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OCT 21 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 79357 (in the name of
Thomas & Dorothy Leno)

**APPLICANT'S PETITION FOR
RECONSIDERATION AND
CLARIFICATION OF FINAL ORDER**

COME NOW, Applicant THOMAS LENO and Intervenor CEDAR RIDGE DAIRY LLC
(hereinafter "Applicant"), by and through counsel of record, and pursuant to Idaho Code § 67-
5246, Rules 740.02 and 770 of the Department's Rules of Procedure (IDAPA 37.01.01 *et seq.*),
hereby files this petition for reconsideration and clarification of the Director's *Final Order*
Approving Transfer ("Dairy #2 Order").

SUPPORT DATA

IN FILE # 47-17589

PETITION FOR RECONSIDERATION & CLARIFICATION

Along with the *Amended Preliminary Order*, the Hearing Officer issued a formal water
right transfer form listing the water rights and their elements following the approved transfer.
See Ex. A. The form allows the Applicant to review the water right elements (as changed),
including all of the water right's conditions. Since the Director granted the Applicant's
exceptions and restored the water right's proposed season of use (1/1 to 12/31) and priority date

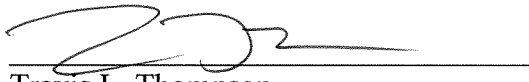
(12/25/1970) in the *Final Order* (see page 3), the Applicant respectfully requests the Director to re-issue the transfer form with the corrected elements. The updated form will provide clarity and avoid any confusion with the water right form issued by the Hearing Officer.

CONCLUSION

For the reasons set forth above the Applicant requests the Director to reconsider and/or clarify the *Final Order* by issuing the formal water right transfer form, including the water right description showing all of the final changes.

DATED this 21st day of October, 2015.

BARKER ROSHOLT & SIMPSON LLP


Travis L. Thompson

*Attorneys for Thomas Leno and Cedar Ridge Dairy,
LLC, and Four Sisters Dairy, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 2015, I served the original *Applicant's Petition for Reconsideration and Clarification of Final Order* by hand delivery to IDWR Southern Regional Office, 650 Addison Ave. W., Suite 500, and true and correct copies by email and by depositing same in the United States mail, postage prepaid, addressed to the following:

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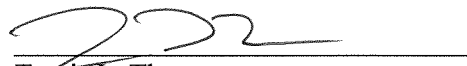

Travis L. Thompson

Exhibit A

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

AMENDED

**TRANSFER OF WATER RIGHT
TRANSFER NO. 79357**

AMENDED

This is to certify that: **THOMAS LENO**
4236 N 1900 E
BUHL, ID 83316

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>
47-17589	WR/DECREED	12/25/1970	1.210 cfs	307.5 af	N/A	102.5	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
47-7287	WR/DECREED	11/4/1974	N/A	24.8 af		86.2	MULE CREEK
47-14285	WR/DECREED	12/31/1969	3.060 cfs	N/A		153.2	MULE CREEK

Purpose of Transfer (Changes Proposed)

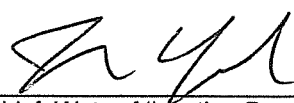
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
47-17589	YES	YES	YES	NO	YES	YES

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>
47-17589	47-17621	0.190 cfs	30.5 af	N/A	N/A	47-17589	1.020 cfs	258.6 af	N/A	86.2
COMBINED TOTALS		0.190 cfs	30.5 af	N/A	N/A		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 15th day of June, 2015.


for Chief, Water Allocation Bureau

Transfer No. 79357

WATER RIGHT NO. 47-17589**As Modified by Transfer No. 79357**

In accordance with the approval of Transfer No. 79357, Water Right No. 47-17589 is now described as follows:

Right Holder: THOMAS LENO
4236 N 1900 E
BUHL, ID 83316

Priority Date: 12/25/1970

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From
04/01

To
to 11/01

Diversion Rate

1.020 cfs

1.020 cfs

Diversion Volume

258.6 af

258.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

NWSWSW

Sec 20, Twp 16S Rge 16E TWIN FALLS 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	
16S	16E	20											29.6	12.0					41.6
16S	16E	29					28.0	16.6											44.6

POU Total Acres: 86.2

CONDITIONS OF APPROVAL

1. 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 lands below.
2. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Transfer No. 79357

WATER RIGHT NO. 47-17621**As Modified by Transfer No. 79357**

In accordance with the approval of Transfer No. 79357, Water Right No. 47-17621 is now described as follows:

