

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 63-12254

Priority: September 29, 1995

Maximum Diversion Rate: 3.25 CFS

Maximum Diversion Volume: 386.0 AF

It is hereby certified that:

LAVAR THORNTON 2800 FORREY RD KUNA ID 83634

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 01, 2010, and has submitted Proof of Beneficial Use on November 30, 2018. An examination confirms water is diverted from:

Source : GROUND WATER

| <u>Beneficial Use</u> | <u>Period of Use</u> | <u>Rate of Diversion</u> | <u>Annual Volume</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| IRRIGATION            | 03/01 to 11/15       | 3.25 CFS                 | 386.0 AF             |

**Location of Point(s) of Diversion**

GROUND WATER SE¼ NW¼, Sec. 6, Twp 01N, Rge 01E, B.M. ADA County  
GROUND WATER SE¼ SW¼, Sec. 36, Twp 02N, Rge 01W, B.M. ADA County  
GROUND WATER SW¼ NE¼, Sec. 6, Twp 01N, Rge 01E, B.M. ADA County  
GROUND WATER L1 ( NW¼ NW¼), Sec. 7, Twp 01N, Rge 01E, B.M. ADA County  
GROUND WATER SW¼ NW¼, Sec. 1, Twp 01N, Rge 01W, B.M. ADA County  
GROUND WATER L5 ( SE¼ NE¼), Sec. 1, Twp 01N, Rge 01W, B.M. ADA County

**Place of Use: IRRIGATION**

| Twp | Rng | Sec | NE         |            |      |            | NW         |            |            |      | SW   |    |            |      | SE         |      |      |            | No QQ | Totals |
|-----|-----|-----|------------|------------|------|------------|------------|------------|------------|------|------|----|------------|------|------------|------|------|------------|-------|--------|
|     |     |     | NE         | NW         | SW   | SE         | NE         | NW         | SW         | SE   | NE   | NW | SW         | SE   | NE         | NW   | SW   | SE         |       |        |
| 01N | 01E | 6   | 26.0<br>L1 | 12.0<br>L2 | 40.0 | 40.0       | 2.0<br>L3  | 34.0<br>L4 | 36.0<br>L5 | 28.0 | 38.0 |    |            | 37.0 |            |      |      |            |       | 293.0  |
| 01N | 01E | 7   |            |            |      |            | 40.0       | 39.0<br>L1 |            |      |      |    |            |      |            |      |      |            |       | 79.0   |
| 01N | 01W | 1   | 45.0<br>L1 | 42.0<br>L2 | 40.0 | 42.0<br>L5 | 43.0<br>L3 | 41.0<br>L4 | 38.0       | 40.0 |      |    |            |      | 42.0<br>L6 | 39.0 | 39.0 | 42.0<br>L7 |       | 493.0  |
| 02N | 01E | 31  |            |            |      |            |            |            |            |      |      |    | 21.0<br>L4 |      |            |      |      |            |       | 21.0   |
| 02N | 01W | 36  |            |            |      |            |            |            |            |      |      |    | 22.0       | 30.0 |            |      |      | 31.0       | 34.0  | 117.0  |

Right Acre Limit: 527.0

Total Acres: 1,003.0

**Conditions of Approval**

1. This right is limited to the irrigation of 527 acres within the authorized place of use in a single irrigation season.
2. The following rights are diverted through point(s) of diversion described above: 63-3280, 63-3368, 63-7933, 63-7993, 63-10228, 63-12253, 63-12254, 63-12255, 63-32355, and 63-33937.
3. Rights 63-3280, 63-3368, 63-7933, 63-7993, 63-12253, 63-12254, 63-12255, and 63-32355 when combined shall be limited to 961 acres of irrigation.
4. Rights 63-3280, 63-3368, 63-7933, 63-7993, 63-10228, 63-12253, 63-12254, 63-12255, 63-32355, and 63-33937 when combined shall not exceed a total diversion rate of 19.14 cfs.

