted. For example, factories that produce water pipes and valves were either shut down or have been operating at a reduced capacity. This has resulted in large orders needing to be placed at least one year in advance to get the materials in time as factories struggle to meet demand. Another example is lumber. Lumber supply is extremely short, and prices have almost doubled from what they were before the pandemic. Labor shortages are also rampant, where the unemployment rate went from less than four percent (4%) in February of 2020, hit a high of close to fifteen percent (15%) in May of 2020, and is slowly working its way back down, where it currently stands at a little over eight percent (8%) as of September 4, 2020.⁵

Personally, the Permittee has experienced slower governmental processes, including county approval processes and the water right amendment process; an uncertain economy which has limited investment in the project; an extreme supply chain disruption; shortage of labor; and delays related to lending because of the overwhelmed lending markets. Accordingly, the delays due to the pandemic, the water right transfer process, and the county approval process, especially when considered in light of how large this project this, should support an additional three-year extension to prove beneficial use (Permittee is seeking an additional two (2) years beyond the one (1) year extension which should be granted for a total extension of three (3) years). With all of the uncertainty surrounding COVID-19, including future flare ups, shut downs, etc., it is

³ IDAHO DEPT. OF HEALTH AND WELFARE’S ORDER TO SELF-ISOLATE (Mar. 25, 2020), https://coronavirus.idaho.gov/wp-content/uploads/2020/06/amended-statewide-stay-home-order_041520.pdf.

⁴ *Id.*

⁵ U.S. DEPT. OF LABOR BUREAU OF LABOR STATISTICS, *News Release: The Employment Situation—August 2020* (Sept. 4, 2020), <https://www.bls.gov/news.release/pdf/empisit.pdf>.

possible that the delay experienced will exceed the additional two years being requested. However, as discussed above, this is a large project that requires significant capital investment. The Permittee cannot continue if it does not have assurance that the project it is seeking to complete will not have a water right. If it were not for the pandemic and the sheer size of this project, it is very likely that the delays experienced would not have been as significant as they have become. The Permittee has made its best efforts to diligently proceed and has made significant progress with the project, and it would be unjust for the extension of proof to not be extended at this time, based on the significant expenditures and progress that has been made.

Due to the one (1) year lead time on necessary materials, the roughly six (6) months of delay already experienced due to COVID-19, and the uncertainty and additional delays that may lie ahead due to the virus, an extension of at least two (2) additional years should be granted for COVID-19 related delays. This should be additive to the one (1) year extension that should be granted to the Permittee by right pursuant to the IDWR letter attached hereto. The Permittee contends that these once in a century COVID-19 related delays are a stand-alone basis for an additional two (2) year extension of time. However, since the delays due to the Elmore County land use process and the IDWR water right amendment process overlap or have been occurring simultaneously with the COVID-19 related delays, Permittee is not suggesting that the two should be additive but rather both should be considered in combination to support the requested extension of two (2) additional years in addition to the one (1) year which should be granted as a matter of right, for a total extension of three (3) years or until February 1, 2024. However, the Permittee reserves its right to later seek development delay credit from IDWR under Idaho Code § 42-204 in the event that additional delays due to COVID-19 are encountered as the project proceeds.

As explained above, the Permittee has been proceeding in good faith and diligently pursuing its project, but has encountered significant delays that are out of its hands. To provide certainty to investors, this three (3) year extension, or until February 1, 2024, should be granted in its entirety so that investments and expenditures can continue to be made. Without this certainty and assurance, the project will not be able to proceed, as there must be certainty that the water rights will be available for use when the project is completed. Otherwise, the project will not be viable as currently planned.

The Permittee is hopeful that complete development of Permit 63-32225 will be achieved by February 1, 2024. However, the Permittee reserves its right to later seek development delay credit from IDWR under Idaho Code § 42-204 for the development delays outlined above and for other delays that may be encountered along the way and may necessitate further extensions to fully develop the permit.

We would be happy to meet with you and further discuss this extension request if IDWR desires. If you would like to arrange for a meeting, or if IDWR has any questions, or seeks any additional materials supportive of this permit development extension request, please direct those inquiries or requests to:

S. Bryce Farris
Sawtooth Law Offices, PLLC
1101 W, River St., Ste. 110
P.O. Box 7985
Boise, ID 83707
Telephone: (208) 629-7447
Facsimile: (208) 629-7559
Email: bryce@sawtoothlaw.com

Thank you for your time and consideration of this request.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 29, 2016

INTERMOUNTAIN SEWER & WATER CORP
PO BOX 344
MERIDIAN ID 83680

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 63-32225

Dear Permit Holder(s):

This letter is in addition to the most recent letter mailed out by the Department and dated January 25, 2016. The Department would like to further explain the amount of time that will still be available for completion of the project and to put water to use after the proof due date of **February 01, 2021**, according to Section 42-204(4), Idaho Code, which reads:

"The time for completion of works and application of water to full beneficial use under any permit involving the diversion of two (2) or more cubic feet per second or the development or cultivation of one hundred (100) or more acres of land may be extended by the director of the department of water resources upon application by the permittee for an additional period up to ten (10) years beyond the initial development deadline contained in the permit, or beyond a grant of extension pursuant to the provisions of subsection (1) of this section, provided the permittee establishes that the permittee has exercised reasonable diligence and that good cause exists for the requested extension."

