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Department of Water Resources
Eastern Region

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

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 77610 IN THE)
NAME OF PARKINSON FARMS) CLOSING STATEMENT**

First of all, I am sympathetic to the plight of Parkinson Farms in their efforts to regain the use of their ground water rights. From the evidence presented at the hearings, it appears that they have six (6) wells located on their farm, of which I believe only three (3) are currently in use.

Idaho Code 42-226 states in part: "Prior appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the director of the department of water resources as herein provided." (Underline added)

It would appear that Parkinson Farms is in a unique position to be of service to other ground water users in establishing and maintaining reasonable pumping levels. Apparently they have one of the earliest ground water rights for irrigation in the valley. It is No. 34-2289 with a 1949 priority date and its point of diversion is probably the furthest south and down gradient of any other irrigation well in the basin. Their other water rights and wells located on the farm are also among the earlier priority dates, the latest being 1967, and they are also located at the southern and down gradient end of the basin.

IDAPA 37.03.12.040.01b states in part: "All water deliveries must be called for by the water user ..." And again in .05 it states in part: "Notice to Initiate Delivery. Water users must initiate delivery of their water right(s) ..." (Underline added)

If surface water users are required to initiate delivery by calling for their water, then perhaps ground-water users, such as Parkinson Farms, should be required to do the same.

There is a preponderance of evidence that the surface-water and ground-water systems act interdependently, with a change in one that soon affects the other. Following is a short list of resources which address and validate that concept:

- a. The Review of Ground-Water Conditions in the Big Lost River Valley by Stanley P. Szczepanowski, December 1982 (Exhibit provided by Kirby Jensen)
- b. The Ground-Water Pumping Impacts on Surface Water Irrigation Diversions from Big Lost River by Johnson, Ralston & Mink, December 1991 (Exhibit also provided by Kirby Jensen)
- c. The Memo by Dennis Owsley, April 30, 2013 (Exhibit provided at the request of the Hearing Officer)
- d. IDAPA 37.03.12.050 Conjunctive Administration of Ground and Surface Water Rights (Rule 50)

Also testimony was provided as to waters which used to flow in various springs; creeks and sloughs, which have had little, if any water the last several decades. They were:

- a. Mrs. Reva Walker - Spring Creek used to run through her property. She has a water right with its point of diversion from Spring Creek. She testified that Spring Creek has been dry for years and her farm now looks like a desert. She also testified that she has yet to receive any mitigation.
- b. Mr. Steve Tibbitts - Boyle Creek used to run through the farm he used to live on. He testified that when ground water development began in the 70's Boyle Creek never ran again after about 1975. (Boyle Creek is also a tributary to the Big Lost River just above the Arco Diversion, as shown in maps provided by Kirby Jensen)
- c. Joel Andersen - owns a pasture south of Arco, within which an Unnamed Spring used to run through, as well as several other springs which rose within the pasture. He has a water right with its point of diversion from that Unnamed Spring. He testified that he has received very little water over the last several decades and has never received any mitigation.
- d. James Rindfleish - owns a farm south of Arco with an 1880 water right from the Farris Slough. He also testified that he has received very little water over the last several decades from the Farris Slough and has yet to receive any mitigation.

From the exhibits and testimony presented it would seem evident that approving this transfer would just exacerbate the injury to those who have been denied their water rights from the Big Lost River, creeks, springs and sloughs in the lower Lost River Valley. And even though any injury caused by approving this transfer may seem "insignificant", as testified by Dr. Tom Wood, the cumulative effects of ground water pumping, combined with conversions from flood to sprinkler irrigation and expansions of irrigated acres above the Arco area, would seem to be undeniable.

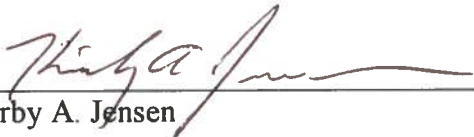
In conclusion, Parkinson Farms have the right, and possibly the responsibility, to call for their water and establish reasonable pumping levels to protect their water rights, rather than seeking a change in point of diversion to a location which could exacerbate injury to others and shift the burden of establishing reasonable pumping levels to others as well.

Parkinson Farms sought a similar transfer, No. 4573, with a point of diversion in the same general area as this one. A hearing was held on the matter November 1st 1995, and the transfer was denied May 30th 1996.

It is therefore my recommendation that the Application for Transfer No. 77610 be denied.

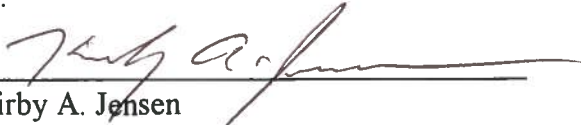
Thank you for your time and consideration in this matter.

Dated this 5th day of September, 2013


Kirby A. Jensen

CERTIFICATE OF MAILING

I certify that on this 5th day of September, 2013, 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:


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