

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 79331 IN THE)	
NAME OF CITY OF KETCHUM)	
_____)	
	PRELIMINARY ORDER REJECTING APPLICATION FOR TRANSFER

This matter having come before the Department of Water Resources (Department) as a result of an application to transfer water rights, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 12, 2014, City of Ketchum applied to the Department for authorization to add eight (8) ground water well points of diversion for 4.0 cubic feet per second of water diverted from Trail Creek for Municipal purposes in Blaine County in accordance with decreed Water Right 37-417. The transfer application was designated no. 79331.

2. Idaho Code §42-222 says, in pertinent part:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water. ... Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required in section 42-108, Idaho Code, **and if otherwise proper** to provide notice of the proposed change in a similar manner as applications under section 42-203A, Idaho Code. Emphasis added.

3. On June 18, 2014, Department of Water Resources engineer Mr. Douglas Jones sent an email request for additional information that included the standard application for transfer Minimum Requirements Checklist that enumerates several items that were needed to make the application complete, a record of historical diversion from Trail Creek, and a hydrologic analysis demonstrating interconnection of pumping from the wells and the flow of Trail Creek. None of these requested items have been submitted.

4. On January 14, 2015, the Department mailed City of Ketchum a letter formally asking them to provide additional information and/or modify transfer application no. 79331 to ensure that the proposed change would not result in the enlargement of the use of the water diverted from Trail Creek or injury to other users on Trail Creek or the Big Wood River. In the letter, the Department informed the City that if it did not respond to the request within 30 days, the Department would reject its transfer application.

5. The Department received a response from the City of Ketchum on February 6, 2015 requesting an extension of time to respond to the additional information request until April 1, 2015. The Department granted the request.

6. On April 21, 2015 the City stated in an email that a consulting firm would be developing a proposal for the requested hydrologic analysis and that the City would request a

time specific extension for submitting the requested information.

7. The City has not provided the requested information and it has not submitted a written request for additional time to supply the requested information.

CONCLUSIONS OF LAW

1. Without the additional information requested from the City of Ketchum, the Department cannot ascertain that the change in water use proposed in transfer application no. 79331 will not result in an enlargement in use of Water Right 37-417, or cause injury to other users.

2. The Department should reject transfer application no. 79331.

ORDER

IT IS HEREBY ORDERED that transfer application no. 79331 in the name of City of Ketchum is **REJECTED** without prejudice.

Dated this 5th day of June, 2015.


Allen Merritt

Att.: Explanatory Material

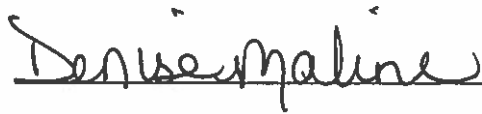
CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of June, 2015, true and correct copies of the documents described below, were served by placing a copy of the same with the United States Postal Service, postage prepaid, and properly addressed to the following:

**Documents: Preliminary Order Rejecting Application for Transfer No. 79331
Explanatory Information Sheet**

CITY OF KETCHUM *Certified Mail*
ROBYN MATTISON
PO BOX 2315
KETCHUM, ID 83340

MOORE SMITH BUXTON & TURCKE, CHTD
BRUCE SMITH
950 W BANNOCK ST, STE 520
BOISE, ID 83702

A handwritten signature in cursive script, reading "Denise Maline", is written over a solid horizontal line.

**Denise Maline
Administrative Assistant**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 79331

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at www.idwr.idaho.gov.

Name of Applicant(s) _____

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☐ * Completed Application for Transfer of Water Right form, Part 1.
- ☐ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☐ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☐ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☐ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☐ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☐ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Other. Please describe: _____

REJECTED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESRECEIVED
MAY 12 2014
DEPT. OF WATER RESOURCES
SOUTHERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change

1. APPLICANT(S) City of Ketchum Phone 208-726-7825
2. MAILING ADDRESS PO Box 2315 City Ketchum
State Idaho Zip 83340 Email rmattison@ketchumidaho.org

- ☒ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 37-417

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, Water Right Transfers, Step 1, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 4.0 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, Water Right Transfers, Online Resources.

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
04N	18E	05	3		NE	NW	Blaine	Trail Creek	
04N	17E	12		SE	SE	SW	Blaine	Groundwater	Well #1
04N	17E	13		NE	NW	NE	Blaine	Groundwater	Well #2
04N	17E	12			SW	SE	Blaine	Groundwater	Well #3
04N	17E	01		NE	SW	SE	Blaine	Groundwater	Well #4
04N	18E	07		NE	SW	SE	Blaine	Groundwater	Well #5
04N	17E	12		SE	SW	SE	Blaine	Groundwater	Well #6
04N	18E	19			NE	SW	Blaine	Groundwater	Well #7
04N	17E	01			SW	NE	Blaine	Groundwater	Well #8

REJECTED

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Added PODs are wells that are/will be owned or controlled by the City. Each city well is lockable and capable of having a flow meter.