This permit allowed a 5 year development period from 2007 to February 1, 2012, or five (5) years. A Request for Extension of Time (extension request) was filed and approved which allowed five (5) more years to February 1, 2017, for development and use of the water, but an extension request was filed a year early on January 22, 2016. This extension request was recently approved for five (5) years from February 1, 2016 to February 1, 2021. Therefore one more extension request will be allowed at the new proof due date of February 1, 2021 for one (1) more year. This will be the end of the 15 year development period allowed.

If you have any questions concerning this permit, please contact the State Office of the Department located in Boise at (208) 287-4800.

Sincerely,

Darla Block
Technical Records Specialist

c: SPF WATER ENGINEERING LLC

THE WESTPARK COMPANY C/O TAYLOR MERRILL

SCANNED
OCT 14 2020



TECHNICAL MEMORANDUM

DATE: 6/29/20
TO: IDWR
FROM: Mountain Waterworks
JOB NO.: 249.0020
SUBJECT: Mayfield Springs Water Right

INTRODUCTION

The purpose of this technical memorandum is to summarize and describe the water rights and proposed ground water well locations for the Mayfield Springs Planned Community. There are two water rights associated with the project. One is an irrigation water right license (63-32616) and the other is a municipal permit to appropriate water (63-32225). Gregory Johnson is owner of the irrigation water right and the Intermountain Sewer and Water Corporation is the owner of municipal permit. Gregory Johnson is the authorized agent of the Intermountain Sewer and Water Corporation. Mayfield Development, LLC, owns the Mayfield Springs project site and Gregory Johnson is the authorized agent of that company.

A water right transfer (No. 83875) was submitted to IDWR requesting additional points of diversion (PODs) and adding the Mayfield Springs site as an additional place of use for the irrigation water (63-32616). An application for amendment of permit was submitted to IDWR requesting additional PODs be added to the municipal permit (63-32225). The intent of the requested amendments is to optimize beneficial use and efficiency of the water system by allowing wells to be drilled on the Mayfield Springs property and locating the new wells away from adjacent properties with public and domestic supply wells.

A site plan showing the proposed PODs for permit 63-3225 is included in Figure 1, and a site plan for the proposed PODs and additional place of use for license 63-32616 is provided in Figure 2. One POD has been constructed under 63-3225 labeled as "Existing Well No. 1" in Figure 1.

WATER RIGHT SUMMARY AND LIMITATIONS

The municipal permit has a condition stating that "Common areas, parks, school grounds, golf courses, and other large parcels may only be irrigated under this water right with wastewater that has been previously beneficially used for potable or culinary purposes, has been treated in a wastewater treatment plant, and is delivered from the wastewater treatment plant to the parcel to be irrigated". There is also a condition that "Water may be used for direct irrigation of up to ½ acre per residential lot upon which a home has been constructed".

A summary of the current water rights is provided **Table 1**, with available diversion rates and volumes summarized in **Table 2**. See **Appendix A** for Water Right documentation.

Boise – Lewiston – McCall
208.780.3990 - office@mountainwtr.com
www.mountainwtr.com

