

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-33764

Priority: April 22, 2013

Maximum Diversion Rate: 0.80 CFS

This is to certify, that JAMES RONALD HAYS
2438 E HERBERT DR
BOISE ID 83706

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/15

RATE OF DIVERSION

0.80 CFS

LOCATION OF POINT OF DIVERSION:

GROUND WATER SE1/4NW1/4 Sec. 12, Twp 01S, Rge 02W, B.M., CANYON County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	02W	12								40.0									40.0

Total Acres: 40

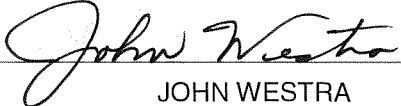
CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2018**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

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7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 180.0 af at the field headgate for the place of use.
9. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
10. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 6th day of September, 20 13.



JOHN WESTRA

Western Regional Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

September 9, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JAMES RONALD HAYS
2438 E HERBERT DR
BOISE ID 83706

RE: Permit No.63-33764

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,



for:

John Westra
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person listed below:

RE: WATER RIGHT NO.

63-33764

**JAMES RONALD HAYS
2438 E HERBERT DR
BOISE ID 83706**

A handwritten signature in cursive script that reads "Rachel Sommer". The signature is written in black ink and is positioned above a horizontal line.

**Rachel Sommer
Administrative Assistant I**

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.

Lester, Steve

From: Lester, Steve
Sent: Thursday, August 29, 2013 10:32 AM
To: 'jrh7r@yahoo.com'
Subject: Water Right Application 63-33764

Mr. Hays:

Good news - Your application for a supplemental irrigation well no longer needs to be held as originally discussed in my May 1 letter. Better information shows your place is outside of the ground water concern area for Canyon County. The application will be approved and mailed to you next week.

Steve Lester
Water Rights Supervisor
IDWR Western Region
2735 Airport WY
Boise, ID 83705
(208-334-2190)

* CURRENT GUIDELINES @ NEW GROUND WATER RIGHTS

UPLAND AREA BETWEEN LAKE LOWELL & SNAKE RIVER, GENERALLY WEST OF HWY 45

IDWR encountered ground water declines/problems in this area since about the late 1980s. A GWMA was contemplated but not established, perhaps due to declining demand associated with land enrolled in CRP (10 year federal set-aside) and the Basin 63 Moratorium/Processing Hold from 1992 thru early 2008.

The area has been open for possible approval of new applications for permit ("new rights") since early 2008. A number of applications, mostly supplemental ground water irrigation, have been filed since then and total about 120 cfs. The total estimated annual volume being proposed is not yet clear.

Ground water flows are presumed to be generally northwest above (north) the Mora Canal and generally west-southwest towards the Snake River below (south) that canal. Some applications have been protested by the Boise Project Board of Control, acting for several large irrigation districts. Apparently the board is concerned about impacts to Lake Lowell water levels (lake supplied from Boise River via New York Canal, originates at Diversion Dam just below Lucky Peak).

IDWR remains primarily focused on ground water supply, injury, local public interest etc. for the area south of Lake Lowell and west of Hwy 45. Additional technical information has been submitted, examples in Applications 63-33131 thru 63-33135 and 63-33644.

The protest process and IDWR review of consultant reports will facilitate processing these applications and probably future applications.

This scenario resembles the South Ada County Ground Water Area. The Ada & Canyon County Ground Water areas are not formal administrative areas established by order or similar means by the department. Instead, these are informal boundaries based on numerous problems over several years.

"Current Information" folder for this document also includes:

- * 
- Appl List ~ spreadsheet of applications for permit in priority order.
 - Map GW Area ~ shows general area and ground water area boundary. Note the north boundary just below Lake Lowell is the Mora Canal. The east boundary is about 1 mile east of Hwy 45.
 - Letter-IDWR Info 1-2013 ~ Summarizes IDWR technical info thru early 2013.
 - Letter For New Appls ~ Explains situation, response form for their preferred option (withdraw, advertise to check protests & appl then held, provide technical info before any processing).

