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DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER SOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION) **PETITION FOR REVIEW OF**
FOR TRANSFER NO. 77610 IN THE) **THE SECOND**
NAME OF PARKINSON FARMS) **PRELIMINARY ORDER**

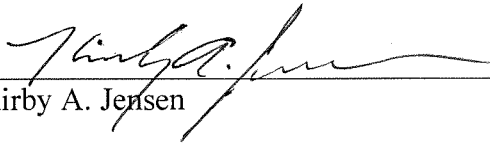
Kirby A. Jensen, representing himself, hereby respectfully petitions this department for Review of the *Second Preliminary Order Approving Application for Transfer* issued on January 24th 2014. This petition is supported and accompanied by a *Memorandum in Support of Second Petition for Review*, as well as the evidence submitted, oral arguments, testimony, questions and comments which were made at a the two hearing on this matter which were held in Arco, Idaho. The first on May 17th & 18th 2012 and the second on August 13th 2013.

The primary basis for this petition for review is that this transfer application would be equivalent to a “new appropriation” and could affect those who have water rights which are down gradient of the new point of diversion and up gradient of the original point of diversion, thus creating a “sub-class” of individuals who would be denied protection by the 1993 Amended Moratorium Order. The 14th Amendment of the Constitution of the United States of America states: “nor” [shall any state] “deny to any person within its jurisdiction the equal protection of the laws.” Further, it would seem that the 1993 Amended Moratorium Order would be the law governing new appropriations in this basin.

The secondary basis for this petition for review is the Hearing Officer erroneously based his decision on 42-226, when in fact the correct statutes governing changes in points of diversion are 42-108 and 42-222 which specifically prohibit the injury to other water rights.

I again respectfully petition this department to review its *Second Preliminary Order Approving Application for Transfer* issued on January 24th 2014.

Dated this 6th day of February, 2014


Kirby A. Jensen

CERTIFICATE OF MAILING

I certify that on this 6th day of February, 2014, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies prepaid and addressed as follows:


Kirby A. Jensen

1. Original to:

Director, Gary Spackman	(X) First Class Mail
Department of Water Resources	() Hand Delivery
PO Box 83720	(X) Facsimile
Boise, Idaho 83720-0098	() Overnight Mail
	() Email

2. Copies to:

Department of Water Resources	(X) First Class Mail
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