EXHIBIT A

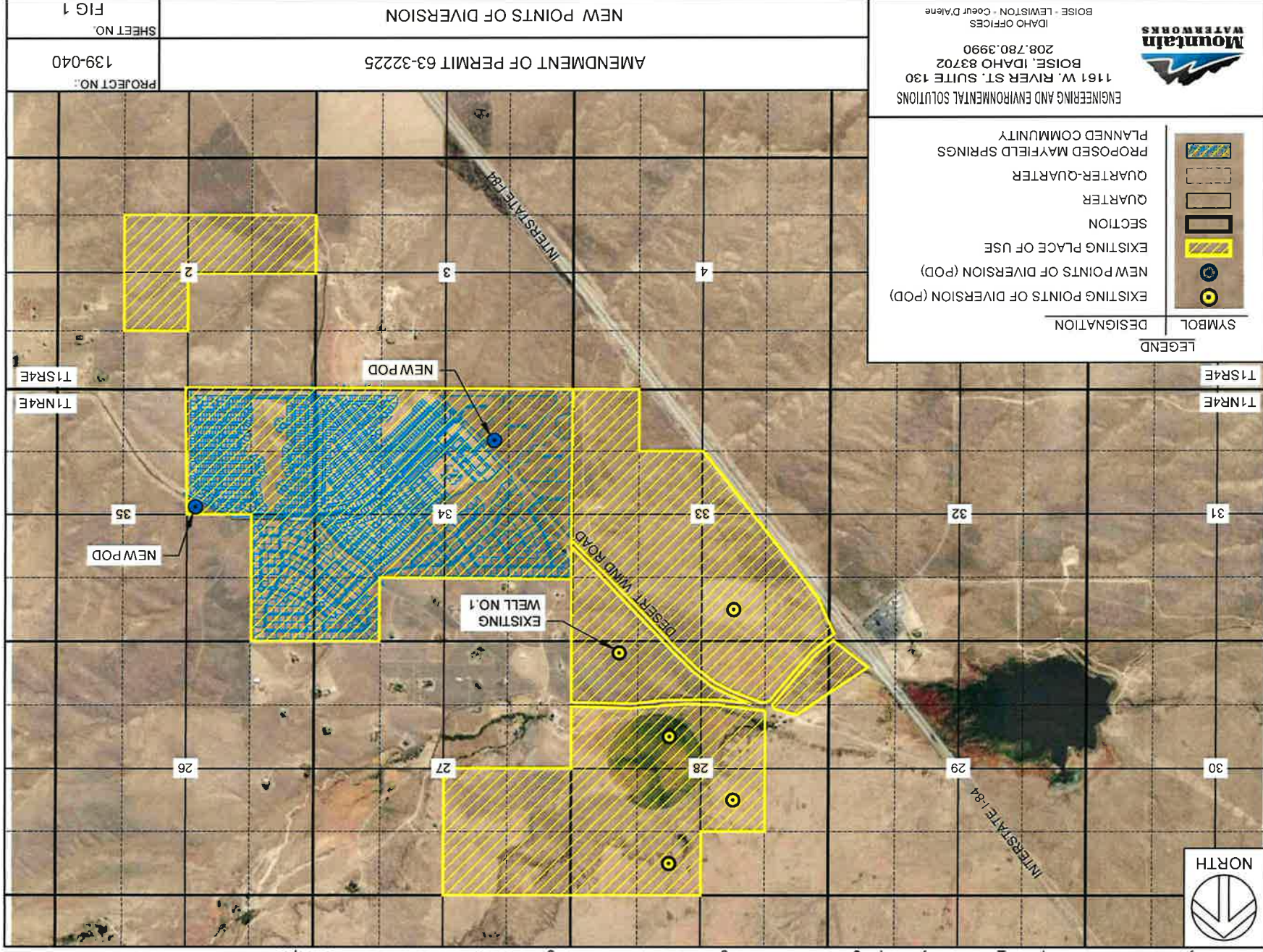


Page 1 of 14

SCANNED

OCT 14 2020

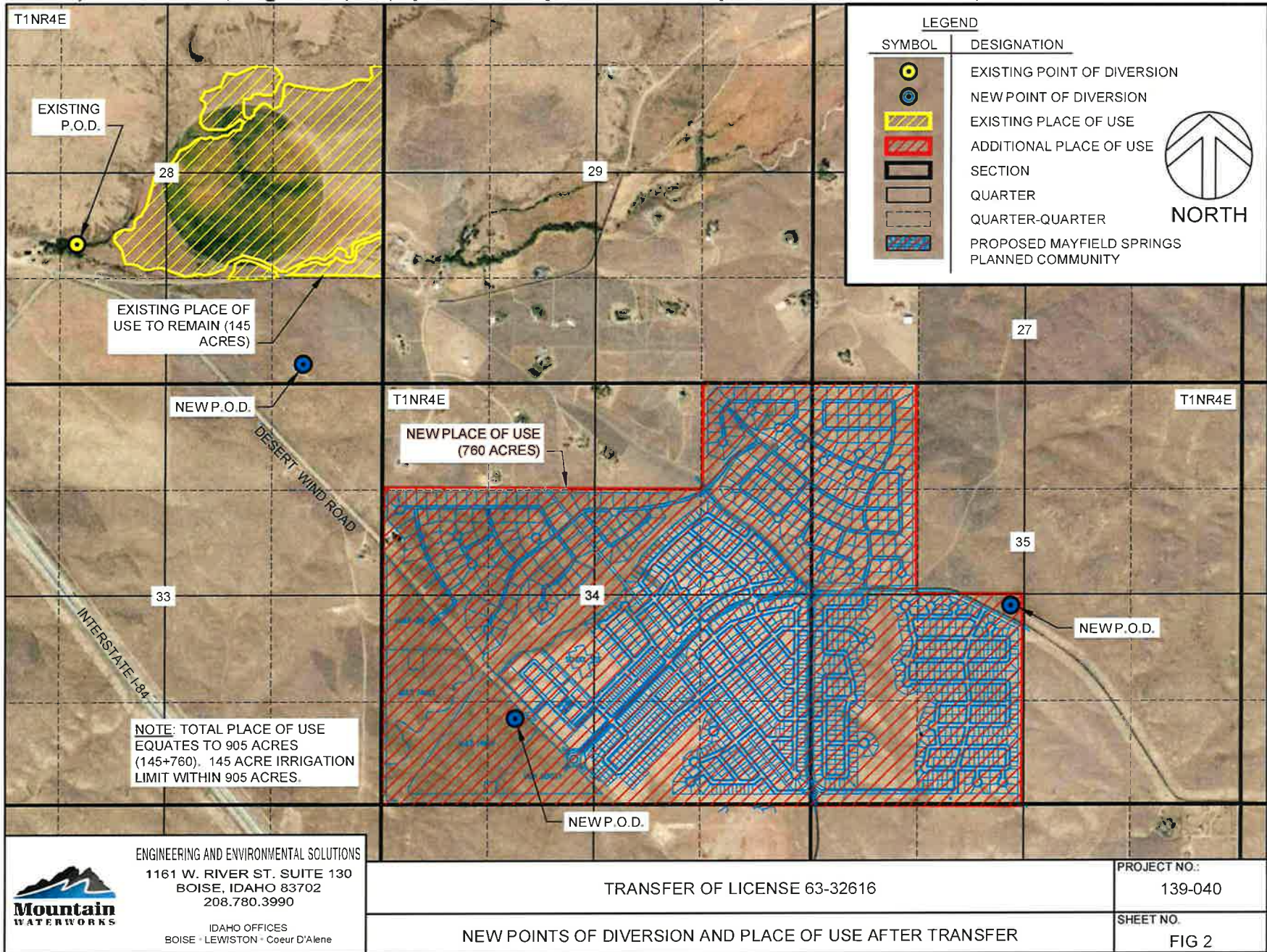
EXHIBIT A



Mountain WATERWORKS
 ENGINEERING AND ENVIRONMENTAL SOLUTIONS
 1161 W. RIVER ST. SUITE 130
 BOISE, IDAHO 83702
 208.780.3990
 IDAHO OFFICES
 BOISE - LEWISTON - COEUR D'ALENE

SYMBOL	DESIGNATION
	EXISTING POINTS OF DIVERSION (POD)
	NEW POINTS OF DIVERSION (POD)
	EXISTING PLACE OF USE
	SECTION
	QUARTER
	QUARTER-QUARTER
	PROPOSED MAYFIELD SPRINGS PLANNED COMMUNITY

AMENDMENT OF PERMIT 63-32225
 PROJECT NO.: 139-040
 SHEET NO. FIG 1



ENGINEERING AND ENVIRONMENTAL SOLUTIONS
 1161 W. RIVER ST. SUITE 130
 BOISE, IDAHO 83702
 208.780.3990

IDAHO OFFICES
 BOISE • LEWISTON • Coeur D'Alene

TRANSFER OF LICENSE 63-32616

PROJECT NO.:
139-040

NEW POINTS OF DIVERSION AND PLACE OF USE AFTER TRANSFER

SHEET NO.
FIG 2

OCT 14 2020
SCANNED

Table 1: Current Water Rights Summary