- b. Who owns the property at the point(s) of diversion? City owns all PODs except Wells 7 and 8 locations.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
City has/will have agreements with the property owners to access the property.

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

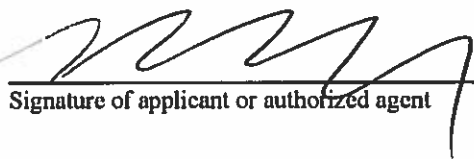
Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe _____

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at <http://maps.idwr.idaho.gov/TransferApplicationLayouts/> provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

Michael David, Ketchum City Council President
Print name and title if applicable

5/8/14
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by 

Date 5/12/2014

Fee paid \$740

Date 5/19/2014

Received by 

Receipt # 5034025

Preliminary review completed by _____

Date _____

*Proof of government agency for
City Council President signature*

Internal Revenue Service

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Date: May 9, 2005

Person to Contact:
Jamie Bowling 31-08346
Customer Service Representative
Toll Free Telephone Number:
8:30 a.m. to 5:30 p.m. ET
877-829-5500
Fax Number:
513-263-3756
Federal Identification Number:
82-6001390

CITY OF KETCHUM
PO BOX 2315
KETCHUM ID 83340-2315

Dear Sir/Madam:

This is in response to your request of May 9, 2005, regarding your organization's exemption from Federal income tax.

As a governmental unit or a political subdivision thereof, your organization is not subject to Federal income tax under the provisions of Section 115(1) of the Internal Revenue Code, which states in part:

"Gross income does not include income derived from ... the exercise of any essential governmental function and accruing to a State or any political subdivision thereof ..."

Because your organization is a governmental unit or a political subdivision thereof, its income is not taxable as explained above. Contributions used exclusively for public purposes are deductible under Section 170(c)(1) of the Code.

Your organization is not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Your organization may obtain a letter ruling on its status under section 115 by following the procedures specified in Rev. Proc. 2004-1 or its successor.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



for Janna K. Skufca, Director, TE/GE
Customer Account Services

TRANSFER 79331

05/10/05 TUE 05:17 [TX/RX NO 6092] 0002

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

P R O C L A M A T I O N

The Thirty-Sixth Session of the Idaho State Legislature, at regular session did pass Senate Bill No. 129 and said Senate Bill was signed by the Governor and became Chapter No. 227, Session Laws of the State of Idaho; and

Pursuant to the provisions enacted in Chapter No. 227, Session Laws 1961, the Village of Ketchum on petition of twenty-five percent of the qualified electors did call a special election on the proposition;

"Shall the proposition to organize the Village of Ketchum, as a city of the second class under Title 50, Idaho Code and the general laws of the State of Idaho be adopted?"

The electors, on April 25, 1961, voted on and adopted the above stated proposition and that the results of said election have been duly certified to the Office of the Governor by the Chairman of the Board of Trustees of the Village of Ketchum and the said Chairman of the Board did further certify that the 1960 census taken under and pursuant to the laws of the United States found population of the Village of Ketchum to be 746; and

Now, therefore, the Village of Ketchum has now fully complied with the requirements for a city of the second class, I, Robert E. Smylie, Governor of the State of Idaho, and pursuant to the laws thereof, do hereby proclaim that Ketchum, Idaho, shall now and henceforth be a city of the Second Class.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capital, the 16th day of October, in the Year of our Lord Nineteen Hundred and Sixty-one and of the Independence of the United States the One Hundred and Eighty-sixth.



Robert E. Smylie
Governor of the State of Idaho

By the Governor:

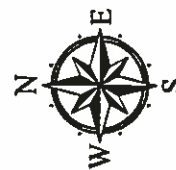
Arnold L. Williams
Secretary of State

DEPARTMENT OF
WATER RESOURCES**TRANSFER 79331**

Legend

- ESPA
 - GCDB Township/Range
 - GCDB Section
 - GCDB Quarter-Quarter
 - Counties

City of Ketchum
37-417
Existing Point of Diversion
Trail Creek
T04N R18E S05 Lot 3



