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JAN 15 2013
DEPARTMENT OF
WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER SOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION) **MOTION TO SCHEDULE ORAL**
FOR TRANSER NO. 77610 IN THE) **ARGUMENTS BEFORE THE**
NAME OF PARKINSON FARMS) **DIRECTOR**

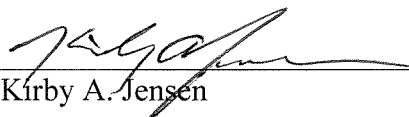
Kirby A. Jensen, representing himself, hereby respectfully petitions the Director to schedule oral arguments in the matter of the Application for Transfer No. 77610. This motion is supported and accompanied by a *Memorandum in Support of the Motion to Schedule Oral Arguments before the Director*, the Order Extending Deadline for Good Cause, as well as the evidence submitted, oral arguments, testimony, questions and comments which were made at a hearing on this matter which was held on May 17th and 18th, 2012, in Arco, Idaho.

The primary basis for this motion to schedule arguments before the Director is this transfer application could be equivalent to a “new appropriation” and adversely 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: “No State shall.....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 that there is additional evidence which may demonstrate that this application for transfer could compound the injury to other water rights beyond injury to the adjacent wells and possibly from one season to the next. Article XV of the Idaho Constitution, Section 4, states in part: “whenever such waters so dedicated shall have once been sold, rented or distributed to any person who has settled upon or improved land for agricultural purposes with the view of receiving the benefit of such water under such dedication, such person, his heirs, executors, administrators, successors or assigns, shall not thereafter, without his consent, be deprived of the annual use of the same” There are several individuals who have water rights that have points of diversion from creeks, springs and sloughs, which are down gradient of this application’s new point of diversion and up gradient of the original point of diversion. For over twenty (20) years, these creeks, springs and sloughs, have had little if any water available for use by those having water rights there from. Further explanation is provided in the accompanying Memorandum in Support of Motion to Schedule Oral Arguments before the Director.

I again respectfully petition the Director to schedule oral arguments in the matter of the Application for Transfer No. 77610.

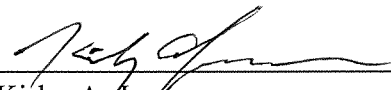
Dated this 11th day of January, 2013



Kirby A. Jensen

CERTIFICATE OF MAILING

I certify that on this 11th day of January, 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:


Kirby A. Jensen

1. Original to:

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

2. Copies to:

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