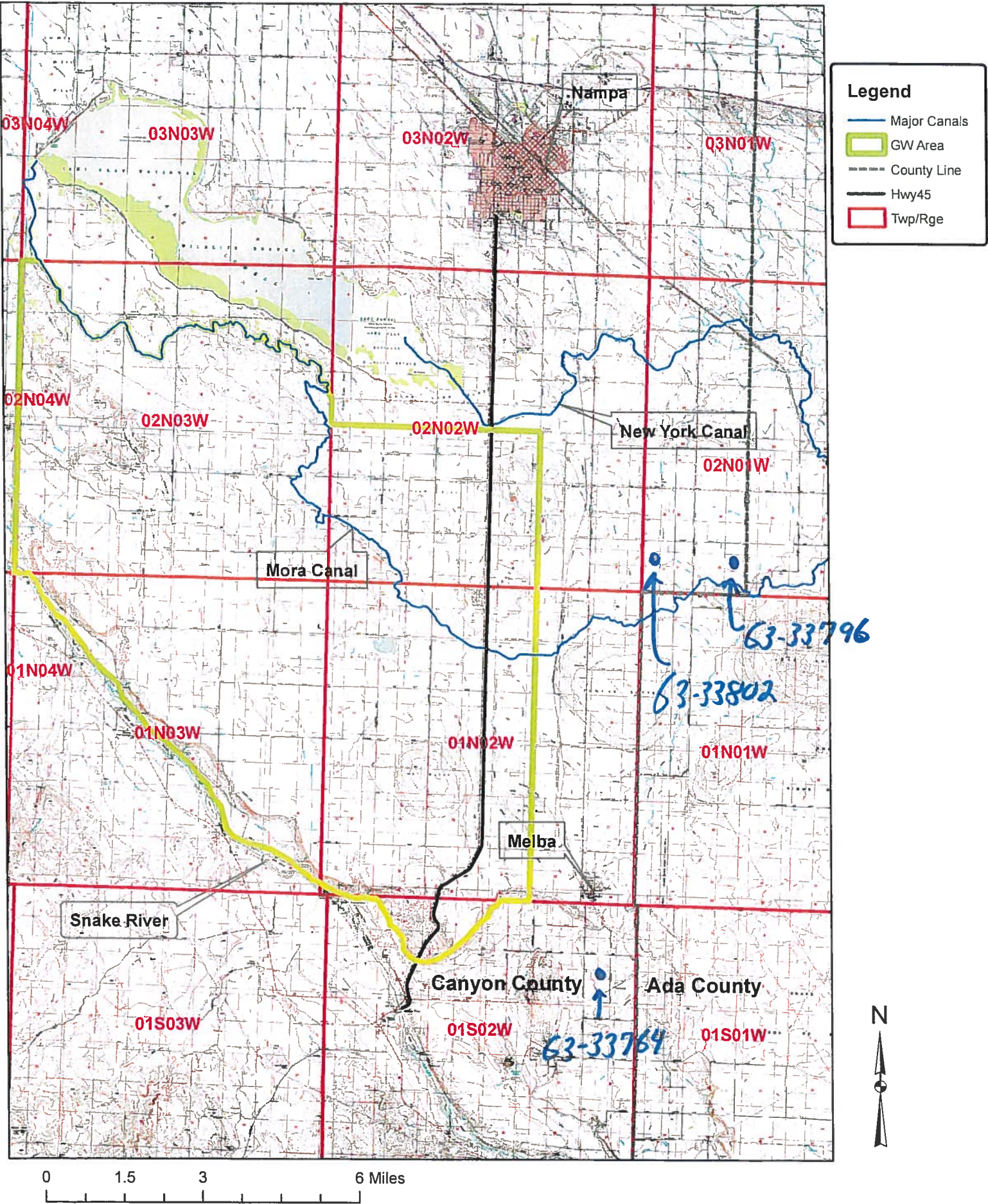
"South Canyon Co GW" folder includes "SO Hydrology Memos:"

- Dry Lake Area 1995-2005
- Few sections just south of Lake Lowell
- Ground water concerns since mid 1990s
- Decided not to declare GWMA
- Concern area now much larger per new appls, protests etc.

63-33764
↓

* Appls ok to APPROVE outside of gw concern boundary: no protests - sz 8/21/2013

South Canyon County Ground Water Area



LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-33741

JAMES WEBBER
TONI WEBBER
4920 SE KELLY
PORTLAND, OR 97206
Point of Diversion NWNW S13 T05N R06W CANYON County
Source SOUTH BOISE DRAIN Tributary SNAKE RIVER
Use: IRRIGATION 03/01 to 11/01 3.2 CFS
Total Diversion: 3.2 CFS
Date Filed: 1/28/2013
Place Of Use: IRRIGATION
T05N R06W S12 SWSW SESW
T05N R06W S13 NENW NWNW SWNW
Total Acres: 160

63-33764

JAMES RONALD HAYS
2438 E HERBERT DR
BOISE, ID 83706
Point of Diversion SENW S12 T01S R02W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 0.8 CFS
Total Diversion: 0.8 CFS
Date Filed: 4/22/2013
Place Of Use: IRRIGATION
T01S R02W S12 SENW
Total Acres: 40
Water bearing zone to be appropriated is from 120 to 250 feet.

63-33769

O STANLEY MORTENSEN
MYRTLE L MORTENSEN
2367 RIVER OAKS DR
NAMPA, ID 83686
Point of Diversion SWNE S29 T01N R02W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 1.6 CFS
Total Diversion: 1.64 CFS
Date Filed: 4/25/2013
Place Of Use: DOMESTIC
T01N R02W S29 SWNE
Place Of Use: IRRIGATION
T01N R02W S29 SWNE SENE
Total Acres: 80
Water bearing zone to be appropriated is from 150 to 300 feet.