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

City of Ketchum
Warm Springs Well #1
T04N R17E Sec 12 SESESW

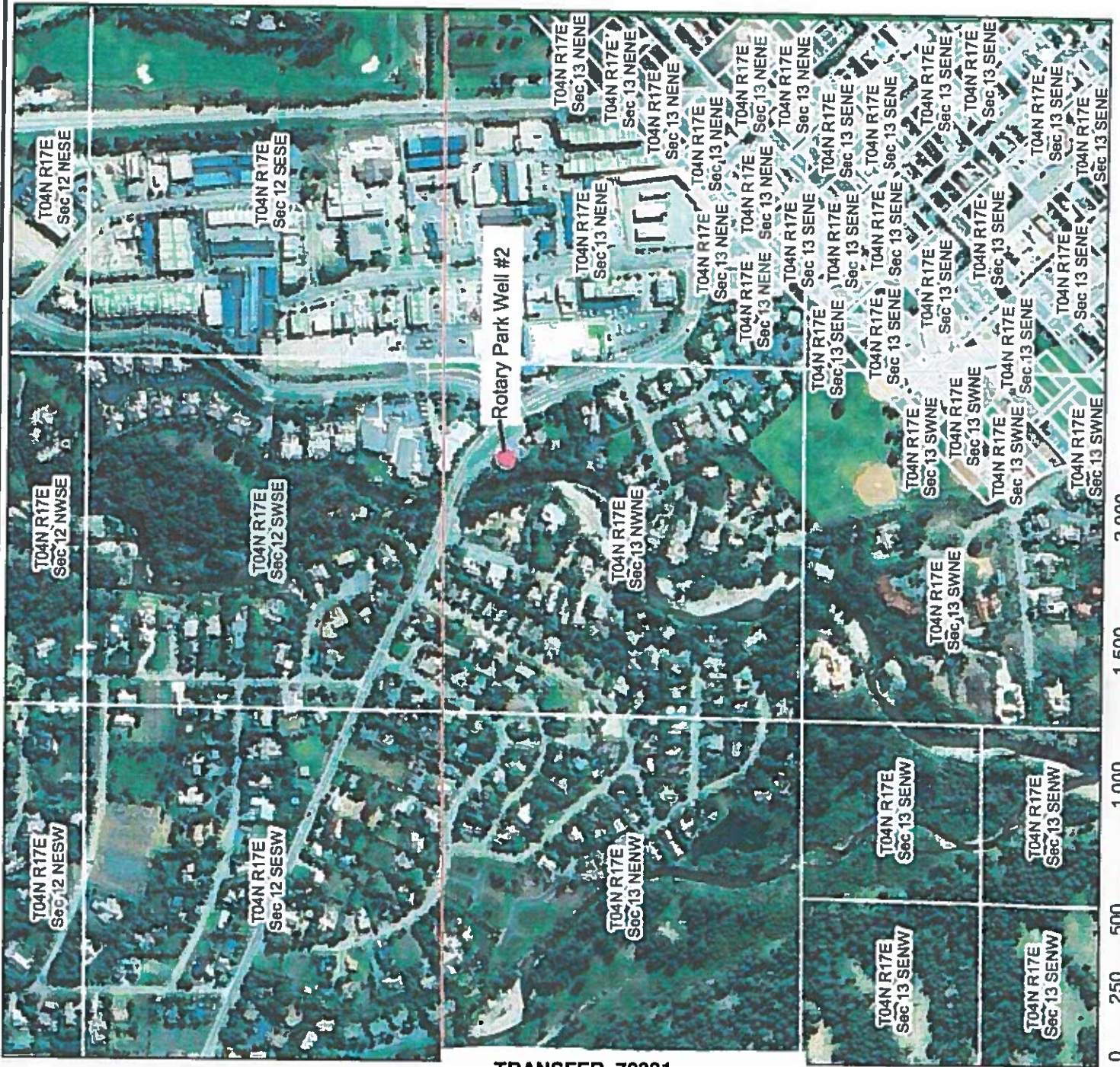


TRANSFER 79331

Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

City of Ketchum
 Rotary Park Well #2
