

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

IN THE MATTER OF APPLICATION FOR) PERMIT #63-11869 IN THE NAME OF) J P JOHNSTON) _____)	PRELIMINARY ORDER VOIDING APPLICATION
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FINDINGS OF FACT

1. On June 18, 1992, J P Johnston filed application for permit #63-11869 with the Idaho Department of Water Resources (IDWR) seeking ground water for irrigation and stockwater beneficial use.
2. On May 29, 2008, IDWR sent J P Johnston a letter requesting intention for IDWR to further process the application.. The response was to be submitted within 30 days of the letter date.
3. To date, IDWR has not received a response from J P Johnston.

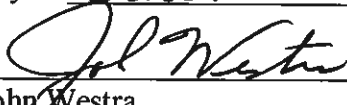
CONCLUSIONS OF LAW

1. Idaho Code (IC)§ 42-204 and the Rules and Regulations of IDWR state that if an applicant does not submit requested information to IDWR within thirty (30) days of the date of request, IDWR may void the application. Water Appropriation Rule #35 also requires applicants to provide written notification to IDWR of changes in the applicant's name or address.
2. J P Johnston failed or refused to provide IDWR the requested information. The application should be voided.

ORDER

IT IS HEREBY ORDERED that Application for Permit #63-11869 in the name of J P Johnston be VOIDED.

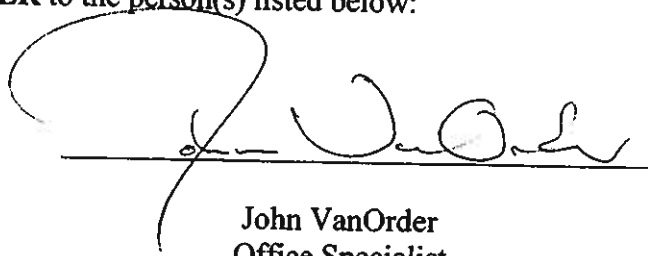
Dated this 1st day of October, 2008



John Westra
Manager, Western Regional Office

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2008, I mailed a true and correct copy of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

A handwritten signature in black ink, appearing to read "John VanOrder", is written over a horizontal line. The signature is fluid and cursive.

John VanOrder
Office Specialist

J P Johnson
10770 Janie RD
Boise ID 83703

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: J P JOHNSTON
Address: 10770 JANIE RD
BOISE ID ~~83703~~
83714

208-939-0912
869-0740

2. Source: GROUNDWATER
3. Location of Point of Diversion: 41 Trib. to: NENE Sec. 3, Township 04N, Range 01E
ADA County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	03/15	11/15	0.080		
STOCKWATER	01/01	12/31	0.020		

5. Total quantity to be appropriated is:
0.100 CFS (and/or) AF

6. Proposed diverting works:

- Description of ditches, flumes, pumps, headgates, etc.
6" WELL, PUMP AND SPRINKLERS.
- Height of storage dam feet; active reservoir capacity acre-feet; total reservoir capacity acre-feet; period of year when water will be diverted to storage: to inclusive.
- Proposed well diameter is 6 inches; proposed depth of well is feet.
- Is groundwater with a temperature greater than 90F being sought? NO

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.

8. Description of proposed uses:
IRRIGATION AND STOCKWATER

9. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
04N	01E	3	41 NENE 2.5			2.5

Total number of acres irrigated: 2.5

Place of Use: STOCKWATER, same as IRRIGATION use

10. Describe any other water rights used for the same purposes.

11. a. Who owns the property at the point of diversion?

APPLICANT

b. Who owns the land to be irrigated or place of use?

APPLICANT

c. If the property is owned by a person other than the applicant,
describe the arrangement enabling the applicant to make this filing.

12. Remarks:

Application being held pending withdrawal of drought moratorium.
Place of use is also known as Lot 11, Block 2, Mary Glen
Subdivision No. 2.

13. Map of proposed point of diversion and place of use attached? ☒

BE IT KNOWN that the undersigned hereby makes application for permit to
appropriate the public waters of the State of Idaho as herein set forth.

