



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

April 20, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641

RE: Preliminary Order Rescinding Transfer No. 73927 Approval
Water Right No. 63-7270B

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed Preliminary Order Rescinding Transfer No. 73927 Approval pursuant to Section 67-5243, Idaho Code. The "**preliminary order**" can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described in the enclosed information sheet.

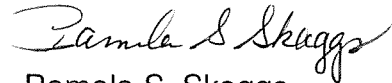
Please review the order and the enclosed computer generated database report representing the water right record per Snake River Basin Adjudication partial decree.

Please note, water right 63-7270B was leased to the Water Supply Bank (Bank) on March 21, 2012. In accordance with the bank lease acceptance, the lessor or current right holder may not use the right(s) while it is in the Bank, except as authorized under fully executed rental agreements. As the right holder, lessee and renter of this right, I remind you that the right as described following the issuance of the attached order is the same as the historical use described on the lease acceptance and should not be used even if the right is not rented from the Bank. The current rental agreement describes the authorized use and limitations. The right will remain in the Bank until **December 31, 2016**, unless released earlier by the Water Resource Board or upon request by the right holder. **To reduce the term of the lease, the right holder must submit a written request to the department.** The department will verify if the right is rented or available for release, and notify the right holder of the release date.

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 questions, please contact me at 208-287-4951.

Sincerely,

A handwritten signature in cursive script that reads "Pamela S. Skaggs".

Pamela S. Skaggs
Water Rights Supervisor

Enclosure(s)

cc: MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD

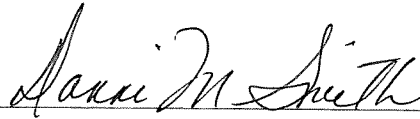
CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing Preliminary Order to the person(s) listed below:

**RE: ORDER RESCINDING TRANSFER NO. 73927 APPROVAL
WATER RIGHT NO. 63-7270B**

SNAKE RIVER DAIRIES LLC
15188 S CAN ADA RD
MELBA ID 83641

MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD
DYLAN B LAWRENCE
PO BOX 829
BOISE ID 83701

A handwritten signature in cursive script, reading "Danni M. Smith", is written over a horizontal line.

Danni M. Smith

Technical Records Specialist 2

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.