 T04N R17E Sec 13 NENWNE

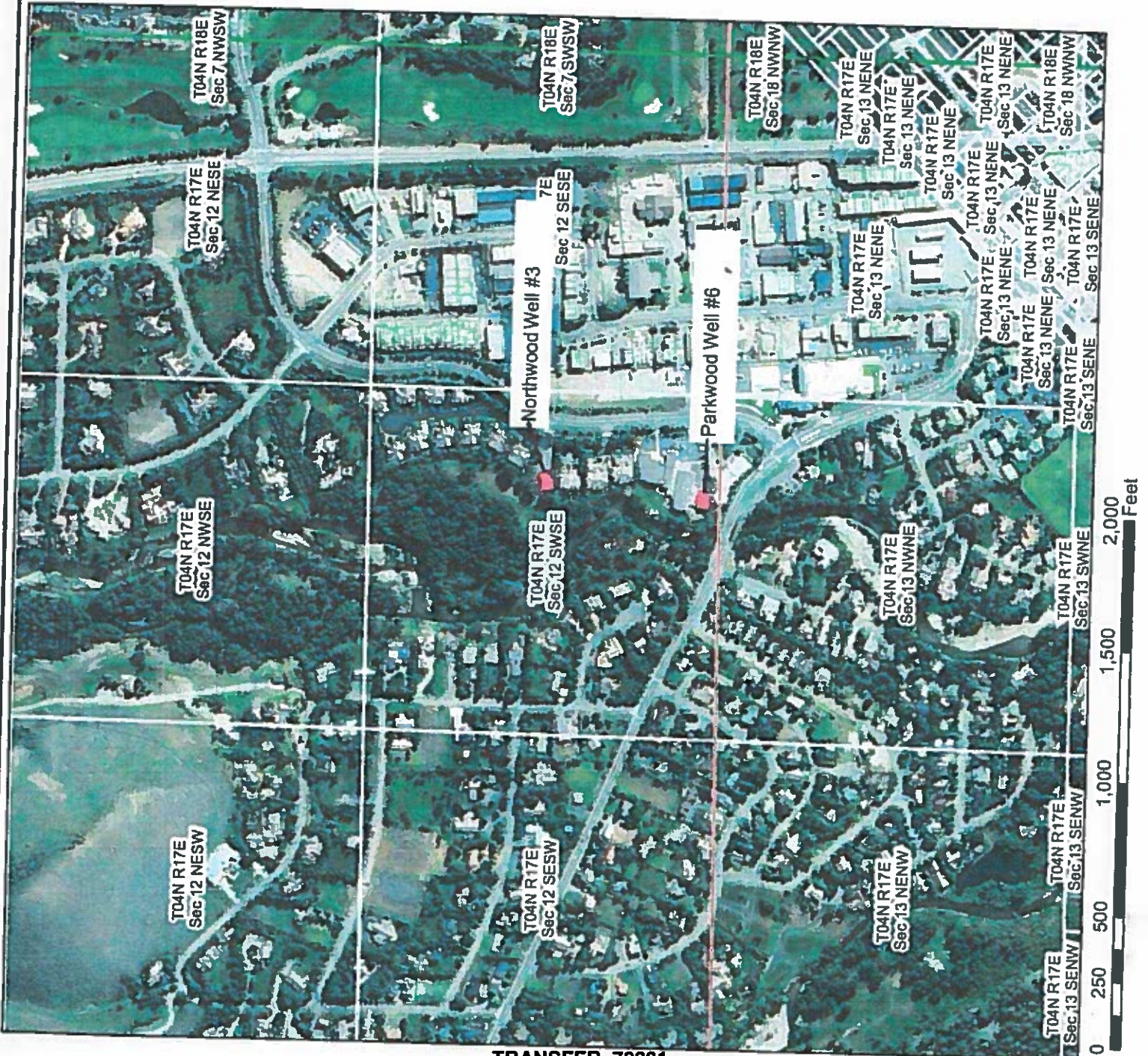


TRANSFER 79331

Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

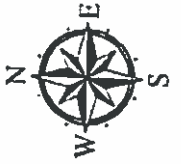
City of Ketchum
 Northwood Well #3
 T04N R17E Sec 12 SWSE
 Parkwood Well #6
 T04N R17E Sec 12 SESWSE