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 63-12254

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 4,330 af at the field headgate for the place of use.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. This right does not grant any right-of-way or easement across the land of another.
8. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
9. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 18<sup>th</sup> day of JUNE, 2019.

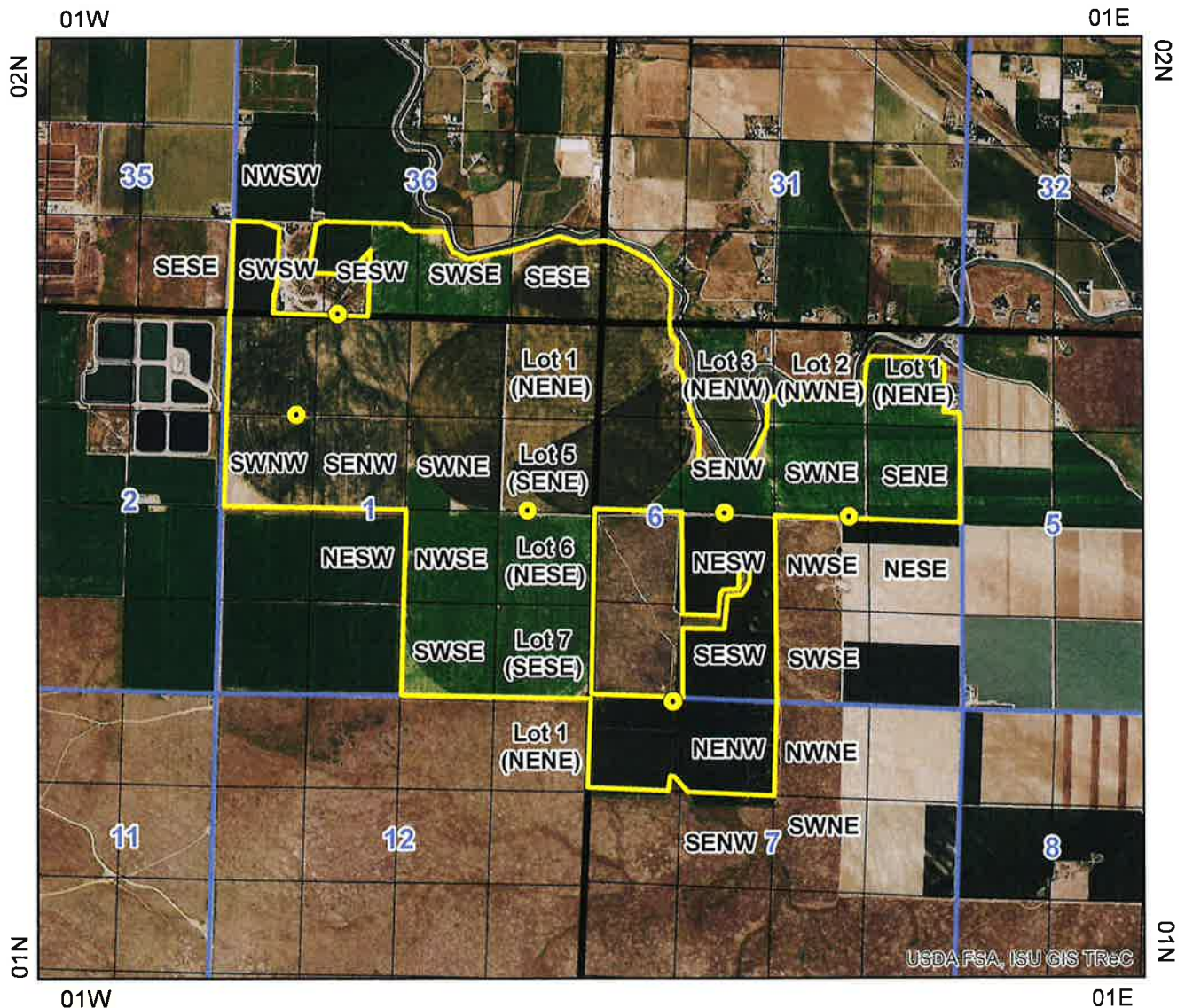


ANGELA GRIMM

Water Rights Section Manager

State of Idaho  
Department of Water Resources  
**Attachment to Water Right License**  
63-12254