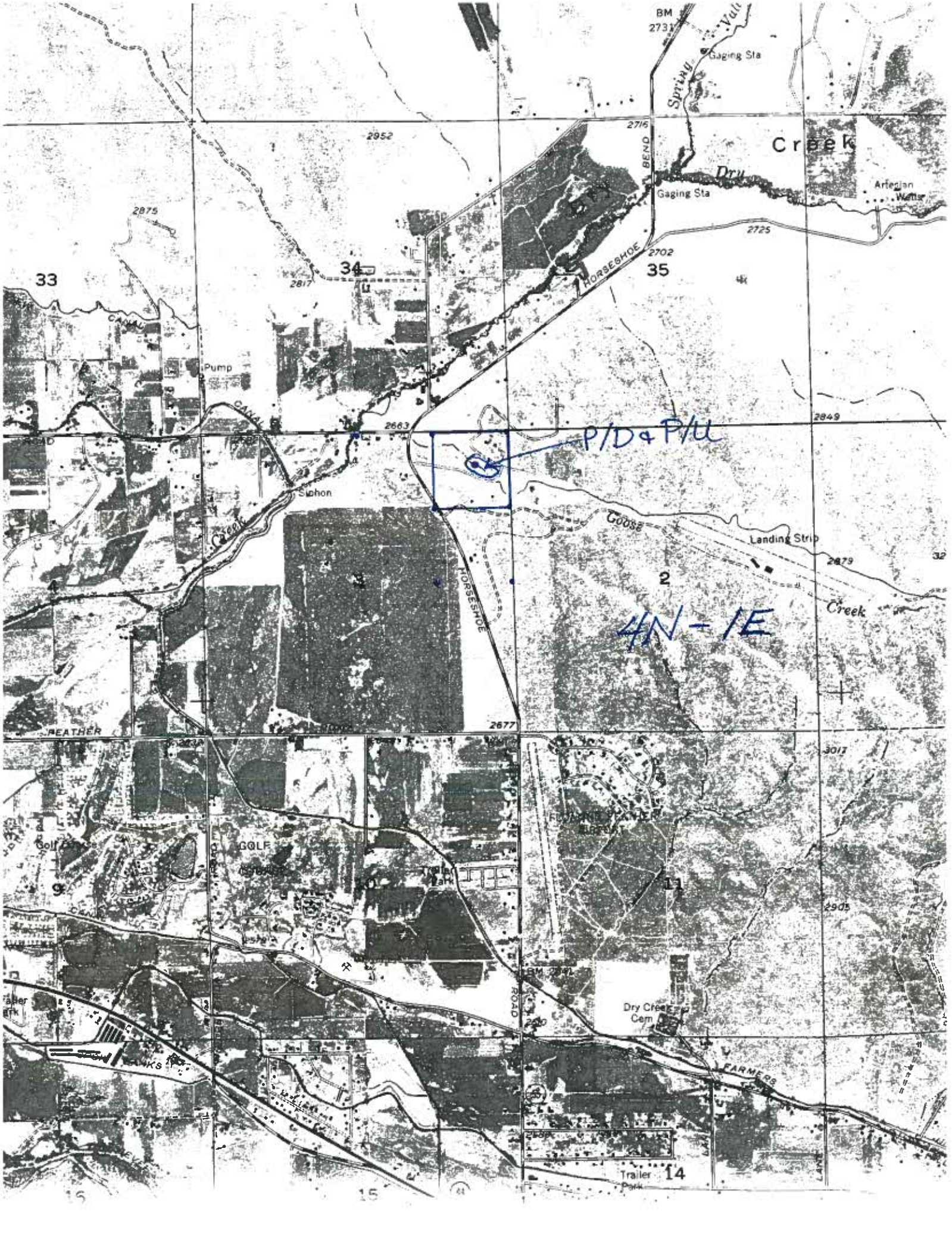

Applicant

Received by KW Date 6-18-92 Time 11:00 Preliminary check by Ly

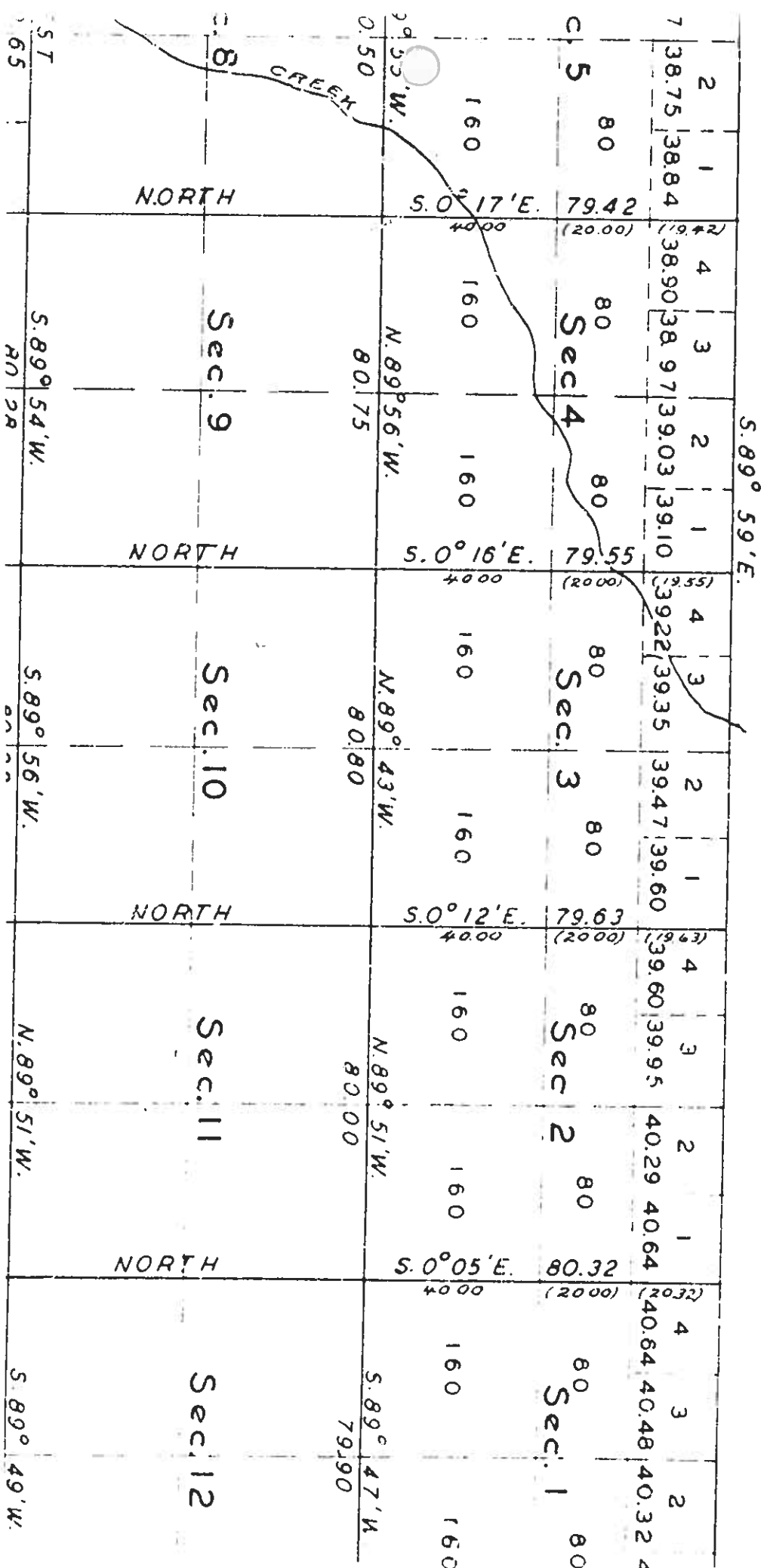
Fee \$ 30.00 Receipted by KW # W014920 Date 6-18-92

Publication prepared by DB Date 10-31 2008 Published in IDAHO STATESMAN

Publication approved _____ DATE: _____ Date 7 NOVEMBER 6 & 13, 2008



COPY OF RANGE No 1 EAST OF THE BOISE MERIDI



Buffington, Denise

From: Buffington, Denise

Sent: Friday, October 31, 2008 9:13 AM

To: legals@idahostatesman.com

Subject: Legal Notices

Attachments: Ada County - Cover Letter.RTF; 63-11869 Ad.RTF; 63-12264 Ad.RTF; 63-12265 Ad.RTF; 63-12278 Ad.RTF; 63-12287 Ad.RTF; 63-12333 Ad.RTF; 63-12501 Ad.RTF; 63-12546 Ad.RTF; 63-33121 Ad.RTF; X-fer 73905 Ad.doc; X-fer 73817 Ad.doc

Attached please find (11) legal notices, being submitted for publication. Please contact me if you are not able to run the notices on the dates requested.