63-33774

RUBEN ASUMENDI
23032 HWY 20 26
PARMA, ID 83660
Point of Diversion NESW S36 T04N R02W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 2.32 CFS
Total Diversion: 2.32 CFS
Date Filed: 5/2/2013
Place Of Use: IRRIGATION
T04N R02W S36 SENW NESW NWSW
Total Acres: 116
Water bearing zone to be appropriated is from 20 to 400 feet.

63-33777

LAKEVIEW LAND CO LLC
10778 PERCH RD
CALDWELL, ID 83686
Point of Diversion SWSW S4 T02N R03W CANYON County
Source GROUND WATER
Use: IRRIGATION 03/01 to 11/15 1.6 CFS
Total Diversion: 1.6 CFS
Date Filed: 5/14/2013
Place Of Use: IRRIGATION
T02N R03W S4 NWSW SWSW
Total Acres: 80
Water bearing zone to be appropriated is from 200 to 400 feet.

RECEIVED
JUN 17 2013
WATER RESOURCES
WESTERN REGION

PROPOSED CHANGE OF WATER RIGHT(S)

Ronald G. Smith of 25357 Wamstad Rd Parma ID 83660 filed Application No. **78594** to transfer four water right(s) with 1977 to 1987 priority dates from ground water totaling 11.75 cfs. The purpose of the transfer is to change an existing P/D and add a new P/D for diversion of up to 7.8 cfs. Water will be used at the current place of use near the intersection of Arena Valley and Matthews Roads in the Deer Flat area southeast of Riverside Canal, approximately 4.5 miles southwest of Parma.

EXTENSION OF TIME TO AVOID FORFEITURE OF WATER RIGHT

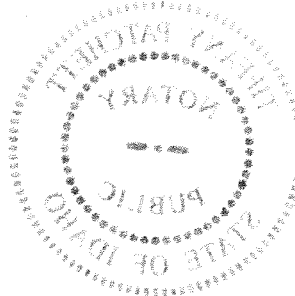
Khanh and Mongtu Nguyen of 12482 N. Upper Ridge Place, Boise, ID 83714, filed an Application proposing an Extension of Time to Avoid Forfeiture for Water Right No. **2-10370** with a 1963 priority from Snake River totaling 0.285 cfs. The applicant does not know when the the irrigation right was last used. The right serves property located 4 miles north of the Snake River and 6 miles northwest of Melba. The applicant requests the extension of time to provide adequate time to work with the Hat Butte Irrigation Company to reestablish water delivery to the site.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp. For specific details of the extension see this link www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp using right no 2-10370. Protests may be submitted based on the criteria of Sec 42-203A and 42-222, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 6/24/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

June 06, 13, 2013

902888



OK
7.2.13
RJS

RECEIVED

29512 902888

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

RECEIVED

JUN 17 2013

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

County of Canyon)

)SS.

Leann Nobella
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

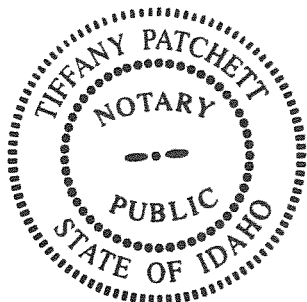
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
06/06/2013 06/13/2013

STATE OF IDAHO)

County of Canyon)

On this 13th day of June in the year of
2013 before me a Notary Public, personally appeared.
Leann Nobella, known or identified
to me to be the person whose name is subscribed
to the within instrument, and being by me first
duly sworn, declared that the statements therein
are true, and acknowledge to me that he/she
executed the same.



Notary Public for Idaho
Residing at Canyon County
My Commission expires 09/12/2018

RECEIVED

29512 902888

IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

RECEIVED

JUN 17 2013

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

County of Canyon)

SS.

Leann Nobella
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

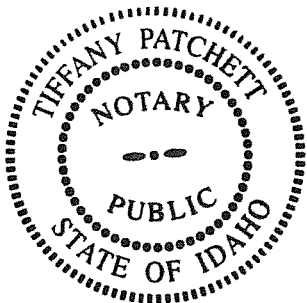
1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
06/06/2013 06/13/2013

Leann Nobella

STATE OF IDAHO)
County of Canyon)

On this 13th day of June in the year of
2013 before me a Notary Public, personally appeared.
Leann Nobella, known or identified
to me to be the person whose name is subscribed
to the within instrument, and being by me first
duly sworn, declared that the statements therein
are true, and acknowledge to me that he/she
executed the same.



[Signature]
Notary Public for Idaho
Residing at Canyon County
My Commission expires 09/12/2018