



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 30, 2012

MIDDLETON IRRIGATION ASSN INC
PO BOX 214
MIDDLETON ID 83644-0214
And
MIDDLETON MILL DITCH CO
PO BOX 848
MIDDLETON ID 83644-0214

RE: License No. 63-12304

Issuance of License

Dear Water Right Holder(s):

This may be a duplicate notice and if so, please disregard. In reviewing our files it was not clear that you received all the documents you were supposed to in the original mailing.

The Department of Water Resources has issued the enclosed Order removing the measuring device requirement that was a condition of approval on Permit 63-12304 and replacing it with the following modified version:

Upon notification by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

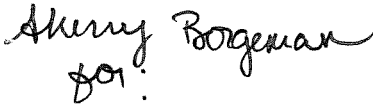
The Department of Water Resources has also issued the enclosed Application for Amendment For Licensing Purposes and Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review the conditions of approval and remarks listed on your license.

The license and order are PRELIMINARY ORDER(S) issued by the Department pursuant to section 67-5243, Idaho Code. They 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.

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,

A handwritten signature in cursive script that reads "John Westra". The signature is written in dark ink and is positioned above the printed name.

John Westra

Western Regional Manager

Enclosure(s)

RECEIVED

DEC 20 2011

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

(For Licensing Purposes)

WATER RIGHT NO. 63-12304

Date of Priority: January 04, 1996

Maximum Diversion Rate: 10.00 CFS

Maximum Diversion Volume: 4,090.5 AF

Comes now MIDDLETON IRRIGATION ASSN INC

PO BOX 214

MIDDLETON ID 83644-0214

And

MIDDLETON MILL DITCH CO

PO BOX 848

MIDDLETON ID 83644-0214

and represents to the Director of the Idaho Department of Water Resources that they are the owners and holders of Permit to Appropriate the Public Waters of the State of Idaho No. 63-12304, and requests that the permit be changed as follows:

Source: WILLOW CREEK

Tributary: BOISE RIVER

BENEFICIAL USE

IRRIGATION

PERIOD OF USE

03/01 to 11/15

RATE OF DIVERSION

10.00 CFS

ANNUAL VOLUME

4,090.5 AF

LOCATION OF POINT OF DIVERSION:

WILLOW CREEK SE1/4NW1/4 Sec. 6, Twp 04N, Rge 02W, B.M., CANYON County

Place of use within the boundaries shown on attached layout.

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this 16th day of December, 20 11.


MIDDLETON IRRIGATION ASSN.
(Signature & Title)

Signed this 16th day of December, 20 11.


Harold Foote President
MIDDLETON MILL DITCH CO.
(Signature & Title)

SCANNED

DEC 20 2011

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 63-12304

FOR DEPARTMENT USE ONLY

Preliminary check by KW Fee = 58.00 Received by JB # W039813 Date 12.20.2011
42.00 88 W039814 12.20.2011

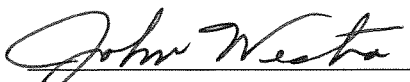
ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 63-12304 with the following:

