

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34746

Priority: June 13, 2019

Maximum Diversion Rate: 0.10 CFS

This is to certify that

ADVANCED CFO 13601 W MCMILLAN RD STE 102 PMB 320 BOISE ID 83713-2071

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
STOCKWATER	01/01 to 12/31	0.10 CFS

Location of Point(s) of Diversion

GROUND WATER	L4 (SW¼ SW¼), Sec. 30, Twp 02N, Rge 01W, B.M.	CANYON County
GROUND WATER	L4 (SW¼ SW¼), Sec. 30, Twp 02N, Rge 01W, B.M.	CANYON County
GROUND WATER	L4 (SW¼ SW¼), Sec. 30, Twp 02N, Rge 01W, B.M.	CANYON County
GROUND WATER	L4 (SW¼ SW¼), Sec. 30, Twp 02N, Rge 01W, B.M.	CANYON County
GROUND WATER	SE¼ SE¼, Sec. 25, Twp 02N, Rge 02W, B.M.	CANYON County

Place of Use: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	01W	30											X	X					
02N	02W	25											L4					X	

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2025**.
2. Subject to all prior water rights.
3. Stockwater use is for 5400 mixed beef cattle.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
5. 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 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.
6. 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.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 63-34746

7. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

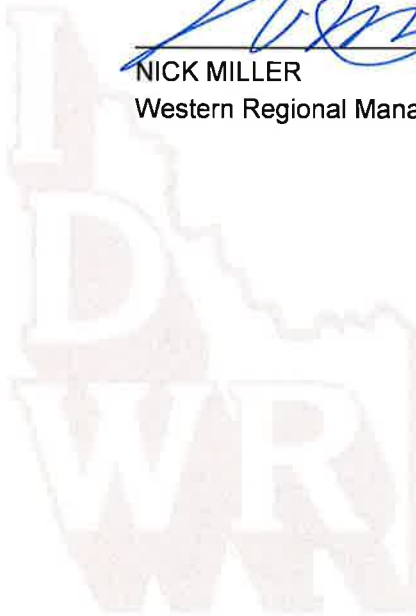
This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 14th day of February, 2020.