Identification No.	Designation							
	Water Right License	Permit to Appropriate	Water Supply Bank Lease	Source	Beneficial Use	Period of Use	Diversion Rate	Annual Volume
Intermountain Sewer & Water Corp. 63-32225		X		Ground Water	Municipal	1/01-12/31	10.00 CFS	1,815 AFA
Johnson 63-32616	X			Ground Water	Irrigation	3/15-11/15	2.37 CFS	651.3 AFA
			X	Ground Water			0.67 CFS	184.2 AFA

Table 2: Available Diversion Rates and Volume

Water Right	Diversion Rate		Diversion Volume	
	(cfs)	(gpm)	(AFA)	(MG/year)
Intermountain Sewer & Water Corp. Permit to Appropriate ¹	10.00	4,488	1,815	591
Johnson Water Right License	2.37	1,063	651.3	212
Johnson Water Supply Bank Lease ²	0.67	300	184.2	60

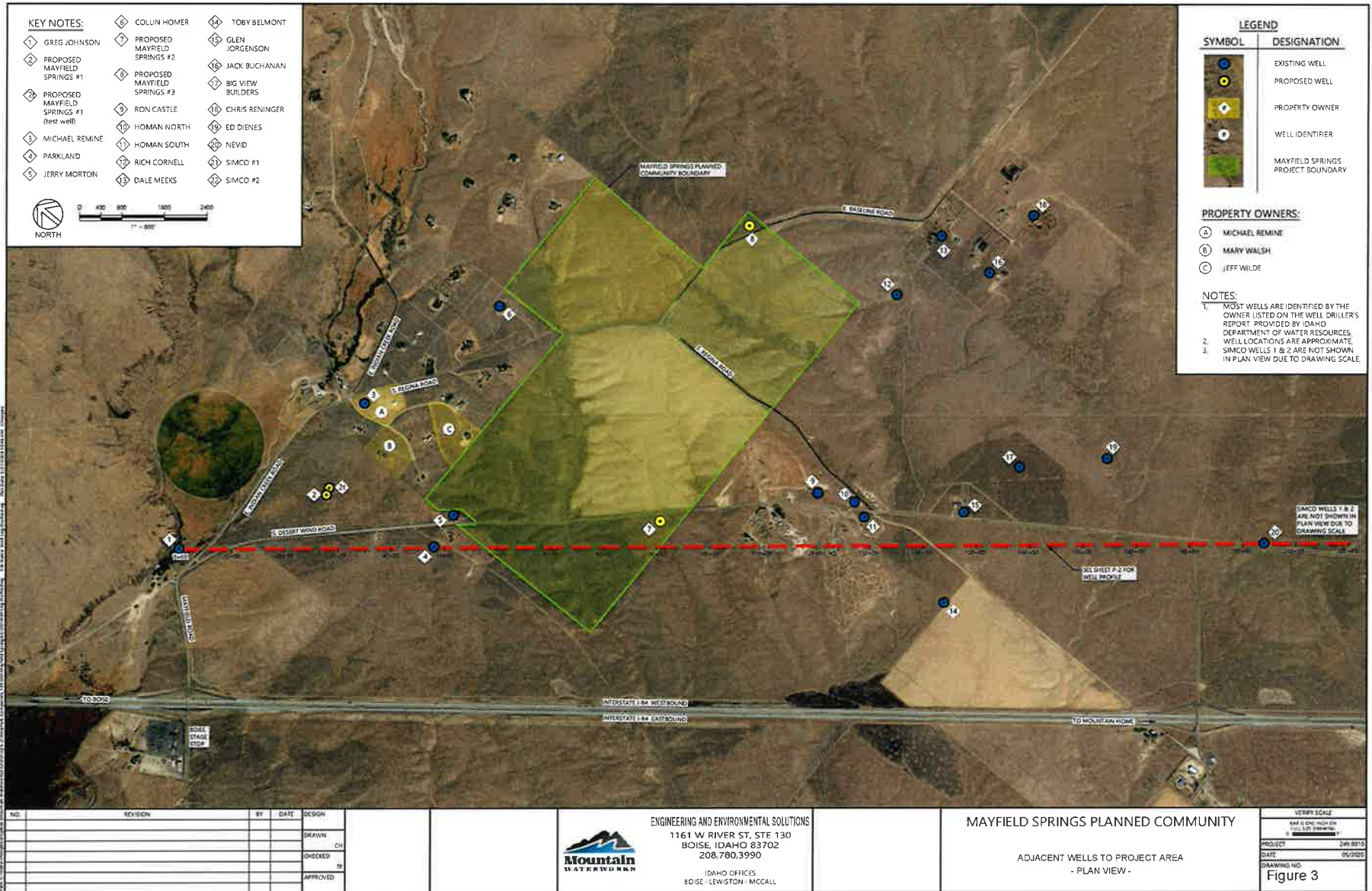
1. Currently available to appropriate to Mayfield Springs.
 2. The water supply bank lease is a portion of the Water Right License, which expires on 12/31/22.