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

City of Ketchum
Bigwood Well #4
T04N R17E Sec 1 SWSE



TRANSFER 79331



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

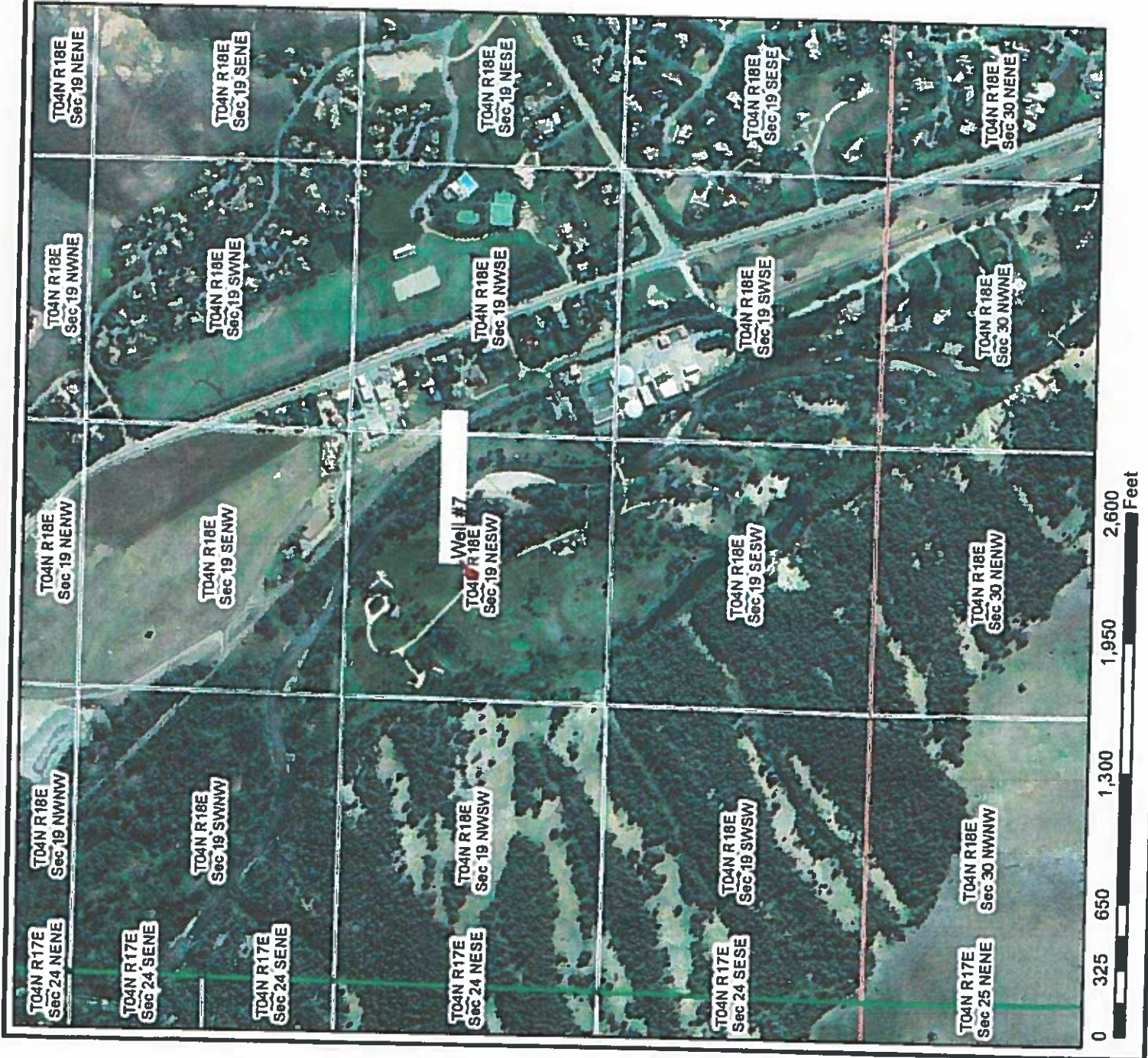
City of Ketchum
Trail Creek Wells #5
T04N R18E Sec 7 SWSE