NICK MILLER

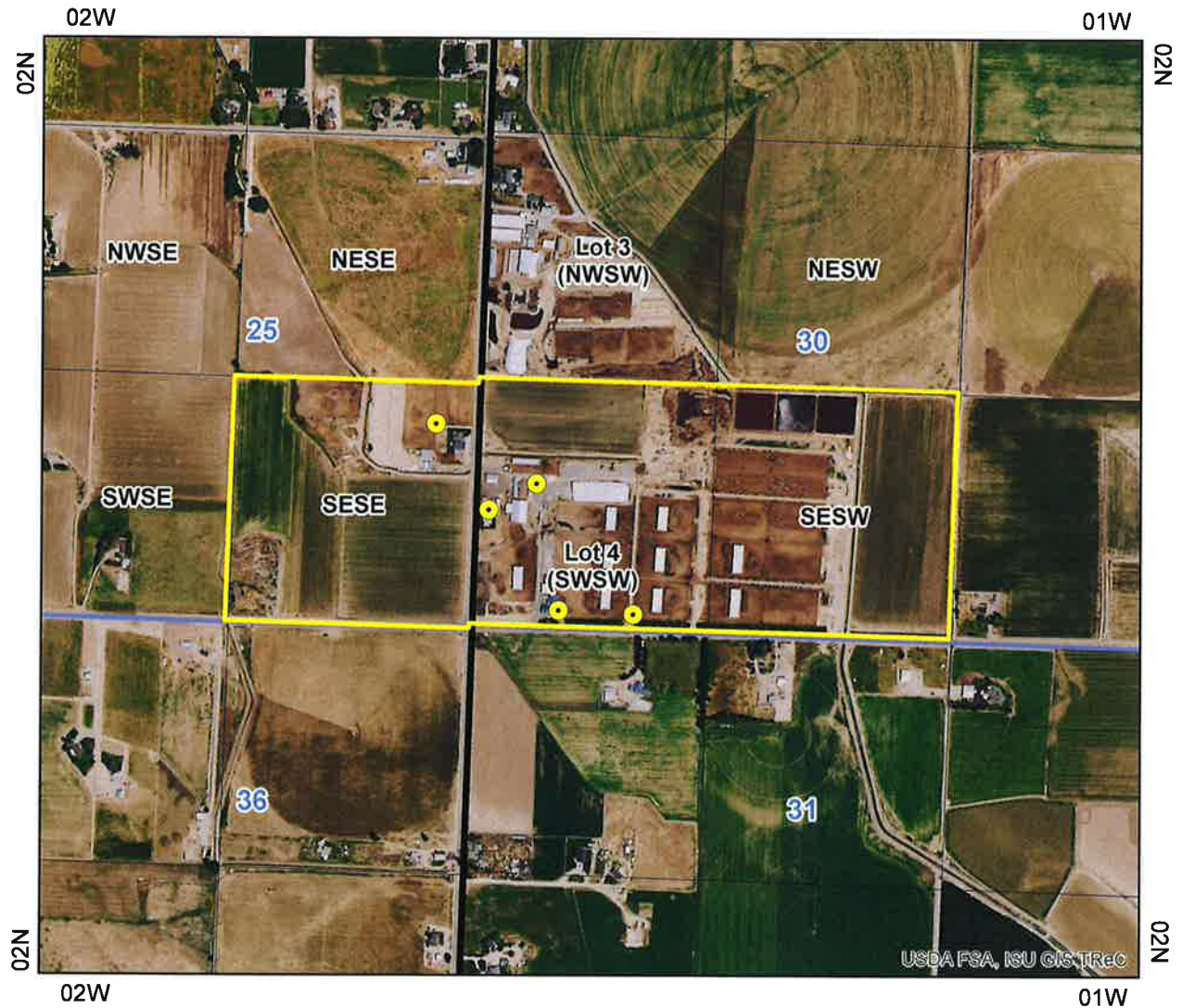
Western Regional Manager



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34746



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.1 0.2 0.4 Miles





Brad Little
Governor

State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Gary Spackman
Director

February 14, 2020

ADVANCED CFO
13601 W MCMILLAN RD STE 102 PMB 320
BOISE ID 83713-2071

RE: Permit No. 63-34746

Permit Approval Notice

Dear Permit Holders:

The Department of Water Resources Western has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

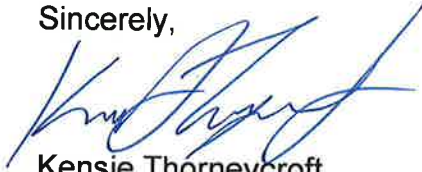
The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,



Kensie Thorneycroft
Administrative Assistant

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2020, I served a true and correct copy of Permit to Appropriate Water No. 63-34746 by U.S. Mail, postage prepaid, to the following:

ADVANCED CFO
13601 W MCMILLAN RD STE 102 PMB 320
BOISE ID 83713-2071



Kensie Thorneycroft
Administrative Assistant 1

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.

Smith, Tyler

From: Smith, Tyler
Sent: Thursday, September 19, 2019 12:40 PM
To: 'Lori Graves'
Subject: RE: Application Status

Lori,

Just to provide clarification, my email indicated that it might give Advanced CFO authorization to withdraw the application. That is something that is up to you and your clients to pursue. We just wanted to bring it to your attention.

Best,
Tyler

From: Lori Graves [mailto:LGraves@spfwater.com]
Sent: Thursday, September 19, 2019 12:26 PM
To: Smith, Tyler <Tyler.Smith@idwr.idaho.gov>
Cc: mmckinlay@advancedcfo.com
Subject: RE: Application Status

Thanks for getting back to me Tyler. Based on your email, Civil No. CV14-18-13064 gives Advanced CFO authorization to withdraw Jonathan's application 63-34541 and allow final processing of application 63-34746. If this is correct, I will generate a withdrawal notice for Advanced CFO's signature and get it to you ASAP.