AMENDMENT OF PERMIT NO 63-32225

The permit amendment requests adding two new PODs to the existing permit. The current permit allows five PODs that are located northwest of the current project site. One production well and one monitoring well have been constructed. The new PODs would allow new municipal wells to be located on the Mayfield Springs property, resulting in new municipal wells being constructed and operated within the boundaries of the planned community. The new PODs would also provide greater separation distance from existing wells (see Figure 3). The intent of the amendment is to optimize water availability in the local area and efficiently use the available water on the project site. The allowable diversion rate, volume, and period of use will not change from the existing permit.

TRANSFER OF WATER RIGHT LICENSE 63-32616

Water Right No. 63-32616 has a beneficial use designation of "Irrigation" and is being used as such. The water right allows for irrigation of up to 145 acres. Currently, 104 acres are being irrigated with the licensed water and 41 acres are leased to the Water Supply Bank. This water right is planned to be used to supplement/supply irrigation needs within the new planned community. Wastewater reuse is intended to be utilized to irrigate common areas as the community grows.



KEY NOTES:

◇ GREG JOHNSON	◇ COLLIN HOMER	◇ TOBY BELMONT
◇ PROPOSED MAYFIELD SPRINGS #1	◇ PROPOSED MAYFIELD SPRINGS #2	◇ GLEN JORGENSEN
◇ PROPOSED MAYFIELD SPRINGS #3	◇ PROPOSED MAYFIELD SPRINGS #4	◇ JACK BUCHANAN
◇ PROPOSED MAYFIELD SPRINGS #5 (test well)	◇ RON CASTLE	◇ BIG VIEW BUILDERS
◇ MICHAEL REMINE	◇ HOMAN NORTH	◇ CHRIS RENINGER
◇ PARKLAND	◇ HOMAN SOUTH	◇ ED DIENES
◇ JERRY MORTON	◇ RICH CORNELL	◇ NEVID
	◇ DALE MEEKS	◇ SIMCO #1
		◇ SIMCO #2

LEGEND

SYMBOL	DESIGNATION
	EXISTING WELL
	PROPOSED WELL
	PROPERTY OWNER
	WELL IDENTIFIER
	MAYFIELD SPRINGS PROJECT BOUNDARY

PROPERTY OWNERS:

(A)	MICHAEL REMINE
(B)	MARY WALSH
(C)	JEFF WILDE

- NOTES:**
- MOST WELLS ARE IDENTIFIED BY THE OWNER LISTED ON THE WELL DRILLER'S REPORT PROVIDED BY IDAHO DEPARTMENT OF WATER RESOURCES. WELL LOCATIONS ARE APPROXIMATE.
 - SIMCO WELLS 1 & 2 ARE NOT SHOWN IN PLAN VIEW DUE TO DRAWING SCALE.

NO.	REVISION	BY	DATE	DESIGN

ENGINEERING AND ENVIRONMENTAL SOLUTIONS
 1161 W RIVER ST, STE 130
 BOISE, IDAHO 83702
 208.780.3990

IDAHO OFFICES
 BOISE · LEWISTON · MCCALL

MAYFIELD SPRINGS PLANNED COMMUNITY

ADJACENT WELLS TO PROJECT AREA
 - PLAN VIEW -

VERIFY SCALE

SCALE: 1" = 800'

PROJECT: 240 0010

DATE: 06/2020

DRAWING NO: Figure 3

EXHIBIT A

SCANNED
 OCT 14 2020

The requested transfer includes adding three PODs and the Mayfield Springs project site as an additional place of use. The existing POD is located northwest of the Mayfield site. One proposed POD is the existing well that was constructed under permit 63-3225, and the two additional PODs are the proposed new on-site wells to be constructed under permit 63-3225. The existing and proposed PODs and place of use are included in Figure 2. The transfer would allow irrigation water to be supplied from the Mayfield Springs existing and planned municipal wells and used on the project site. The total allowable irrigation area of up to 145 acres, diversion rate, volume, and period of use will not change from the existing license.