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

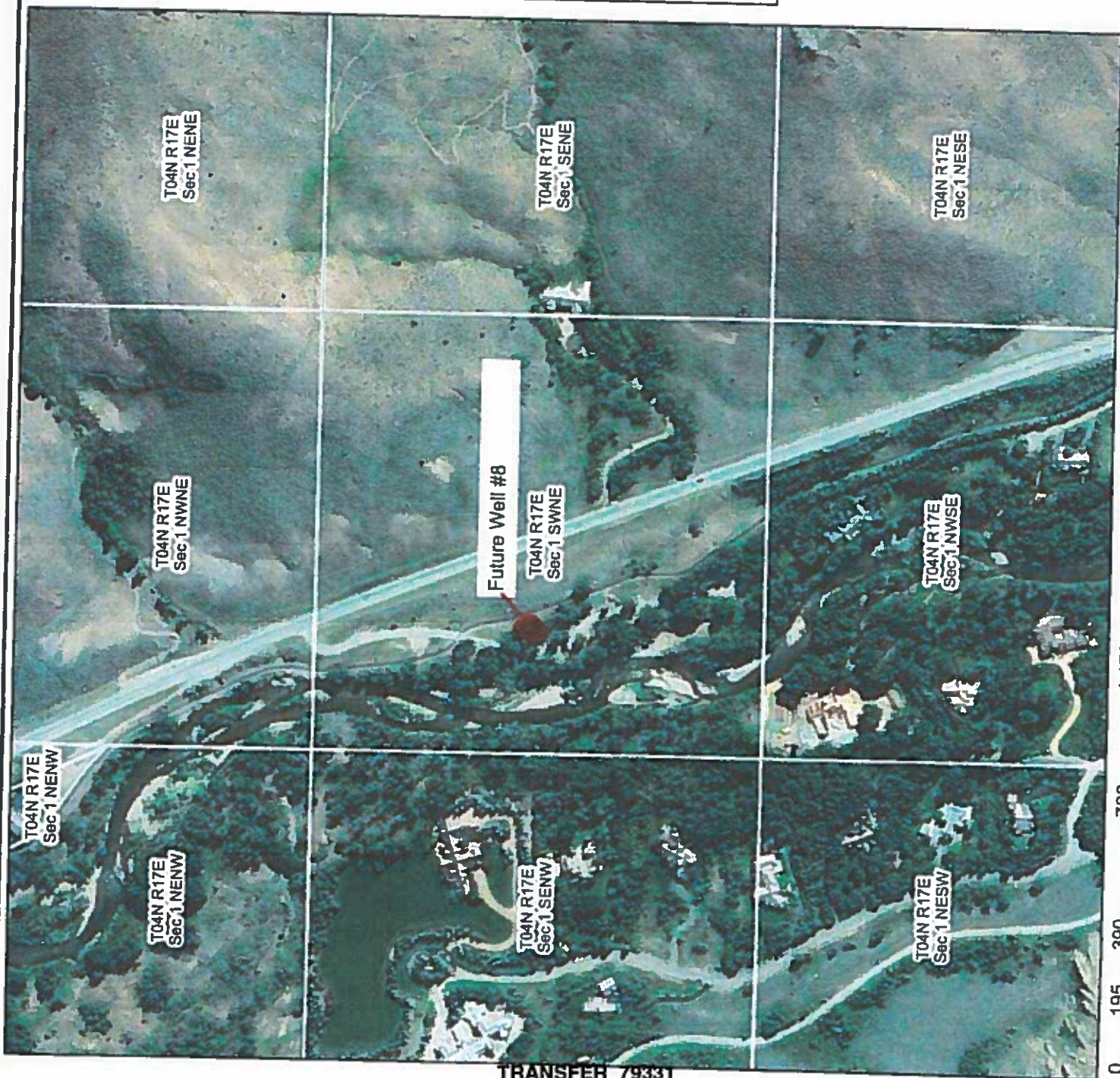
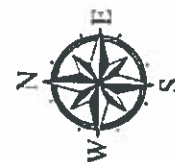
City of Ketchum
Well #7 - Irrigation
 T04N R18E Sec 19 NWNESW



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

City of Ketchum
Future Well #8
T04N R17E Sec 01 SWNE





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 5, 2015

CITY OF KETCHUM
ROBYN MATTISON
PO BOX 2315
KETCHUM, ID 83340

Re: Preliminary Order in the matter of Application for Transfer No(s). 79331

Dear Applicant(s):

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed yellow information sheet.

If you have any questions regarding this matter, please contact our office at 208-736-3033. Additional information is also available on our website, www.idwr.idaho.gov.

Sincerely,

Denise Maline

for: Allen Merritt
Southern Region Manager

Enclosures

cc: Bruce Smith, attorney

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.

Jones, Doug

From: Jones, Doug
Sent: Tuesday, April 21, 2015 1:46 PM
To: 'Robyn Mattison'
Subject: RE: POD transfer application for 37-417

Confirmed receipt, will await Extension Request.

From: Robyn Mattison [<mailto:rmattison@ketchumidaho.org>]
Sent: Tuesday, April 21, 2015 1:44 PM
To: Jones, Doug
Subject: POD transfer application for 37-417

Hi Doug. Ketchum is awaiting a proposal from Brockway Engineering to perform a hydrologic analysis for the transfer application for 37-417. Once we receive the proposal and timeframe for the analysis I'll send you another written extension request.

Thank you,

Robyn

ROBYN L. MATTISON, P.E., LEED A.P. | CITY OF KETCHUM
Public Works Director / City Engineer
P.O. Box 2315 | 110 River Ranch Rd | Ketchum, ID 83340
o: 208.726.7825 ext. 101 | c: 208.720.9992
rmattison@ketchumidaho.org | www.ketchumidaho.org

25-15
telecon 4/6 or 7 4/9 or 10
From & To R.M. RE: Fast Due Extension deadline
left msg for her to email status.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

3/11/2015

Attn: Robyn Mattison, City Engineer
City of Ketchum
PO BOX 2315
KETCHUM ID 83340

Via Email

RE: Extension of Time to submit additional information request

Dear Ms. Mattison,

Your request for more time to submit information until April 1 is accepted.

I'll look forward to the City's information in support of the transfer.