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



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

0 0.3 0.6 1.2 Miles





State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

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

Brad Little  
Governor

Gary Spackman  
Director

June 21, 2019

LAVAR THORNTON  
2800 FORREY RD  
KUNA ID 83634

RE: License No. 63-12254

**Issuance of License**

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Also enclosed is a copy of the approved application for amendment.

The license is a PRELIMINARY ORDER issued by the Department 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.

Also, please note that water right owners are required to report any change of water right 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. Water right forms are available from any office of the Department or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov)

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,

Angela Grimm  
Water Rights Section Manager

Enclosure(s)

## CERTIFICATE OF SERVICE

I hereby certify that on June <sup>24</sup>, 2019, I served a true and correct copy of Water Right License No. 63-12254 by U.S. Mail, postage prepaid, to the following:

LAVAR THORNTON (Current Owner)  
2800 FORREY RD  
KUNA ID 83634

SPF WATER ENGINEERING LLC (Representative)  
C/O LORI GRAVES  
300 E MALLARD DR STE 350  
BOISE ID 83706-6660

  
\_\_\_\_\_  
Darla Block  
Technical Records Specialist 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.

State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
**Water Right No. 63-12254**

Priority: September 29, 1995

Maximum Diversion Rate: 3.25 CFS

Maximum Diversion Volume: 386.0 AF

The owner and holder of Permit to appropriate the Public Waters of the State of Idaho No. 63-12254

LAVAR THORNTON 2800 FORREY RD KUNA ID 83634

requests the permit be changed as follows:

Source : GROUND WATER

Beneficial Use

IRRIGATION

Period

03/01 to 11/15

Rate of Diversion

3.25 CFS

Annual Volume

386.0 AF

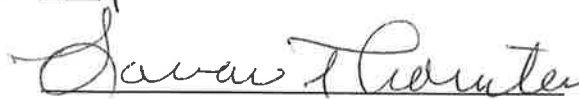
**Location of Point(s) of Diversion**GROUND WATER SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SEC. 6, Twp 01N, Rge 01E, B.M. ADA CountyGROUND WATER SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SEC. 36, Twp 02N, Rge 01W, B.M. ADA CountyGROUND WATER SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SEC. 6, Twp 01N, Rge 01E, B.M. ADA CountyGROUND WATER L1(NW $\frac{1}{4}$  NW $\frac{1}{4}$ ), SEC. 7, Twp 01N, Rge 01E, B.M. ADA CountyGROUND WATER SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SEC. 1, Twp 01N, Rge 01W, B.M. ADA CountyGROUND WATER L5(SE $\frac{1}{4}$  NE $\frac{1}{4}$ ), SEC. 1, Twp 01N, Rge 01W, B.M. ADA County**Place of Use: IRRIGATION**