CONDITIONS OF APPROVAL

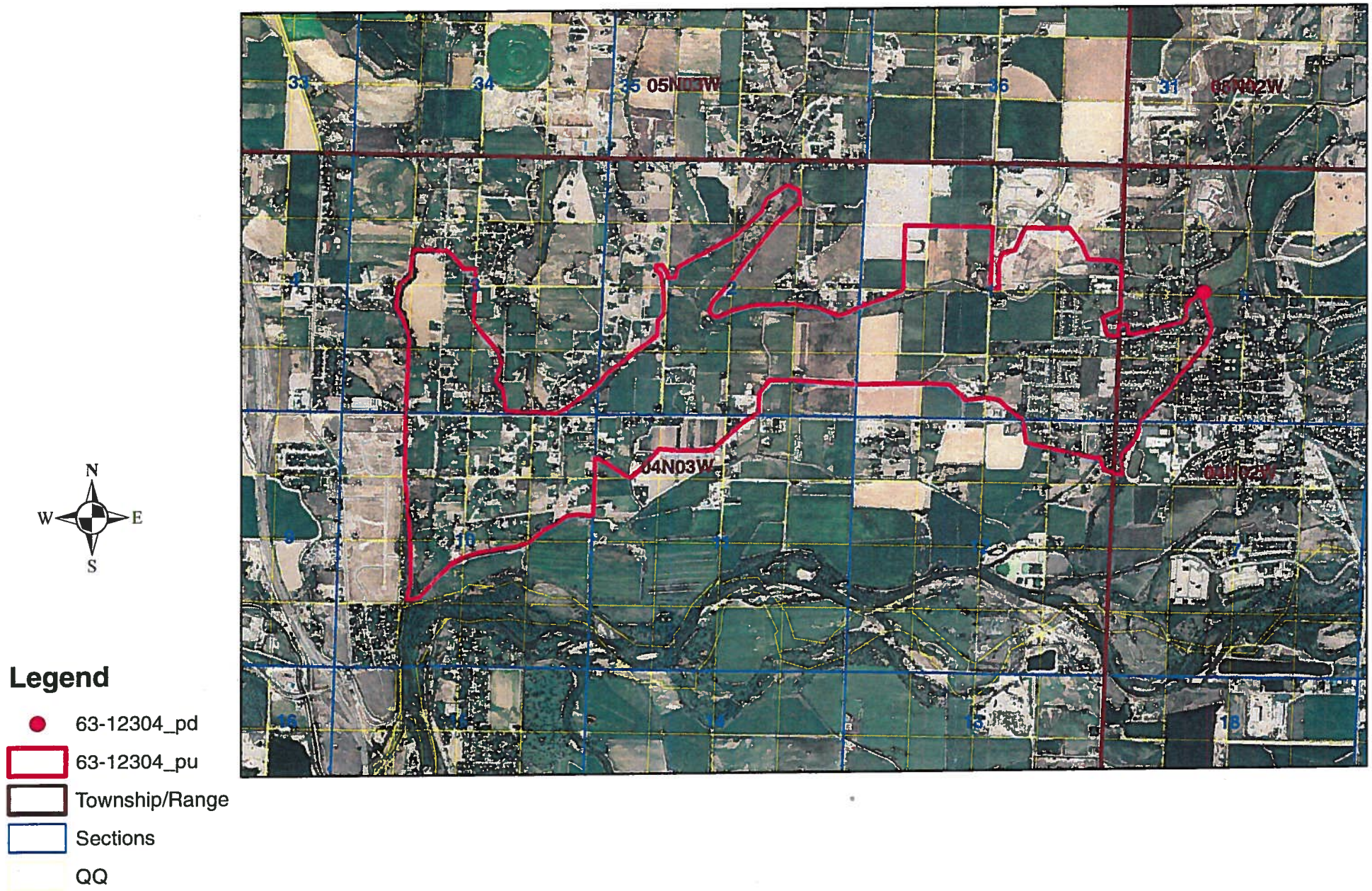
1. This right is limited to the irrigation of 909 acres within the authorized place of use in a single irrigation season.
2. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
3. 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.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
5. Upon notification by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
6. The issuance of this right does not grant any right-of-way or easement across the land of another.
7. The Director retains jurisdiction of this right to require streamflow augmentation or other action determined to be appropriate to protect prior surface water or ground water rights. Such stream flow augmentation or other action will be required only upon a determination of need and applicability by the Director.

Witness my hand this 27th day of December, 2011.


for. GARY SPACKMAN
Interim Director

SCANNED
DEC 28 2011

Middleton Irrigation Assn Inc. and/or Middleton Mill Ditch Co



State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-12304

Priority: January 04, 1996

Maximum Diversion Rate: 10.00 CFS
Maximum Diversion Volume: 4,090.5 AF

It is hereby certified that MIDDLETON IRRIGATION ASSN INC
PO BOX 214
MIDDLETON ID 83644-0214
And
MIDDLETON MILL DITCH CO
PO BOX 848
MIDDLETON ID 83644-0214

have complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated January 04, 1996; and have submitted Proof of Beneficial Use on May 21, 1997. An examination confirms water is diverted from:

SOURCE

WILLOW CREEK

Tributary: BOISE RIVER

and a water right has been established as follows:

BENEFICIAL USE
IRRIGATION

PERIOD OF USE
03/01 to 11/15

DIVERSION RATE
10.00 CFS

**ANNUAL
DIVERSION VOLUME**
4,090.5 AF

LOCATION OF POINT OF DIVERSION:

WILLOW CREEK

SE1/4NW1/4

Sec. 6, Twp 04N, Rge 02W, B.M., CANYON County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 909 acres within the authorized place of use in a single irrigation season.
2. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
3. 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.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.