Thank you,

Denise Buffington
Idaho Department of Water Resources
Western Region

10/31/2008

October 31, 2008

Legal Notice Department
IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

RE: Application for Permit No. 63-11869, 63-12264, 63-12265, 63-12278, 63-12287, 63-12333
63-12501, 63-12546 & 63-33121

RE: Transfer No. 73905
Water Right No(s). 63-32324

RE: Transfer No. 73817
Water Right No(s). 63-7123 63-4023B 63-17454 63-2535 63-4086B

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/24/2008. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-11869

J P JOHNSTON
10770 JANIE RD
BOISE ID 83714

Point(s) of Diversion L1 (NENE) S3 T04N R01E ADA County Source GROUND WATER

Use: IRRIGATION 03/01 To 11/15 0.08 CFS

Use: STOCKWATER 01/01 To 12/31 0.02 CFS

Total Diversion: 0.1 CFS

Date Filed: 06/18/1992

Place Of Use: IRRIGATION

T04N R01E S3 NENE Lot 1

Number of Acres 2.5

Remark: Water bearing zone to be appropriated is from 200 to 400 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/24/2008. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Published on November 6th & 13th, 2008

RECEIVED

OCT 14 2008

WATER RESOURCES
WESTERN REGION

Response Form

Name of Applicant: J P Johnston

10770 Janie Rd
Boise Id 83714

Application No: 63-11869

* (Please read carefully and mark)

☒ Yes, I intent to proceed with the water use development outlined in the application. As applicant, I still retain full possessory interest in the listed point of diversion and place of use locations on the application.

(Mark one choice)

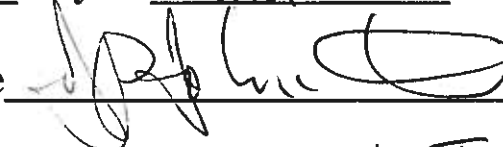
☒ The water bearing zone for the proposed well (point of diversion) will be greater than 200 ft. My application proposed (well) water bearing zone will be 200 to 400 feet.

☐ A Mitigation Plan will be submitted within 90 days to mitigate my water use that would otherwise cause injury to existing surface water rights from the Boise River.

☐ No, I do not wish to proceed with final processing of this application. I hereby withdraw my Application for Permit to Appropriate The Public Water of the State of Idaho

Signed this 09 day of Oct 2008

Applicant Signature



Printed Applicant Name

J P Johnston

Return Form to: J. Westra

Idaho Dept. of Water Resources
2735 Airport Way
Boise ID 83705



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

October 1, 2008

J P Johnson
10770 Janie RD
Boise ID 83703

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

RE: Preliminary Order in the Matter of Application for Permit #63-11869

Dear Applicant:

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

A handwritten signature in black ink that reads "John Westra". The signature is written in a cursive, flowing style.

John Westra, Manager
Western Regional Office

Enclosures

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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. 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 Idaho Water Resource Board (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.

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 issuance 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.



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

May 29, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

J P Johnston
10770 Janie RD
Boise ID 83703

RE: Held Application for Permit #63-11869 filed 06/18/92

Dear Applicant:

As you aware, the above reference application for permit located in the Boise River Basin has been held by our agency since the 1990s. The Department began holding new groundwater applications for consumptive use due to prolonged drought and concerns about declining aquifer levels. As a result, the Treasure Valley Ground Water Study was initiated. The study was completed in 2002, and now provides modeling for projecting future groundwater availability in the valley. Our agency will commence processing held applications as staff resources are available.

Attached is a proof profile of your application as submitted to our agency. You must still have full possessory interest- ownership in the listed point of diversion and place of use land locations for processing consideration. Please check carefully the specifics on the application. Your application will need to have public notice published in the local county newspaper. The notice will be published once per week for 2 consecutive weeks. Anyone having issue with an application may file a protest within the time allowed.

The application lists the point of diversion in Township 04N, Range 01E, Section 3. Ground water less than 200 feet depth at this location is considered tributary to the Boise River. Surface water in or tributary to the Boise River above Star bridge is fully appropriated. This means that a new appropriation of ground water would potentially injure a senior Boise River surface water right. Our agency can not process your application unless one of the following can be satisfied:

- 1. An acceptable mitigation plan is filed to mitigate for ground water use that would otherwise cause injury to senior water rights from the Boise River. An example might be the purchase and retirement of an equivalent Boise River surface right*
- 2. The application proposes to appropriate ground water deeper than 200 feet below ground surface. Applications meeting this criterion shall be evaluated on a case-by-case basis in accordance with applicable water laws and rules.*

Page 2.
Application

We are asking for you to convey your intentions regarding this application by completing the attached response forms. Please respond to the following:

- If you desire to develop the water use, and wish our agency to complete the processing of your application, please mark the *YES* response. Also, mark the choice needed to meet the Boise River shallow ground water criteria. A consultant list is enclosed if you need assistance.

