

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 80375**

This is to certify that: **ESTATE OF JOHN V GOODE**
PO BOX 63
DONNELLY, ID 83615

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
65-3164	WR/DECREED	5/1/1909	1.140 cfs	N/A	N/A	158.0	LAKE FORK
65-3165	WR/DECREED	5/1/1919	0.460 cfs	N/A	N/A	158.0	LAKE FORK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
65-3164	NO	NO	YES	NO	NO	NO
65-3165	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
65-3164	65-3164	1.140 cfs	N/A	N/A	79.0	N/A	N/A	N/A	N/A	N/A
65-3165	65-3165	0.460 cfs	N/A	N/A	79.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.600 cfs	N/A	N/A	79.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 7th day of June, 2016.



Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 65-3164

Transfer No. 80375

WATER RIGHT NO. 65-3164

As Modified by Transfer No. 80375

In accordance with the approval of Transfer No. 80375, Water Right No. 65-3164 is now described as follows:

Right Holder: AILA D GOODE
PO BOX 45
DONNELLY, ID 83615

ESTATE OF JOHN V GOODE
PO BOX 63
DONNELLY, ID 83615

Priority Date: 5/1/1909

Source: LAKE FORK

Tributary: NORTH FORK PAYETTE RIVER

BENEFICIAL USE
IRRIGATION

From
5/01

to

To
9/15

Diversion Rate
1.140 cfs
1.140 cfs

LOCATION OF POINT(S) OF DIVERSION

LAKE FORK NWNWNE Sec 10 Twp 17N Rge 03E VALLEY 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	
16N	03E	3	40.0	39.0															79.0
			L 1	L 2															

POU Total Acres: 79.0

CONDITIONS OF APPROVAL

1. Rights 65-3164 and 65-3165 when combined shall not exceed the irrigation of 79 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65K.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 80375

WATER RIGHT NO. 65-3164
As Modified by Transfer No. 80375

CONDITIONS OF APPROVAL

5. The right holder shall cease irrigation of 79 acres previously authorized under this right, and consolidate use of water on the remaining 79 acres.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 4/15 and an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 5/1 and after 9/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
7. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
8. This right does not grant any right-of-way or easement across the land of another.
9. Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977. This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.
10. Use of this right is combined with water from Mahala Ditch Co.
11. Water is delivered through Mahala Ditch in Section 10. Right No. 65-3165 is also diverted through the point of diversion described above.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 65-3165

As Modified by Transfer No. 80375

In accordance with the approval of Transfer No. 80375, Water Right No. 65-3165 is now described as follows:

Right Holder: AILA D GOODE
PO BOX 45
DONNELLY, ID 83615

ESTATE OF JOHN V GOODE
PO BOX 63
DONNELLY, ID 83615

Priority Date: 5/1/1919

Source: LAKE FORK

Tributary: NORTH FORK PAYETTE RIVER

BENEFICIAL USE
IRRIGATION

From
5/01

To
to 9/15

Diversion Rate
0.460 cfs
0.460 cfs

LOCATION OF POINT(S) OF DIVERSION

LAKE FORK NWNWNE Sec 10 Twp 17N Rge 03E VALLEY County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	03E	3	40.0	39.0															79.0
			L 1	L 2															

POU Total Acres: 79.0

CONDITIONS OF APPROVAL

1. Rights 65-3164 and 65-3165 when combined shall not exceed the irrigation of 79 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65K.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 80375