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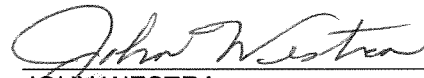
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-12304

5. Upon notification by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
6. The issuance of this right does not grant any right-of-way or easement across the land of another.
7. The Director retains jurisdiction of this right to require streamflow augmentation or other action determined to be appropriate to protect prior surface water or ground water rights. Such stream flow augmentation or other action will be required only upon a determination of need and applicability by the Director.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 27th day of December, 2011.


JOHN WESTRA
Western Regional Manager

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DEC 28 2011



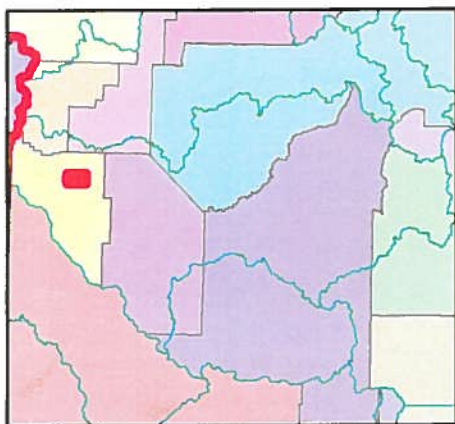
Middleton Irrigation Assn Inc

Water Rights: 63-12304

Irrigation Service Area Boundary
GIS Place of Use Illustration

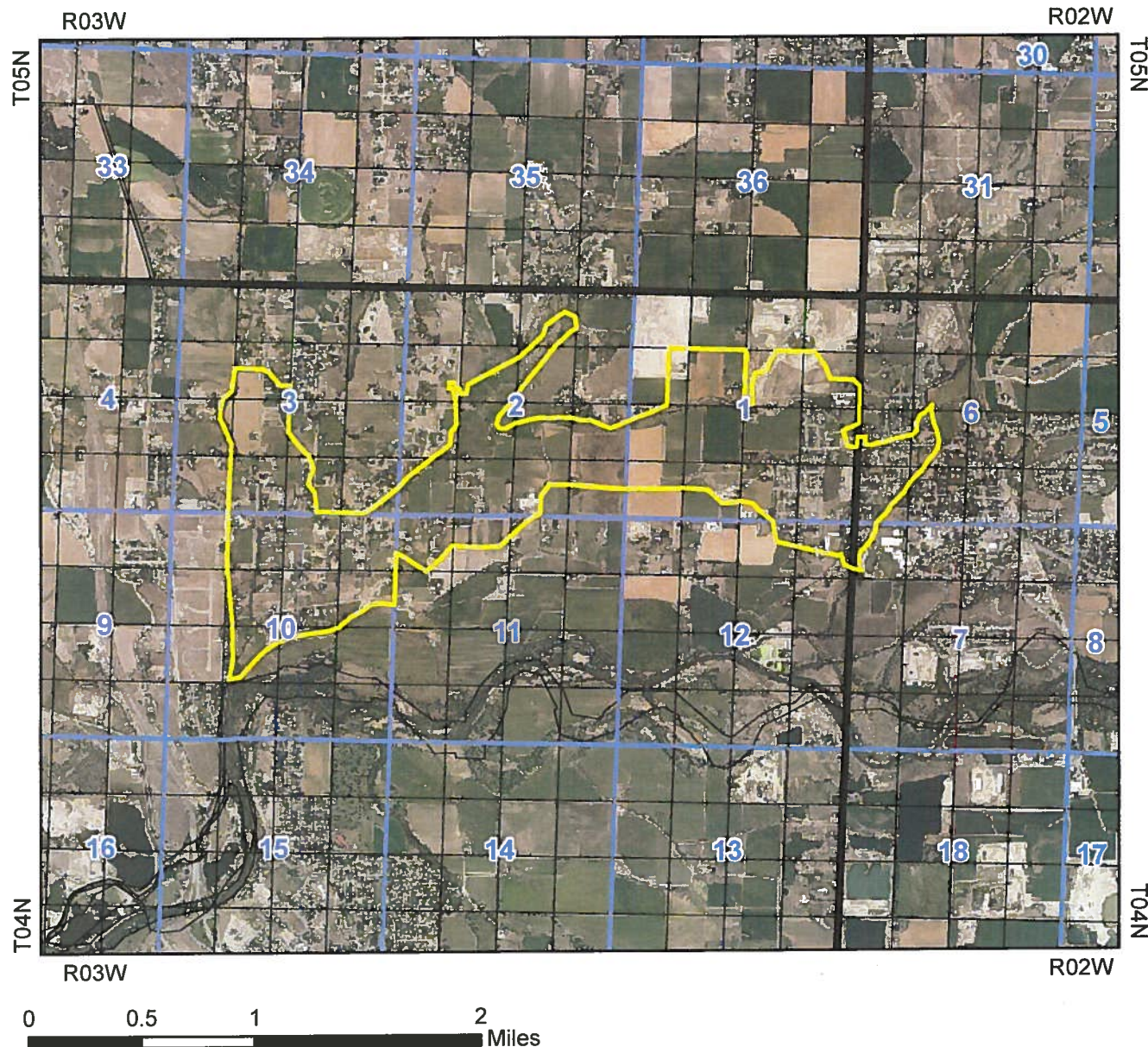
Legend

-  Service Area
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



Canyon County
IDWR Basin 63

Prepared by Curtis, Sharla
On December 21, 2011
2009 Aerial Photography



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-12304) **ORDER REMOVING MEASURING**
IN THE NAME OF MIDDLETON IRRIGATION) **DEVICE REQUIREMENT**
ASSN. INC. AND MIDDLETON MILL DITCH)
COMPANY)

This matter having come before the Department of Water Resources (Department) as a request to remove a measuring device requirement, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On June 11, 1996, the Department issued Permit 63-12304 (permit) to Middleton Irrigation Assn. Inc. and Middleton Mill Ditch Company (permit holders) with a condition of approval requiring the installation and maintenance of a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

2. On September 23, 2010, a Department field examiner corresponded with the permit holders regarding the requirement of a measuring device and lockable controlling works. The examiner reported that the installation of a flow measurement device had been complied with but the lockable controlling works requirement had not.