| Twp | Rng | Sec | NE         |            |      |            | NW         |            |            |      | SW   |    |            |      | SE         |      |      |            | Totals |
|-----|-----|-----|------------|------------|------|------------|------------|------------|------------|------|------|----|------------|------|------------|------|------|------------|--------|
|     |     |     | NE         | NW         | SW   | SE         | NE         | NW         | SW         | SE   | NE   | NW | SW         | SE   | NE         | NW   | SW   | SE         |        |
| 01N | 01E | 6   | 26.0<br>L1 | 12.0<br>L2 | 40.0 | 40.0       | 2.0<br>L3  | 34.0<br>L4 | 36.0<br>L5 | 28.0 | 38.0 |    |            | 37.0 |            |      |      |            | 293.0  |
| 01N | 01E | 7   |            |            |      |            | 40.0       | 39.0<br>L1 |            |      |      |    |            |      |            |      |      |            | 79.0   |
| 01N | 01W | 1   | 45.0<br>L1 | 42.0<br>L2 | 40.0 | 42.0<br>L5 | 43.0<br>L3 | 41.0<br>L4 | 38.0       | 40.0 |      |    |            |      | 42.0<br>L6 | 39.0 | 39.0 | 42.0<br>L7 | 493.0  |
| 02N | 01E | 31  |            |            |      |            |            |            |            |      |      |    | 21.0<br>L4 |      |            |      |      |            | 21.0   |
| 02N | 01W | 36  |            |            |      |            |            |            |            |      |      |    | 22.0       | 30.0 |            |      | 31.0 | 34.0       | 117.0  |

Total Acres: 1,003.0

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this 4 day of June, 2019

  
(Signature)

State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
**Water Right No. 63-12254**

FOR DEPARTMENT USE ONLY

Preliminary check by DN Fee = \$100 Received by AV # C106952 Date 6/5/19

**ACTION OF THE DEPARTMENT OF WATER RESOURCES**

The Idaho Department of Water Resources hereby approves the above Application for Amendment for Permit No. 63-12254 with the following:

**Conditions of Approval**

1. This right is limited to the irrigation of 527 acres within the authorized place of use in a single irrigation season.
2. The following rights are diverted through point(s) of diversion described above: 63-3280, 63-3368, 63-7933, 63-7993, 63-10228, 63-12253, 63-12254, 63-12255, 63-32355, and 63-33937.
3. Rights 63-3280, 63-3368, 63-7933, 63-7993, 63-12253, 63-12254, 63-12255, and 63-32355 when combined shall be limited to 961 acres of irrigation.
4. Rights 63-3280, 63-3368, 63-7933, 63-7993, 63-10228, 63-12253, 63-12254, 63-12255, 63-32355, and 63-33937 when combined shall not exceed a total diversion rate of 19.14 cfs.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 4,330 af at the field headgate for the place of use.
6. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
7. This right does not grant any right-of-way or easement across the land of another.
8. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
9. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.

This amendment is issued pursuant to the provisions of Idaho Code § 42-211.

Signed this 18<sup>th</sup> day of JUNE, 2019.



ANGELA GRIMM

Water Rights Section Manager



**SPF WATER**  
ENGINEERING

RECEIVED

JUN 05 2019

DEPARTMENT OF  
WATER RESOURCES

June 4, 2019

Dan Nelson  
IDWR State Office  
PO Box 83720  
Boise, ID 83720-0098

**Subject: Water Right Permits 63-12253, 63-12254 and 63-12255**

Dear Dan,

Per your request letter dated May 30, 2019, enclosed on behalf of Lavar and Layne Thornton are signed licensing amendments correcting the legal descriptions of the place of use and points of diversion for each of the above permits. Check no. 3283 for \$300 is enclosed for the required fees (\$100/amendment).

Please let us know if there are any questions. Thanks Dan.

Sincerely,

Lori Graves  
Water Rights Specialist

Cc: Lavar Thornton

Enclosures

SPF file number: 344.0010

## Nelson, Dan

---

**From:** Nelson, Dan  
**Sent:** Thursday, May 30, 2019 9:40 AM  
**To:** 'Scott King'  
**Subject:** RE: Thornton Permit Amendments 63-12253, 63-12254, and 63-12255

No Problem Scott. You have until June 7<sup>th</sup>.

Dan Nelson

**From:** Scott King [mailto:SKing@spfwater.com]  
**Sent:** Thursday, May 30, 2019 8:55 AM  
**To:** Nelson, Dan <Dan.Nelson@idwr.idaho.gov>  
**Subject:** RE: Thornton Permit Amendments 63-12253, 63-12254, and 63-12255

Can we have until the end of next week, please?