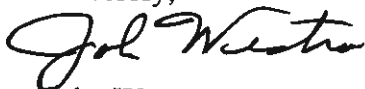
OR

-Mark the *NO* response to withdraw the application. The applications will be removed from processing and our records. Our agency will not be able to provide refunds of fees for withdrawn applications.

-Sign, date, and return the response. Response forms need to returned to this office no later than 30 days of this letter date.

Should you have questions about the history or further processing of this application, please contact Denise Buffington or John Westra at the Western Regional Office, phone 334-2190.

Sincerely,



John Westra, Manager Western Region

Enclosure: Proof Report, Response Sheet , Consultant list, Map Shallow GW.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 22, 1993

J P Johnston
10770 Janie Rd
Boise, ID 83703

RE: Application for Permit 63-11869

Dear Applicant:

The above application for permit to appropriate irrigation water from ground water was received on 06/18/1992. We are now starting to catch up on our backlog and apologize for this correspondence delay. According to the information that you provided, no other rights are currently used on the land in question. Therefore, a new consumptive use of water is proposed.

Due to continued drought and the need to protect existing water rights and water supplies, the Director of this agency declared a moratorium on 5/15/92 concerning water right applications proposing new consumptive uses of public water. Your application cannot be processed for possible approval until the moratorium ends. Delays related to department decisions do not affect the date of priority or seniority of an application.

This office will hold the application pending future developments in the water supply situation and will inform you of any changes. You might be able to locate someone with a valid water right with available water to sell or lease for your needs. If so, an Application for Transfer of Water Right should be filed at this office to legally change the right(s) prior to any sale or lease.

Please let me know if you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Lori A. Graves'.

Lori A. Graves
Sr. Water Resource Agent



DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 19, 1995

**Distribution: Applicants Whose Water Right Applications Were Held
Without Action Under the Boise River Basin
Moratorium**

Dear Applicant:

As you might be aware, on May 3, 1995 the Director of the Department of Water Resources, Mr. R. Keith Higginson, signed an Amended Moratorium Order which provides for the processing of previously held applications within the Boise River Basin, with certain restrictions. Enclosed for your information is a copy of the Order.

As provided in the Order, this office will resume the processing of these applications in order of priority at a rate of 30 applications per month. Depending on how many applicants wish to proceed with development of their projects, the processing of the 338 presently-held applications could require as much as a year. To enable you to make an estimate as to when your application(s) will be processed, please be advised that 244 of the applications have priority (receipt) dates of 1992; 32 are dated 1993; 37 are dated 1994; and 25 are dated 1995.

As new applications are received, they are sorted into two groups. Those that would not have been held back under the moratorium are processed immediately. To assure fairness in processing, those that would have been held back under the moratorium, such as irrigation applications, are placed at the end of the moratorium processing line.

Note that the Order requires that all applications held under the moratorium will be advertised (or re-advertised if previously advertised), in order to enable neighboring water users to examine the proposed uses in view of water availability information gained during recent drought years. There will be no additional charge to the applicants for this process. For applications that propose use of ground water, the advertisement must include an indication of the depth interval from which the applicant proposes to withdraw water.

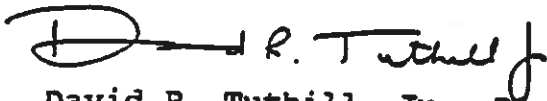
Please find enclosed a Profile Report which provides information from our water rights data base describing each of your moratorium-held applications. In addition we have included one response form for each application, which enables you to indicate whether you wish to proceed with processing of your water right application(s).

May 19, 1995

In case you no longer intend to develop a water use as described on an application, please complete and return the enclosed Withdrawal Form. Because of the time and effort already devoted to researching water availability in the Boise River basin, the Department will not be able to provide refunds of fees for applications that are withdrawn.

If you have questions about this process, or if you need assistance in completing the response form, please feel free to contact this office at (208) 334-2190. Response forms received no later than May 31, 1995, will be used in compiling the applications that will be advertised during June.

Sincerely,



David R. Tuthill, Jr., P. E.
Manager, Western Region Office

Enclosures

Amended Moratorium Order
Profile Report(s)
Response Form(s)
Application Withdrawal Form(s)