Respectfully,

A handwritten signature in black ink, appearing to read "Douglas Jones".

Douglas Jones, PE
Technical Engineer



City of Ketchum

Public Works

Public Works Director/
City Engineer
Robyn Mattison, P.E.

Streets Division Superintendent
Brian Christiansen

Wastewater Division Supervisor
Dave Taylor

Water Division Supervisor
Dave Rambo

Administrative Clerk
Angela Sanderson

February 6, 2015

Doug Jones, P.E., Technical Engineer
Idaho Department of Water Resources
650 Addison Ave W. Suite 500
Twin Falls, Idaho 83301-5858

RE: Transfer #79331

Dear Mr. Jones,

The City of Ketchum received your letter dated January 14, 2015 requesting additional hydrologic information pertaining to the change of diversion application the City submitted for water right 37-417. The letter requests information within 30 days to avoid issuance of a preliminary order rejecting the application. The purpose of this letter is to request that IDWR provide the City with additional time to have internal discussions regarding the transfer request. We propose to provide IDWR with a response regarding T#79331 by April 1, 2015. Please let me know if this date is acceptable.

Sincerely,

Robyn L. Mattison, PE
Public Works Director/City Engineer
City of Ketchum



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

1/14/2015

Attn: Robyn Mattison
City of Ketchum
PO BOX 2315
KETCHUM ID 83340

RE: Request for Hydrologic Information, T#79331

Dear Ms. Mattison,

IDWR has commenced review of transfer #79331, proposing the change of diversion of water right 37-417 from a Trail Creek headgate to various wells. If you recall, I had requested several items of information in an email dated 6/18/2014 in order to proceed with evaluation of the transfer. One item was the Minimum Requirements Checklist, another was records of diversion of water from Trail Creek through time and lastly hydrologic analysis regarding impacts of pumping surface water from wells. Subsequent contact with attorney Bruce Smith occurred in September and again last week.

These items have not been submitted to IDWR and I am writing to formally request the information. While each of the requested data are important to evaluate impacts, injury and sufficiency of source IDWR is particularly reliant on the Transfer Processing Memo #24, Item 7 (pg 26, copy enclosed) information to evaluate injury. As explained in the memo IDWR can't change the source of water through the transfer process (42-222 I.C.) but could approve point of diversion change(s) to pump ground water **TRIBUTARY** to Trail Creek from a well, provided direct hydrologic connection impacts can be proven.

I had previously sent the Minimum Requirement Checklist for completion. I believe the list is ok down through #6. You did attach maps for the individual well locations in partial fulfillment of #7a. Please provide an 8 1/2 x 11 or 8 1/2 x 14 map of the city distribution system including labeling for pipe work that will need to be installed; and a map of the present service area of the city system. On the application itself the City indicates that they have or will have agreements to "access" the property. I see where the BLM is one of the entities and from past experience have been reluctant to locate a diversion on land they manage. The other well is on Fuld's land and he is presently in negotiations with our Water Distribution Section. Please provide agreements or documentation of intent to provide special use permit or transfer of well ownership to the City and any provisions to register the wells with Dept of Environmental Quality

City of Ketchum

01/14/2015

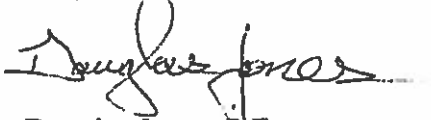
Pg2

as a Public Water Supply source (provided the well(s) can be documented to be hydrologically connected to Trail Creek).

Please provide the information within 30 days to avoid issuance of a preliminary order rejecting the application due to injury, although IDWR will continue to review the transfer for sufficiency of information in the interests of efficiency. The City can at any time before a preliminary order rejecting the transfer choose to withdraw the transfer in writing or file an amended transfer application identifying fewer or different wells. You may request a refund for filing fees if the transfer is withdrawn.

Thank you for your attention to these matters and I look forward to hearing from you.

Respectfully,

A handwritten signature in black ink, appearing to read "Douglas Jones", written over a horizontal line.

Douglas Jones, P.E.
Technical Engineer

Cc: Bruce Smith

shall be included to address changes that would result in increased impacts to reaches of the Snake River due to differences in priority date between the rights involved in the offsetting transfers. Such changes could result in injury to surface water rights in connected reaches of the Snake River in the event of a curtailment order affecting ground water rights in the ESPA. See the Department's August 13, 2007 memo entitled, "ESPA Transfer Spreadsheet Version 3.1 – Implementation and Use" for further guidance.