WATER RIGHT NO. 65-3165
As Modified by Transfer No. 80375

CONDITIONS OF APPROVAL

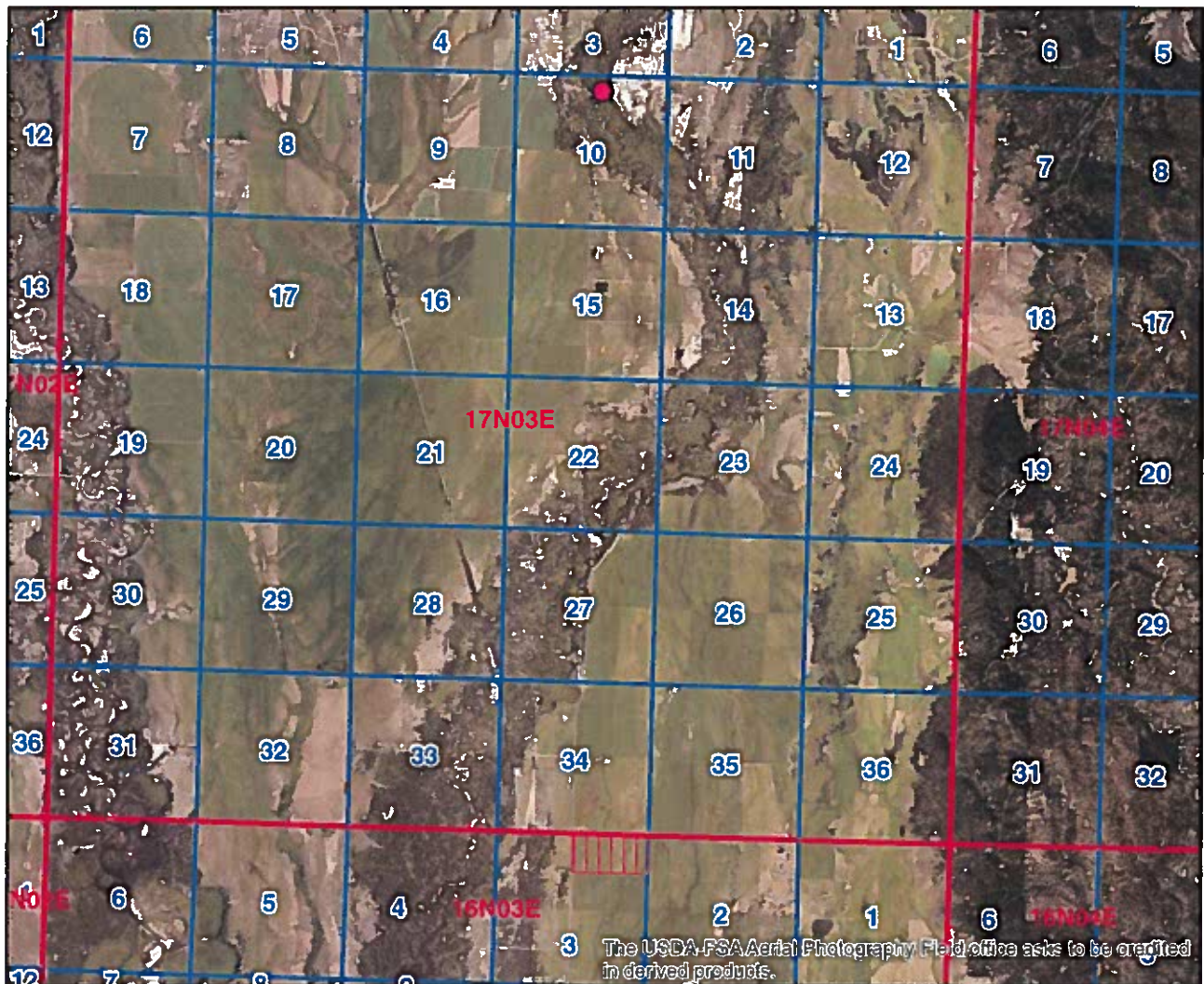
5. The right holder shall cease irrigation of 79 acres previously authorized under this right, and consolidate use of water on the remaining 79 acres.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 4/15 and an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 5/1 and after 9/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
7. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
8. This right does not grant any right-of-way or easement across the land of another.
9. Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977. This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.
10. Use of this right is combined with water from Mahala Ditch Co.
11. Water is delivered through Mahala Ditch in Section 10. Right No. 65-3164 is also diverted through the point of diversion described above.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources

Attachment to Application for Transfer of Water Right

Transfer No. 80375 Water Right Nos. 65-3164, 65-3165

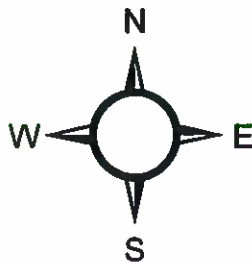
This map depicts the IRRIGATION point of diversion and place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.5 1 2 Miles

Legend

- Transfer POD
- ▤ Transfer POU
- ▭ Township/Range
- ▭ Sections



2015 aerial imagery



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

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

June 7, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

ESTATE OF JOHN V GOODE
PO BOX 63
DONNELLY ID 83615

Re: Transfer No: 80375
Water Right No(s): 65-3164, 65-3165

Transfer Approval Notice

Dear Water Right Holder <and other Interested Persons>:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 by the Department unless the APPLICANT 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.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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

Sincerely,

A handwritten signature in black ink that reads "Rachel Neely for". The signature is written in a cursive, flowing style.

Nick Miller

Western Regional Manager

Enclosure

CC:

BRIAN L MCMAHAN
EVANS KEANE LLP
1161 W RIVER ST
PO BOX 959
BOISE ID 83701

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 80375
Water Right No(s): 65-3164, 65-3165**

**ESTATE OF JOHN V GOODE
PO BOX 63
DONNELLY ID 83615**

**BRIAN L MCMAHAN
EVANS KEANE LLP
1161 W RIVER ST
PO BOX 959
BOISE ID 83701**

**JOHN LEEDOM
WATERMASTER OF DISTRICT 65K
370 KNIGHTS RD
MCCALL ID 83638**



**Rachel Neely
Administrative Assistant**

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.

MEMORANDUM

TO: Transfer No. 80375
FROM: Nick Van Dyke
DATE: 4/5/2016
RE: Evaluation of Application

Summary of Information Submitted

Narrative: Transfer No, 80375 proposed to consolidate acreage under rights 65-3164 and 65-3165. Currently both rights cover the same 158 acres on ground located about 2 miles north of Donnelly just to the east of Hwy 55. After transfer both rights will be appurtenant to the same 79 acres. Consolidation brings the rate per acre to just under an inch per acre. No other changes proposed. A change in ownership will also be accomplished thru the transfer.

Authority to File: Marsha Gantz, personal representative of the Estate of John V, Goode signed the application. Brian McMahan, of Evans Keane, LLP, is acting as attorney for the applicant. Currently both rights list John and Aila Goode as owners. Mr. Goode is now deceased. Documentation was provided showing Marsha Gantz is authorized to sign as personal representative of the Estate. Ownership will be updated thru the transfer listing both Aila Goode and Estate of John V, Goode as current owners. The additional fee for the change in ownership was submitted separate from the transfer. Receipt no. W043612.

Water Right Validity: Both rights were decreed in June of 2004. Review of aerial imagery shows irrigation within the last 5 years. Forfeiture not a concern.

Overlap Analysis: The place of use is overlapped, both currently and what is proposed, by Mahala Ditch Co. right 63-11326. This right covers a large span of ground in the surrounding area. The source for this right is springs. The rights in this transfer will be conditioned to standard limits of 0.02 cfs per acre nor more than 3 afa., along with the specific limits between them. The point of diversion is shared with a large number of Lake Fork rights (what appears to be the head of Mahala Ditch)

Injury to Other Water Rights: None anticipated. The point of diversion and delivery to the place of use is not changing. Watermaster comment was solicited from both district no. 65 (mistakenly) and district no. 65K (correctly). The watermaster for 65 responded anyway and had no opposition. No response was received from the water master for 65K.

Enlargement of Use: None anticipated. The consolidation of the right's acreage will not increase the rate per acre above an inch per acre.