3. On November 12, 2010, the permit holder's attorney corresponded with the Department and requested that the condition requiring a measuring device and lockable controlling works be installed prior to diversion of water be modified to require the installation of the measuring device and lockable controlling works be installed upon future notification by the Department.

4. On November 2, 2011, the Department corresponded with the watermaster of Water District 63 requesting comments and written recommendations regarding the permits holder's request. The watermaster was given 14 days to respond to this request. The Department did not receive a response concerning the modification of the requirement on Permit 63-12304.

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.

SCANNED

DEC 28 2011

SCANNED

2011

2. Installation of a measuring device and lockable controlling works is not necessary for administration of the diversion of water by the holder of Permit 63-12304 at this time, but it may be necessary in the future.

ORDER

The condition of approval requiring the permanent installation of a measuring device and lockable controlling works as part of the diversion works for the permit is **MODIFIED**.

Upon notification by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Dated this 27th day of December, 2011.



John Westra

Western Regional Manager

SCANNED

DEC 28 2011

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.

CERTIFICATE OF SERVICE

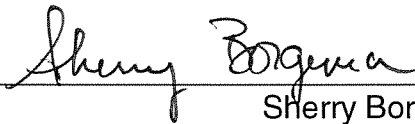
I HEREBY CERTIFY that on this 30th day of January, 2012, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

Document Served: Approved Application for Permit
 Water Right License
 Order removing the measuring device requirement

RE: WATER RIGHT NO. 63-12304

**MIDDLETON IRRIGATION ASSN INC
PO BOX 214
MIDDLETON ID 83644-0214**

**MIDDLETON MILL DITCH CO
PO BOX 848
MIDDLETON ID 83644**

A handwritten signature in cursive script, reading "Sherry Borgeman", is written over a horizontal line.

Sherry Borgeman
Administrative Assistant