From: Smith, Tyler <Tyler.Smith@idwr.idaho.gov>
Sent: Thursday, September 19, 2019 12:02 PM
To: Lori Graves <LGraves@spfwater.com>
Subject: Advanced CFO Application for Permit 63-34746

Hi Lori,

In Advanced CFO's application for permit 63-34746, the application narrative states that "Although Rabo Bank and/or the Receiver do not have the authority to withdraw application 63-34541, it will eventually be relinquished since the applicant has defaulted the property to the Bank." However, upon further review of the court documents for Civil No. CV14-18-13064 provided with application 63-34746 it is stated that Advanced CFO acting as the Receiver over Rabo collateral of:

- "1. Any and all personal property owned by any or all of (a) Thiel Dairy, LLC, an Idaho limited liability company, (b) Jonathan P. Thiel, aka Jon Thiel, and individual, or (c) Meggan Marie Thiel, an individual, and constituting the following types or categories of personal property:
 - a. All accounts, contract rights, documents, documents of title, payment intangibles, investment property, chattel paper, instruments, and deposit accounts;"

And

- "G. To take any and all other actions with respect to the Receivership Estate, including managing its employees (if any), assets, vendors, creditors, debtors, tenants, customers and third-parties which in the Receiver's business discretion the Receiver finds to be reasonably necessary and prudent to preserve and protect the Receivership Estate, which may include, but is not limited to the following:

10. Applying for, obtaining, and paying any reasonable fees for any lawful license, permit or other governmental approval relating to the Receivership Estate; confirming the existence of and, to the extent permitted by law, exercising the privileges of any existing license or permit; and doing all things necessary to protect and maintain such licenses, permits and approvals, subject to the further provision of this Order;"

Applications for permit are personal property of the applicant according to Idaho Code. As application for permit 63-34541 is in the name of Jonathan Parker Thiel, it is our understanding that Advanced CFO, acting as the Receiver over Rabo collateral, may now be the owner of the application. Therefore, with supporting documents such as Civil No. CV14-18-13064, Advanced CFO might be able to show ownership of application 63-34541 and withdraw the application. This could help resolve application 63-34541 which in turn could help expedite the process for your clients current application 63-34746.

If you have any questions or would like to discuss this further, feel free to contact me at (208)334-2190.

Best,

Tyler Smith

Idaho Dept. of Water Resources

Water Resource Agent

208.334.2190

tyler.smith@idwr.idaho.gov

From: Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov>

Sent: Thursday, September 19, 2019 9:05 AM

To: Lori Graves <LGraves@spfwater.com>

Subject: RE: Application Status

Morning Lori,

This is an odd one. Tyler is currently working with the previous land owner to seek resolution to 63-34541 either through voiding/withdrawing the application for permit or issuing an approval. We are not holding 63-34746 necessarily, but want to gain a better understanding of what's going on with the former before we proceed.

From: Lori Graves [<mailto:LGraves@spfwater.com>]

Sent: Wednesday, September 18, 2019 3:28 PM

To: Kelly, Patrick <Patrick.Kelly@idwr.idaho.gov>

Subject: Application Status

Hey Patrick, can you let me know when we can expect an approved permit for application 63-34746. The protest period ended 9/3/2019. Thank you.

Lori Graves | Water Rights Specialist

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2139

e. lgraves@spfwater.com | w. www.spfwater.com



Smith, Tyler

From: Smith, Tyler
Sent: Thursday, September 19, 2019 12:02 PM
To: 'Lori Graves'
Subject: Advanced CFO Application for Permit 63-34746

Hi Lori,

In Advanced CFO's application for permit 63-34746, the application narrative states that "Although Rabo Bank and/or the Receiver do not have the authority to withdraw application 63-34541, it will eventually be relinquished since the applicant has defaulted the property to the Bank." However, upon further review of the court documents for Civil No. CV14-18-13064 provided with application 63-34746 it is stated that Advanced CFO acting as the Receiver over Rabo collateral of:

- "1. Any and all personal property owned by any or all of (a) Thiel Dairy, LLC, an Idaho limited liability company, (b) Jonathan P. Thiel, aka Jon Thiel, and individual, or (c) Meggan Marie Thiel, an individual, and constituting the following types or categories of personal property:
 - a. All accounts, contract rights, documents, documents of title, payment intangibles, investment property, chattel paper, instruments, and deposit accounts;"