PROTESTS TO THE TRANSFER AND AMENDMENT

There were three protests submitted in response to the water right transfer and one protest submitted in response to the amendment of permit. The protests are based on the following general concerns:

- **63-32616 Irrigation License** - Transferring irrigation water from the existing irrigation well to the new proposed PODs located on the Mayfield Springs site will negatively impact the Mountain Home Ground Water Management Area.
- **63-32616 Irrigation License** - Transferring irrigation water to be used on the Mayfield Springs site for landscape irrigation will increase water use and the period of use will change compared to the existing irrigation water use.
- **63-32225 Municipal Permit** - Adding two PODs to the permit will negatively impact the Mountain Home Ground Water Management Area and ground water levels in the area will decline.

The requested transfer of license 63-32616 does not change the allowable diversion rate, annual volume, or period of use from the existing license. The existing license permits irrigating up to 145 acres. Therefore, the total irrigable area including the existing place of use and the Mayfield Springs site cannot exceed 145 acres. Water utilized on the Mayfield Springs site for irrigation will be measured and reported on an annual basis. IDWR will require these measures be incorporated into an approved transfer, with associated annual reporting of place of use and volume. Therefore, concerns related to increasing the irrigation diversion rate and changing the period of use through the transfer are not valid.

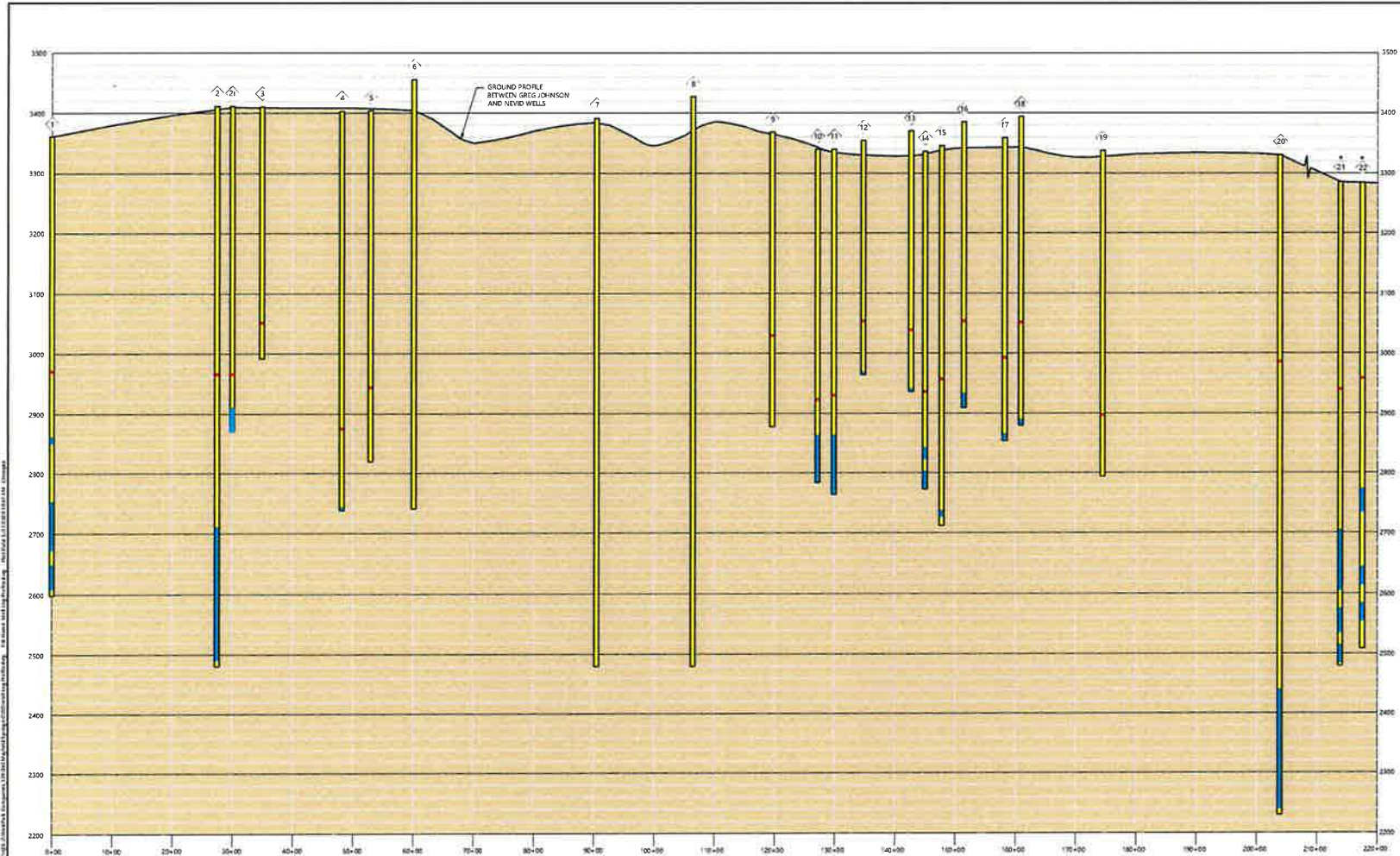
The other primary issue raised by the protests is related to available ground water and potential to negatively impact local ground water levels. In 2012, the IDWR completed a sufficiency of water supply study along the I-84 corridor in response to a significant amount of water supply requests in the area. The study defined an area boundary, presented data and information within the boundary, and evaluated the sufficiency of the water supply within the boundary for existing and new uses.

