

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	ORDER WITHDRAWING
FOR TRANSFER NO. 79125 IN THE	)	PRELIMINARY ORDER AND
<u>NAME OF SCOTT NELSON</u>	)	APPROVING TRANSFER

On February 24, 2014, Scott Nelson ("Nelson") filed Application for Transfer 79125 seeking to change the point of diversion and place of use for water right 11-73. On March 6, 2015, the Idaho Department of Water Resources ("Department") issued a *Preliminary Order Rejecting Transfer* ("*Preliminary Order*"). The *Preliminary Order* stated that the documentation provided by Nelson to support his claim of ownership was not sufficient. Prior to issuing the *Preliminary Order*, the Department had provided Nelson an opportunity to collect additional proof of ownership.

On March 20, 2015, the Department received a *Petition for Reconsideration* ("*Petition*") from Robert Harris, an attorney representing Nelson. The *Petition* asked the Department to set aside its *Preliminary Order* to allow Nelson additional time to negotiate a settlement with the other potential owners of water right 11-73 or to pursue a quiet title action in court.

It is in the interest of the Department and the other water users on Paris Creek to have the ownership issues surrounding water right 11-73 finally resolved. Therefore, on April 8, 2015, the Department issued an *Order Granting Petition for Reconsideration and Withdrawing Preliminary Order*. Nelson was given six months to collect additional documentation supporting his claim of ownership. The Department set a deadline of October 9, 2015 for providing additional evidence of ownership or the *Preliminary Order* would be reinstated.

Nelson did not provide any additional evidence of ownership by October 9, 2015. Therefore, the Department issued a second *Preliminary Order Rejecting Transfer* on November 19, 2015. On November 24, 2015, Harris provided a quitclaim deed, dated June 22, 2015, showing that Nelson had obtained a 2.2-acre portion of water right 11-73. Nelson contacted the Department in late November and requested that Transfer 79125 be approved for 2.2 acres.

In the interest of administrative efficiency, it is better to withdraw the second *Preliminary Order* and approve Transfer 79125 for 2.2 acres than to require Nelson to file a new transfer application. The evidence provided by Nelson sufficiently demonstrates ownership of 2.2 acres of water right 11-73. Since the time Application for Transfer 79125 was originally filed, the other land owners with potential ownership interest in water right 11-73 have pursued ownership changes for their respective portions of the water right. At this time, there are no competing claims of ownership for the 2.2 acres described in the quit claim deed provided by Nelson.

ORDER

IT IS HEREBY ORDERED that the *Preliminary Order Rejecting Transfer*, issued by the Department on November 19, 2015, is WITHDRAWN. Transfer 79125 shall be approved for 2.2 acres, the extent to which Nelson has demonstrated ownership.

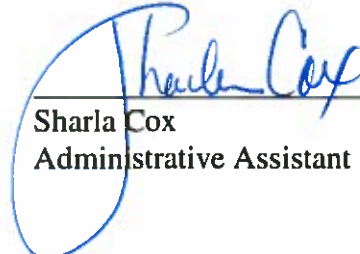
Dated this 1st day of December, 2015.



James Cefalo
Water Resources Program Manager

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of December 2015, I mailed a true and correct copy of the foregoing ORDER WITHDRAWING PRELIMINARY ORDER, with the United States Postal Service, postage prepaid and properly addressed to the person(s) listed below:



Sharla Cox
Administrative Assistant

US MAIL

RE: Order Withdrawing Preliminary Order and Approving Transfer

**Scott Nelson
PO Box 53
Paris, ID 83261**

**Robert Harris
Holden, Kidwell, Hahn & Crapo PLLC
PO Box 50130
Idaho Falls, ID 83405**

**Water District 11-E
David Matthews, Watermaster
PO Box 222
Paris, ID 83261**