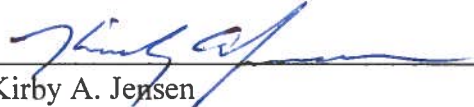


Dated this 4th day of September, 2012


Kirby A. Jensen

CERTIFICATE OF MAILING

I certify that on this 4th day of September, 2012, 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:

Department of Water Resources	☒ First Class Mail
Eastern District Office	☐ Hand Delivery
900 N. Skyline Drive	☒ Facsimile
Idaho Falls, Idaho 83402	☐ Overnight Mail
	☐ Email

2. Copies to:

Parkinson Farms	☒ First Class Mail
2253 North 3100 West	☐ Hand Delivery
Arco, Idaho 83213	☐ Facsimile
	☐ Overnight Mail
	☐ Email

James P. Speck	☒ First Class Mail
Speck & Aanestad	☐ Hand Delivery
P. O. Box 987	☐ Facsimile
Ketchum, ID 83340	☐ Overnight Mail
	☐ Email

Darrell L. McDonald	☒ First Class Mail
P.O. Box 246	☐ Hand Delivery
Arco, Idaho 83213	☐ Facsimile
	☐ Overnight Mail
	☐ Email

Seth Beal	☒ First Class Mail
2827 North 3375 West	☐ Hand Delivery
Moore, Idaho 83255	☐ Facsimile
	☐ Overnight Mail
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Kirby A. Jensen
2781 N 3375 W
Moore, Idaho 83255-8715
Telephone: 208-589-5472
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Email: kirby@ida.net

BEFORE THE DEPARTMENT OF WATER SOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION) **MEMORANDUM IN SUPPORT OF**
FOR TRANSER NO. 77610 IN THE) **PETITION FOR RECONSIDERATION**
NAME OF PARKINSON FARMS)

Kirby A. Jensen, representing himself, hereby respectfully petitions this department for reconsideration of its *Preliminary Order Approving Application for Transfer* issued on August 22nd 2012.

As citizens of the United States, we often have the opportunity to pledge allegiance to the flag, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all. So in addition to the flag, we pledge allegiance to the Republic for which it stands. And one of the key attributes of our republic, or nation, is the principle of justice for all. That principle is again reaffirmed in the 14th Amendment to our Constitution, where it plainly states: “nor” [shall any State] “deny to any person within its jurisdiction the equal protection of the laws.”

Would Parkinson Farms be denied justice if transfer no. 77610 were denied, lets examine the facts:

1. They have the option to reconstruct or drill deeper.
2. They have the option to have a reasonable pumping level established.
3. They have the option to make a priority call.

It would seem that there are several dilemmas with each option:

1. Reconstruction or drilling deeper could be initially expensive plus the annual operating costs would be greater if water had to be pumped from a lower level. Also there's the risk that no more water could be found and all that expense could be wasted.

2. Even if a reasonable pumping level were to be established, it might bring them back to re-drilling or going deeper, depending on where the level would be. Also, because our aquifer is transient, with varied rates of flow, the aquifers response time could be too little too late, after turning other wells off.

3. Making a priority call could be a dilemma, because their latest priority for the southern wells is April 1st, 1967, and the priority date of the north or upstream well is May 29th 1977. Thus they could have to turn off more water than they might hope to gain by making a priority call. Again the response time of the aquifer could be too little to late.

So it would seem that the transfer to the north well may be more advantageous. However, gaining advantage for them could put others at a disadvantage, even after advancing the priority dates of the transferred water rights, let's examine the facts:

1. Others may have to reconstruct or drill deeper.
2. Others may have to request that reasonable pumping levels be established.
3. Others may have to make a priority call.

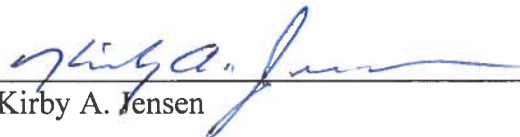
It would seem that others would then be burdened with the same dilemmas that Parkinson Farms is now faced with. There's an old phrase that comes to mind, "passing the buck", which means to evade responsibility by passing it on to someone else.

In a memorandum to Governor Andrus from Director Higginson dated May 22, 1994, last sentence of the first paragraph, he says: "It should be noted that a moratorium on new development is in place in the Big Lost River Basin".

As testified by Mr. Brockway at the hearing, this transfer is hydrogeology equivalent to a new appropriation at the location. And Mr. Cefalo's comment about creating a "sub class" of people who reside between the two points of diversion would seem an accurate assessment of the effects of this transfer.

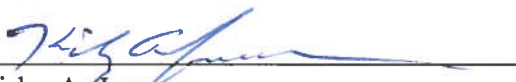
Therefore, approving this transfer may have the effect of denying justice for all and of denying equal protection of the laws. Also it may set a precedent of allowing similar transfers and compounding the negative effects passed on to others.

Thanks for reconsidering this matter.


Kirby A. Jensen

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