**From:** Nelson, Dan <[Dan.Nelson@idwr.idaho.gov](mailto:Dan.Nelson@idwr.idaho.gov)>  
**Sent:** Thursday, May 30, 2019 8:54 AM  
**To:** Scott King <[SKing@spfwater.com](mailto:SKing@spfwater.com)>  
**Subject:** RE: Thornton Permit Amendments 63-12253, 63-12254, and 63-12255

Scott,

I am sorry, I did find a note that I allowed until May 30, 2019 for the Extension of Time to be filed on 63-33938, which would be today. You are not late on this file yet.

Thank you.

Dan Nelson

**From:** Nelson, Dan  
**Sent:** Thursday, May 30, 2019 8:51 AM  
**To:** 'sking@spfwater.com' <[sking@spfwater.com](mailto:sking@spfwater.com)>  
**Subject:** Thornton Permit Amendments 63-12253, 63-12254, and 63-12255

Hello Scott,

I have attached the amendments and the amendment cover letter for the 3 Thornton permits.

We are still in a holding pattern on permit 63-33938, because you thought they were going to withdraw the field report and proof of beneficial use, and ask for an Extension of Time to supply the needed measurement data required in the conditions of permit. My records show that the deadline for the withdrawal of proof of beneficial use was April 24, 2019. I can hold this file until the end of next week, and then I will proceed with the Notice of Intent to Void the permit. We will go with the Notice of Intent to Void, because of the lack of the required measurement data.

Thank you Scott,

Daniel Nelson  
Water Right Analyst 3  
Idaho Department of Water Resources  
Telephone (208) 287-4856  
Fax (208) 287-6700 (attn: Dan Nelson)



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

May 30, 2019

LAVAR THORNTON  
2800 FORREY RD  
KUNA ID 83634

AND/OR

LAYNE THORNTON  
3224 SWAN FALLS RD  
KUNA ID 83634

RE: Water Right Permits No. 63-12253, 63-12254, and 63-12255

Dear Permit Holders:

The Idaho Department of Water Resources (Department) is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

A copy of this letter has been sent to both owners of the permits, but in order to authorize the amendments of permit, only one of you will need to sign the amendments.

On November 30, 2018, the Department received a request from you to reinstate Permits 63-12253, 63-12254, and 63-12255. The permits have been reinstated as requested by orders issued on May 6, 2019. In the package submitted by you to reinstate these permits, you included field reports by certified water rights examiner Scott King of SPF Engineering LLC. In the field reports, Mr. King recommended that an amendment would be needed to correct the legal descriptions of the place of use and points of diversion.

I have attached an amendment of each of the water right permits correcting the legal description for each of these water rights.

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when issued. Please review each amendment form carefully. If you concur with the information presented, please sign each form and return the forms with the \$300.00 filing fee (\$100.00 fee per amendment) within 14 days.

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel A. Nelson", with a long, sweeping horizontal line extending to the right.

Daniel A. Nelson

Analyst 3

Water Right Section

Idaho Department of Water Resources

Telephone # (208) 287-4856

Email – dan.nelson@idwr.idaho.gov

Enclosure(s):        Three (3) Applications for Amendment with maps

cc Scott King, SPF Engineering, LLC. (sent by email)

## Nelson, Dan

---

**From:** Nelson, Dan  
**Sent:** Thursday, May 30, 2019 8:54 AM  
**To:** 'sking@spfwater.com'  
**Subject:** RE: Thornton Permit Amendments 63-12253, 63-12254, and 63-12255

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Dan Nelson

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Thank you Scott,

Daniel Nelson  
Water Right Analyst 3  
Idaho Department of Water Resources  
Telephone (208) 287-4856  
Fax (208) 287-6700 (attn: Dan Nelson)