Local Public Interest: No issues identified. Note it was decided by supervisor this application fit the Department's criteria for non-advertisement.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Van Dyke, Nick

From: Brian McMahan [bmcmahan@evanskeane.com]
Sent: Monday, April 04, 2016 2:23 PM
To: Van Dyke, Nick
Cc: Mike Gantz (mgantz@frontiernet.net)
Subject: Transfer App. 65-3164 and 65-3165
Attachments: Letters Testamentary.pdf

Nick: this email follows the phone conversation we just had. As you requested, attached is a copy of the Letters Testamentary showing Marsha's appointment as PR of the Goode Estate and her authority to sign for the Estate. If you need anything else, please let me know. We look forward to a speedy conclusion of this matter. Thank you,

Brian L. McMahan, Of Counsel
Evans Keane, LLP
1161 W. River Street, Ste 100
P.O. Box 959
Boise, ID 83701
208.384.1800 (voice)
208.345.3514 (fax)

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Attachment #1

RECEIVED COPY

LELAND G. HEINRICH, CLERK
By /s/ F. GARRISON Deputy

AUG 18 2005

Case No. _____ JCL No. _____
Filed 11:50 A.M. B.M.

BRIAN L. McMAHAN, ISB # 3724
MILLEMANN, PITTENGER, McMAHAN & PEMBERTON, LLP
706 NORTH FIRST STREET
P. O. BOX 1066
McCALL, IDAHO 83638
TELEPHONE: (208) 634-7641
FACSIMILE: (208) 634-4516
EMAIL: blm@mpmplaw.com

Attorney for Personal Representative

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

MAGISTRATE DIVISION

IN THE MATTER OF THE ESTATE OF)

JOHN VERNON GOODE,)

Deceased.)

CASE NO. CV-2005-361C

LETTERS TESTAMENTARY
(I.C. 15-3-702)

1. MARSHA GANTZ was duly appointed and qualified as General Personal Representative of the estate of the above-named decedent by the Court with all authority pertaining thereto.
2. Administration of the estate is unsupervised.

These letters are issued to evidence the appointment, qualification, and authority of the said personal representative.

WITNESS, my signature and the Seal of this Court, this 18 day of August, 2005.

/s/ Henry B. Boomer

MAGISTRATE

LETTERS TESTAMENTARY

8/18/05 Leland G. Heinrich

F. Garrison

Van Dyke, Nick

From: Van Dyke, Nick
Sent: Tuesday, December 01, 2015 11:20 AM
To: 'jleedom@frontiernet.net'
Subject: watermaster comment, app for transfer no. 80375
Attachments: DOC016.pdf

John,

Attached is a copy of the transfer application for the Estate of John Goode, along with the standard watermaster comment form. Please provide comment within 14 days. If comment is not received within that time, IDWR will assume you have no objection to the proposal. Please call or email if you have any questions.

Nicholas Van Dyke

*Sr. Water Resource Agent
Idaho Department of Water Resources
Phone: (208) 334-2190
Fax: (208) 334-2348
Email: nick.vandyke@idwr.idaho.gov*

RECEIVED

OCT 26 2015

WATER RESOURCES
WESTERN REGION

State of Idaho

Department Of Water Resources

WATERMASTER RECOMMENDATION FORM

Water District #

65

Application #

80375

Applicant Name

Estate of John V. Goode

Watermaster Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional comments:

Dated this 21st day of October, 2015

Ken Shurtlett

Watermaster Signature

Ken Shurtlett

Printed Name

10/21/15

RECEIVED

OCT 23 2015

WATER RESOURCES
WESTERN REGION

Nick Van Dyke,

Enclosed you will find a check for \$50 for the change in records reflecting the death of my father, John Goode. It is now the Estate of John Goode that owns the water rights.

Thank you so much for taking care of the transfer.

Marshe Gantz
Personal Rep. for the
Estate of John Goode

→ Receipt W043612 (10/23/15)
- NVA 1/29/16