Right Holder: THOMAS LENO
4236 N 1900 E
BUHL, ID 83316

Priority Date: 12/25/1970

Source: GROUND WATER

BENEFICIAL USE

COMMERCIAL
STOCKWATER

From	To	Diversion Rate	Diversion Volume
05/01	to 09/30	0.190 cfs	30.5 af
05/01	to 09/30	0.190 cfs	30.5 af
		0.190 cfs	30.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENE Sec 5 Twp 11S Rge 16E TWIN FALLS County
GROUND WATER SENE Sec 5 Twp 11S Rge 16E TWIN FALLS County

PLACE OF USE: COMMERCIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	16E	5				X									X				0.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	16E	5				X									X				0.0

CONDITIONS OF APPROVAL

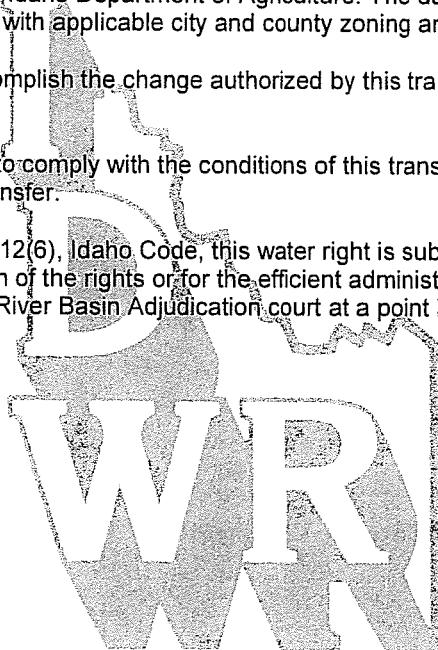
1. Rights 47-7431B, 47-7519B and 47-17621 when combined shall not exceed a total annual maximum diversion volume of 197.3 acre-feet. No more than 100 acre-feet of the 197.3 acre-feet may be diverted between October 1st and April 30th.
2. Prior to diversion of water under Transfer 79357, a totalizing measuring device of a type approved by the Department shall be installed and maintained on each of the wells authorized under water right 47-17621. The volume of water diverted from each well shall be measured and recorded monthly and reported annually to the Department. The static water levels of the wells shall be measured and recorded twice each year in April and October and reported annually to the Department.

Transfer No. 79357

WATER RIGHT NO. 47-17621
As Modified by Transfer No. 79357

CONDITIONS OF APPROVAL

3. For purposes of water right administration, the priority date of this right is advanced to the date of approval of Transfer 79357 and shall be junior to all existing water rights in use at the time of said approval.
4. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare, and all applicable dairy operation standards of the Idaho Department of Agriculture. The dairy operation authorized under this approval shall comply with applicable city and county zoning and land use ordinances.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



WATER RIGHT NO. 47-7287**As Modified by Transfer No. 79357**

In accordance with the approval of Transfer No. 79357, Water Right No. 47-7287 is now described as follows:

Right Holder: THOMAS LENO
4236 N 1900 E
BUHL, ID 83316

Priority Date: 11/4/1974

Source: MULE CREEK

Tributary: SHOSHONE CREEK

BENEFICIAL USE

IRRIGATION FROM STORAGE
IRRIGATION STORAGE

From

03/15
01/01

To

to 11/15
to 12/31

Diversion Rate**Diversion Volume**

24.8 af
24.8 af
24.8 af

LOCATION OF POINT(S) OF DIVERSION

MULE CREEK SESWSW Sec 17 Twp 16S Rge 16E TWIN FALLS County

PLACE OF USE: IRRIGATION FROM STORAGE

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	16E	20												29.6	12.0				41.6
16S	16E	29					28.0	16.6											44.6

POU Total Acres: 86.2

CONDITIONS OF APPROVAL

1. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
2. 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.

WATER RIGHT NO. 47-14285**As Modified by Transfer No. 79357**

In accordance with the approval of Transfer No. 79357, Water Right No. 47-14285 is now described as follows:

Right Holder: THOMAS LENO
4236 N 1900 E
BUHL, ID 83316

Priority Date: 12/31/1969

Source: MULE CREEK

Tributary: SHOSHONE CREEK

BENEFICIAL USE
IRRIGATION

From 04/01 **To** 10/31

Diversion Rate
3.060 cfs
3.060 cfs

LOCATION OF POINT(S) OF DIVERSION

MULE CREEK SESWSW Sec 17 Twp 16S Rge 16E TWIN FALLS County
MULE CREEK SESWSW Sec 17 Twp 16S Rge 16E TWIN FALLS County (I)
MULE CREEK NESWNW Sec 20 Twp 16S Rge 16E TWIN FALLS County (R)

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	
16S	16E	20											26.6	6.0					32.6
16S	16E	29					24.0	16.6	20.0	14.0	12.0	34.0							120.6

POU Total Acres: 153.2

CONDITIONS OF APPROVAL

1. 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.
2. Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre for irrigation of the place of use.
4. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Transfer No. 79357