- (6) Ground Water Management Area or Critical Ground Water Area. Whether the point of diversion for a ground water right would move from outside the boundaries of a critical ground water area (CGWA) or ground water management area (GWMA) to within the boundaries of a CGWA or GWMA, or whether the point of diversion would move from within the boundaries of a GWMA to within the boundaries of a CGWA.

An application for transfer proposing such a change in the location of the point of diversion for a ground water right is not approvable unless the applicant proposes acceptable mitigation to prevent injury to other water rights. For cold water (85° F or less) GWMAs over the ESPA, mitigation beyond that satisfying condition (4) above will not be required at this time as a condition of approval, unless injury would occur to a water right to divert ground water or injury would occur to a water right to divert surface water that has not been offset by stipulated agreement or through a mitigation plan approved by the department,

- (7) Change of Source. Whether the source would be changed from ground water to surface water, or from surface water to ground water.

Section 42-222, *Idaho Code* does not provide for a change from a ground water to surface water source, or from a surface water to ground water source. An application for transfer proposing such a change in source is not approvable unless the ground water and surface water sources are so interconnected that they constitute the same source for purposes of a proposed change in point of diversion. The ground water and surface water sources must have a direct and immediate hydraulic connection (at least 50 percent depletion in original source from depletion at proposed point of diversion in one day). The existing point of diversion and proposed point of diversion must be proximate such that diversion and use of water from the proposed point of diversion would have substantially the same effect on the hydraulically-connected source as diversion and use of water from the original point of diversion. If such application for transfer is approved, the changed water right shall be administered no differently than any other water right from the surface water source. If approved, the source for a change from a surface water source to a ground water source should be listed as ground water tributary to the surface water source.

Jones, Doug

From: Jones, Doug
Sent: Wednesday, June 18, 2014 4:59 PM
To: 'Robyn Mattison'
Subject: RE: Transfer number T#79331
Attachments: Minimum-Reqmt-chkl.pdf

Hi, Robyn.

I have 3 small transfers, 1 very complicated transfer and an 60 cfs Extension of Time to Avoid Forfeiture ahead of the City's transfer. I don't have to complete each one ahead of the City's, but I need to forge ahead into them before this one.

The short form for Diversion changes merely simplifies the preparation for the applicant. There are very simple corrections that can be processed without advertising but substantial changes MUST be advertised. This proposal is substantial.

To get started please complete the Minimum Requirements Checklist (attached), several items have been successfully fulfilled in the original filing and don't need redundant submittals.

In addition:

Of particular importance are analyses consistent with Transfer Processing memorandum #24, available on our website, particularly Item#7 on page 26. This section describes the need to document that surface water rights diverted from a well will have a direct effect of 50% of the pumped volume on the original source (Trail Cr) within 24 hours. It appears that only one of the proposed wells would be potentially, appropriately have this interconnection, not all 8.

Please note that administration of this right is directly related to water availability in the surface water system (e.g. flow rates and priority cuts). Please provide records of rates, volumes and timing of diversions from Trail Creek in the past 10 years and details of where the diversion point is, pipe size, where it is located down to the city and treatment facilities.

Has the City begun the effort to file the ground water right transfer to identify the proposed wells on each of the existing rights? How does this proposed transfer relate to diversions under the other rights?

Thanks! I can be reached the week of June 23rd if you have other questions.

Doug

From: Robyn Mattison [<mailto:rmattison@ketchumidaho.org>]
Sent: Wednesday, June 18, 2014 1:10 PM
To: Jones, Doug
Subject: Re: Transfer number T#79331

Hi Doug. Thank you for your reply. I have a few questions for you. Why is its being advertised since it is short form? Is there any information I could gather for you now so we can help reduce the timeframe? Where is this application in the processing order?

Thank you!

Robyn

Sent from my iPhone

On Jun 13, 2014, at 8:41 AM, "Jones, Doug" <Doug.Jones@idwr.idaho.gov> wrote:

Robyn,

I haven't begun review of the application or preparation for proceeding to advertizing. The timing of processing is in order of applications received and assigned to the agent, in addition to complexity of the applications.

Several significant hurdles usually arise in order to change surface water to groundwater. As IDWR evaluates the proposal and defines the issues we will be in contact to request additional information.

Thank you.

Doug

From: Robyn Mattison [<mailto:rmattison@ketchumidaho.org>]
Sent: Thursday, June 12, 2014 11:27 AM
To: Jones, Doug
Subject: Transfer number T#79331

Hi Jim. I haven't seen the POD transfer approval for WR 37-417 in the mail yet—just want to know when to expect it.

Thanks!

Robyn

ROBYN L. MATTISON, P.E., LEED A.P. | CITY OF KETCHUM
Public Works Director / City Engineer
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