In 1982, the IDWR established the Mountain Home Ground Water Management Area. The 2012 I-84 corridor study evaluated an 11-mile area, including areas within and outside the Mountain

Home Ground Water Management Area. The existing and proposed places of use and PODs for the irrigation license and municipal permit are within the 2012 IDWR study boundary area. The sufficiency study included the existing consumptive uses, including water rights that were not fully developed, and concluded that there is a net positive recharge rate for the study area. Irrigation license 63-32616 has a priority date of 1974 and the municipal permit has a priority date of 2005. These water uses were considered existing consumptive uses in the study. A final order of water sufficiency was prepared by the IDWR in 2013 resulting in additional water right applications received in 2006 and 2007 to be processed up to the estimated net recharge rate from the study, above the existing consumptive uses and water rights. Therefore, based on the work that IDWR has completed, the State has determined there is adequate water availability and has set limitations on the allowable annual diversion within the study area that will protect local and regional ground water users.

Permit 63-32225 contains conditions for monitoring ground water levels in the vicinity of the place of use. A ground water monitoring plan has been prepared and approved by the IDWR. As part of that plan, a monitoring well was constructed with the existing POD adjacent to the proposed project site. The monitoring well was completed with screens near the same depth as the adjacent domestic wells. The system owner is required to conduct ground water monitoring, report the monitoring data to IDWR on an annual basis, along with measuring and reporting water diversion on an annual basis. If the system owner fails to comply with the conditions included in the IDWR approved monitoring plan, the water right can be revoked. A site plan showing the existing wells in the area including the proposed Mayfield Springs well is included in Figure 3 and a profile view is provided in Figure 4.

In summary, the requested amendment to permit and transfer application do not change the allowable diversion rate, volume, or period of use from the existing approved permit and license. The IDWR has concluded that there is available water in the area for these existing approved uses. Locating the municipal wells on the Mayfield Springs site, further away from existing ground water users compared to the currently approved locations, will allow more efficient water use for the Mayfield Springs planned community and reduce the potential for new well interference to existing wells. Lastly, ground water monitoring and data reporting to the IDWR is required. If negative ground water impacts are observed, IDWR will take corrective actions.



LEGEND:

SYMBOL	DESIGNATION
①	WELL IDENTIFIER
↑	WELL NOT DRAWN TO HORIZONTAL SCALE (FOR DRAWING CLARITY)
—	TOP OF WELL
—	GROUND PROFILE BETWEEN GREG JOHNSON AND NEVID WELLS
—	STATIC WATER ELEVATION
—	WELL SCREEN LOCATION
—	BOTTOM OF WELL

- KEY NOTES:**
- ① GREG JOHNSON
 - ② PROPOSED MAYFIELD SPRINGS #1
 - ③ PROPOSED MAYFIELD SPRINGS #1 (test well)
 - ④ MICHAEL REMINE
 - ⑤ PARKLAND
 - ⑥ JERRY MORTON
 - ⑦ COLLIN HOMER
 - ⑧ PROPOSED MAYFIELD SPRINGS #2
 - ⑨ PROPOSED MAYFIELD SPRINGS #3
 - ⑩ RON CASTLE
 - ⑪ HOMAN NORTH
 - ⑫ HOMAN SOUTH
 - ⑬ RICH CORNELL
 - ⑭ DALE MEEKS
 - ⑮ TOBY BELMONT
 - ⑯ GLEN JORGENSEN
 - ⑰ JACK BUCHANAN
 - ⑱ BIG VIEW BUILDERS
 - ⑲ CHRIS RENINGER
 - ⑳ ED DIENES
 - ㉑ NEVID
 - ㉒ SIMCO #1
 - ㉓ SIMCO #2

- NOTES:**
1. MOST WELLS ARE IDENTIFIED BY THE OWNER LISTED ON THE WELL DRILLER'S REPORT PROVIDED BY IDAHO DEPARTMENT OF WATER RESOURCES.
 2. WELL LOCATIONS ARE APPROXIMATE.
 3. WELL DATA IS BASED ON WELL DRILLER'S LOGS.