And

- "G. To take any and all other actions with respect to the Receivership Estate, including managing its employees (if any), assets, vendors, creditors, debtors, tenants, customers and third-parties which in the Receiver's business discretion the Receiver finds to be reasonably necessary and prudent to preserve and protect the Receivership Estate, which may include, but is not limited to the following:
 10. Applying for, obtaining, and paying any reasonable fees for any lawful license, permit or other governmental approval relating to the Receivership Estate; confirming the existence of and, to the extent permitted by law, exercising the privileges of any existing license or permit; and doing all things necessary to protect and maintain such licenses, permits and approvals, subject to the further provision of this Order;"

Applications for permit are personal property of the applicant according to Idaho Code. As application for permit 63-34541 is in the name of Jonathan Parker Thiel, it is our understanding that Advanced CFO, acting as the Receiver over Rabo collateral, may now be the owner of the application. Therefore, with supporting documents such as Civil No. CV14-18-13064, Advanced CFO might be able to show ownership of application 63-34541 and withdraw the application. This could help resolve application 63-34541 which in turn could help expedite the process for your clients current application 63-34746.

If you have any questions or would like to discuss this further, feel free to contact me at (208)334-2190.

Best,

Tyler Smith
Idaho Dept. of Water Resources
Water Resource Agent
208.334.2190
tyler.smith@idwr.idaho.gov

29512 1931511

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

RECEIVED

AUG 28 2019

WATER RESOURCES
WESTERN REGION

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34746

ADVANCED CFO

13601 W MCMILLAN RD STE 102 PMB 320
BOISE, ID 83713-2071

(4) Points of Diversion L4(SWSW) S30 T02N R01W
CANYON County Source GROUND WATER
Point of Diversion SESE S25 T02N R02W CANYON
County Source GROUND WATER

Use: STOCKWATER 01/01 to 12/31 0.1 CFS

Total Diversion: 0.1 CFS

Date Filed: 6/13/2019

Place Of Use: STOCKWATER

T02N R01W S30 L4(SWSW) SESE

T02N R02W S25 SESE

Water bearing zone to be appropriated is from 50 to 210 feet

63-34761

ANDI CHASAR

LUETTA CHASAR

16753 OASIS RD

CALDWELL, ID 83607-8687

Point of Diversion L4(NWNW) S5 T05N R03W CANYON
County Source SAND HOLLOW CREEK Tributary BOISE
RIVER

Use: IRRIGATION 03/01 to 11/15 0.12 CFS

Total Diversion: 0.12 CFS

Date Filed: 7/24/2019

Place Of Use: IRRIGATION

T05N R03W S5 L4(NWNW)

Total Acres: 5.9

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83392

JOHN E HOFFERD FAMILY TRUST, 1376 NW REMARK-
ABLE DR, BEND, OR 97703; has filed Application No. 83392
for changes to the following water rights within CANYON
County(s): Right No(s). 63-31891; to see a full description of
these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion
of the above rights as follows: The purpose of the transfer is
to add a point of diversion for right no. 63-31891. Water will
be used at the current place of use approximately 3 miles
west of Notus, ID. The new point of diversion will be located
in the SENE of section 36 of township 05N and range 05W.
The water will be appropriated from an unnamed stream.

Permits will be subject to all prior water rights. For addition-
al information concerning the property location, contact West-
ern Region office at 208-334-2190; or for a full description of
the right(s) or proposed transfer (s) please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of
Idaho Code §§ 42-203A and 42-222. Any protest against the
approval of the application(s) must be filed with the Director,
Dept. of Water Resources, Western Region, 2735 Airport
Way, Boise, ID 83705 together with a protest fee of \$25.00
for each application on or before 9/3/2019. The protestant
must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

August 15, 22, 2019

1931511

**AFFIDAVIT OF PUBLICATION
STATE OF IDAHO**

SS.

County of Canyon and Ada

Sharon Jessen
of the State of Idaho, being of first
duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said Counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
08/15/2019 08/22/2019

Sharon Jessen
STATE OF IDAHO
County of Canyon and Ada

On this 22nd day of August in the year of
2019 before me a Notary Public, personally appeared.
Sharon Jessen, known or identified
to me to be the person whose name is subscribed
to the within instrument, and being by me first
duly sworn, declared that the statements therein
are true, and acknowledge to me that he/she
executed the same.

Notary Public for Idaho
My Commission expires 06/28/2023

