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DEPARTMENT OF
WATER RESOURCES

via email-dg

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

IN THE MATTER OF PERMIT NO.	)	
29-7931A	)	
(in the name of Ward & Sons Co., Inc.)	)	PETITION TO VOID OR RESCIND
	)	PERMIT
	)	

BARRY WILLIAMS (hereinafter "Petitioner"), by and through its attorneys of record, BARKER ROSHOLT & SIMPSON LLP, hereby files this *Petition to Void or Rescind Permit* held by WARD & SONS CO., INC. (Applicant") pursuant to IDAPA 37.01.01.230 and I.C. §§ 42-204, 42-219.

The initial bases for the petition are as follows:

1. The Applicant filed an application for permit to appropriate 9 cfs of groundwater in Basin 29 on March 15, 1990.
2. The Department issued a permit on January 22, 1991.
3. On February 16, 2004, the Applicant submitted proof of beneficial use claiming that 7.85 cfs had been diverted and used for irrigation purposes on 420 acres.

4. The Department conducted a field exam on October 4, 2000. The Department's beneficial use field report identifies a measurement of 6.28 cfs and apparently irrigation of 411 acres. At this time, the Applicant was using the same point of diversion to irrigate other lands under water right 29-7291.

5. Upon information and belief, the Applicant has not complied with the terms of the permit and has not irrigated the 411 acres identified under the beneficial use field report since 2000. Consequently, the Applicant is not entitled to the issuance of a water right license.

6. Non-beneficial use of water provides IDWR with a basis to void or rescind the previously issued permit under Idaho law.

7. The Petitioner reserves the right to amend this petition as necessary.

REQUESTS FOR RELIEF

1. The Department should investigate the Applicant's compliance with the terms of permit no. 29-7931A.
2. The Department should investigate the actual beneficial use of water under permit no. 29-7931A since 2000.
3. If the Department finds the Applicant has not beneficially used the water since 2000, the permit should be declared void, or alternatively the Department should rescind the permit.
4. The Department should refuse to issue a water right license for permit no. 29-7931A.
5. For other relief deemed just and necessary.

DATED this 1st day of July 2013.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Attorneys for Petitioner Barry Williams

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2013, I served a true and correct copy of the foregoing *Petition to Void or Rescind Permit* by depositing same in the United States mail, postage prepaid, and electronic mail, addressed to the following:

Director Gary Spackman
Deborah Gibson
IDWR
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Travis L. Thompson