PROFILE VIEW
 HORIZONTAL SCALE: 1" = 400'
 VERTICAL SCALE: 1" = 100'

NO.	REVISION	BY	DATE	DESIGN

ENGINEERS AND ENVIRONMENTAL SOLUTIONS
 1161 W RIVER ST. STE 130
 BOISE, IDAHO 83702
 208.780.3990

Mountain WATERWORKS

IDAHO OFFICES
 8015 LEWISTON - MCCALL

MAYFIELD SPRINGS PLANNED COMMUNITY

ADJACENT WELLS TO PROJECT AREA
 - PROFILE VIEW -

SCALE: AS SHOWN
 PROJECT: 248.0010
 DATE: 05/2020
 DRAWING NO: **Figure 4**

EXHIBIT A

SCANNED
 OCT 14 2020

Appendix A

Water Rights Documentation

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Permit Report

11/20/2013

WATER RIGHT NO. 63-32225

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	INTERMOUNTAIN SEWER & WATER CORP C/O GREG JOHNSON 1710 S WELLS AVE STE 110 MERIDIAN, ID 83680 (208)888-9946
Representative	SPF WATER ENGINEERING LLC C/O LORI GRAVES 300 E MALLARD DR STE 350 BOISE, ID 83706 (208)383-4140

Priority Date: 09/16/2005
Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	01/01	12/31	10 CFS	1815 AFA
Total Diversion			10 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NENE	Sec. 28	Township 01N	Range 04E	ADA County
GROUND WATER	SENV	Sec. 28	Township 01N	Range 04E	ADA County

GROUND WATER|NWSE|Sec. 28|Township 01N|Range 04E|ADA County
 GROUND WATER|SESE|Sec. 28|Township 01N|Range 04E|ADA County
 GROUND WATER|NENW|Sec. 33|Township 01N|Range 04E|ADA County

Place(s) of use: [Large POU Info](#)

Conditions of Approval:

1. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. Water bearing one to be appropriated is from 300 to 1000 feet.
The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for
3. 121 salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
Prior to the diversion of water in connection with this right, the right holder shall provide the department with a plan for monitoring ground water levels in the vicinity of the place of use for this water right. The monitoring should occur in parallel with development and
4. production and should include identification of non-productions wells and timelines for measuring and reporting. the right holder shall not divert water in connection with this right until the monitoring plan is approved by the Department. Failure to comply with the monitoring plan once it is accepted shall be cause for the Department to cancel or revoke this right.
Prior to or in connection with the proof of beneficial use statement to be submitted for
5. 134 municipal water use under this right, the right holder shall provide the department with documentation showing that the water supply system is being regulated by the Idaho Department of Environmental Quality as a public water supply and that it has been issued a public water supply number.
After specific notification by the Department, the right holder shall install a suitable
6. 01M measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
Place of use is within the area served by the public water supply system of Intermountain
7. 128 Sewer & Water, Corp. The place of use is generally located within Township 1N, Range 4E, Sections 28, 29, 32 and 33.
Common areas, parks, school grounds, golf courses, and any other large parcels may only be
8. irrigated under this water right with wastewater that has been previously beneficially used for potable or culinary purposes, has been treated in a wastewater treatment plant, and is delivered from the wastewater treatment plant to the parcel to be irrigated.
Water diverted under this right may be used for direct irrigation of up to 1/2 acre per
9. residential lot upon which a home has been constructed.
A map depicting the place of use boundary for this water right at the time of this approval is
10. 180 attached to this document for illustration purposes.
11. 26A Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the

| | Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

Dates:

Proof Due Date: 02/01/2017
Proof Made Date:
Approved Date: 02/16/2007
Moratorium Epiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Application Received Date: 09/16/2005
Protest Deadline Date: 01/23/2006
Numer of Protests: 0
Field Eam Date::
Date Sent to State Off:
Date Received at State Off:

Other Information:

State or Federal:
Owner Name Connector:
Water District Numer:
Generic Ma Rate per Acre:
Generic Ma Volume per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Numer:
Cary Act Numer:
Mitigation Plan: False

Conditions of Approval:

1. S39 THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. This right is a split from former right 63-8051 .

Decreed Date: 1/14/2009



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 28, 2021

INTERMOUNTAIN SEWER & WATER CORP
PO BOX 344
MERIDIAN ID 83680

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 63-32225

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the proof due date to **September 8, 2022**.

The Department granted this extension based on evidence of government delay pursuant to Idaho Code § 42-204(3)(a). You may request an additional extension for government delay and/or one more year under Idaho Code § 42-204(3)(d) should it be necessary. It is important that you work diligently toward the completion of the project during the development period allowed pursuant to Idaho Code § 42-204(3)(d).

The extension is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01). It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning this permit, please contact the State Office of the Department located in Boise at (208) 287-4800.

Sincerely,

A handwritten signature in blue ink that reads "Debbi Judd".

Debbi Judd

Technical Records Specialist

Enclosures

c: SPF WATER ENGINEERING LLC
S BRYCE FARRIS

CERTIFICATE OF SERVICE

I hereby certify that on **January 28, 2021** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER APPROVING REQUEST FOR EXTENSION OF TIME**) to the persons listed below:

RE: Preliminary Order in the Matter of Permit No. **63-32225**

INTERMOUNTAIN SEWER & WATER CORP
PO BOX 344
MERIDIAN ID 83680

SPF WATER ENGINEERING LLC
C/O LORI GRAVES – *via email*
300 E MALLARD DR STE 350
BOISE ID 83706-6660

S BRYCE FARRIS – *via email*
SAWTOOTH LAW OFFICES PLLC
PO BOX 7985
BOISE ID 83707



Debbi Judd
Technical Records Specialist

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.