

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

IN THE MATTER OF APPLICATION FOR)

PERMIT #63-31145 IN THE NAME OF)

MICHAEL GOODELL)

PRELIMINARY ORDER

VOIDING APPLICATION

FINDINGS OF FACT

1. On May 15, 1992, IDWR placed a "Hold" on the processing of new ground water appropriations in the Boise River Basin.
2. On January 25, 2001, Michael Goodell filed application for permit #63-31145 with the Idaho Department of Water Resources (IDWR) seeking ground water for irrigation beneficial use.
3. In early January 2008, IDWR again resumed processing of new ground water appropriations in the Boise Basin. On July 23, 2008, IDWR sent Michael Goodell a letter requesting his intent for processing the application for permit. A response was required within 30 days from the letter date.
4. To date, IDWR has not received a response from Michael Goodell.

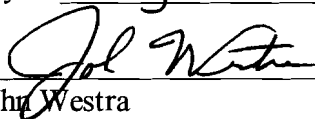
CONCLUSIONS OF LAW

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. Micheal Goodell failed or refused to provide IDWR the requested information. The application should be voided.

ORDER

IT IS HEREBY ORDERED that Application for Permit #63-31145 in the name of Michael Goodell be VOIDED.

Dated this 29th day of August, 2008



John Westra

Manager, Western Regional Office

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2008, I mailed a true and correct copy of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:



John VanOrder
Office Specialist

Application for Permit #63-31145

Michael Goodell
14899 Sand Hollow Dr
Caldwell, ID 83607

11/99

RECEIVED

APR 11 2008

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR PERMIT

To change the ownership of an application for permit

I, Michael Goodell personal rep, hereby assign to Michael Goodell
of, 14899 Sand Hollow Rd Caldwell, Id. 83607 899417
(Full Address) (Phone)

All my right, title, and interest in and to Application for Permit No. 63-31145
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for
Permit No. _____ to appropriate the public waters of the State of Idaho.
(Describe portion of the application for permit assigned, listing the number of acres in each 40 acre
subdivision, point of diversion location, and amount of the water in cubic feet per second.)

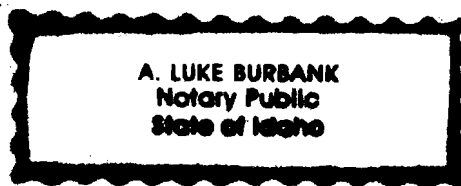
Made this 10th day of April, 20 08.

Michael Goodell
Applicant(s)

State of Idaho)
County of CANYON)ss

On this 10 day of April, 20 08, personally appeared before me the signer(s) of the above
instrument, who duly acknowledged to me that he (she) (they) executed the same.

SEAL



A. Luke Burbank
Notary Public residing at
CALDWELL, IDAHO

My commission expires: 10.25.2013

✓ database
updated.

RECEIVED

APR 11 2008

WATER RESOURCES
WESTERN REGION

FILED
7:25 A.M. P.M.
SEP 14 2005

CANYON COUNTY CLERK
C ROBINSON, DEPUTY

Todd A. Rossman, ISB #4023
WHITE PETERSON, P.A.
5700 East Franklin Road, Suite 200
Nampa, Idaho 83687-7901
Telephone: (208) 466-9272
Facsimile: (208) 466-4405
E-Mail: tar@whitepeterson.com

Attorneys for Personal Representative

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

Magistrate Division

In the Matter of the Estate of:

ROBERT A. GOODELL,

Deceased.

)
) Case No. CV 05-9626
)

)
) **LETTERS TESTAMENTARY**
) **AND OATH OF ACCEPTANCE**
)

) (I.C. §§ 15-3-602 and 15-3-702)
)

MICHAEL GOODELL is hereby appointed Personal Representative of the Estate of
ROBRT A. GOODELL, deceased, with all authority pertaining thereto. Administration of the
Estate is unsupervised.

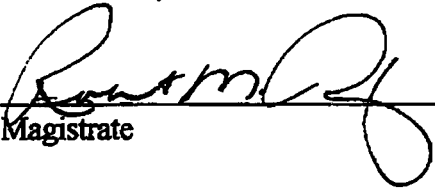
These Letters are issued to evidence the appointment, qualification and authority of the
Personal Representative.

LETTERS TESTAMENTARY AND OATH OF ACCEPTANCE - 1

WITNESS: ROBERT M. TAISEY, Magistrate of the District Court, County of Canyon,

State of Idaho, with the seal of the Court affixed this 14 day of September, 2005.

(SEAL)

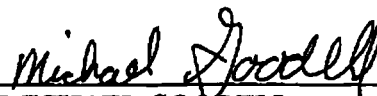

Magistrate

OATH OF ACCEPTANCE

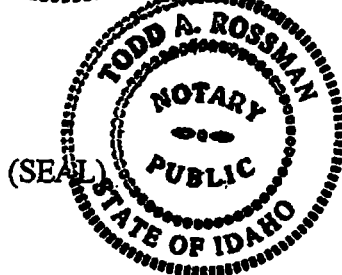
STATE OF IDAHO)
 :SS
County of Canyon)

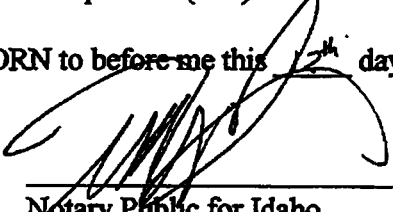
MICHAEL GOODELL hereby accepts appointment to the office of Personal Representative of the Estate of ROBERT A. GOODELL, deceased, and does solemnly swear that he will perform, according to law, the duties of Personal Representative of said Estate.

State of Idaho
County of Canyon
I hereby certify that the foregoing instrument is
a true and correct copy of the original as the
same appears in this office.
DATED 14 Sept 2005
By Todd A. Rossman Clerk of the District Court
Deputy
JUDICIAL DEPARTMENT


MICHAEL GOODELL
14899 Sand Hollow
Caldwell, ID 83607
Telephone: (208) 459-2196

SUBSCRIBED AND SWORN to before me this 14 day of September, 2005.




Notary Public for Idaho
Commission expires: 1-4-2009

jc/W:\Work\G\Goodell, Robert 3553\Probate\Letters Testamentary.doc

Ident. No. 63-31145
APPID# 68873

RECEIVED

JAN 25 2001

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Robert a Goodell Phone (208) 459-7773
Post Office address 27529 Freezeout Road Caldwell Idaho 83607
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is NW 1/4 of NW 1/4 of SW 1/4, Govt. Lot _____
Sec. 10 Township T5N Range R3W B.M. Canyon County; additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 4.0 for Irrig purposes from 3/1 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 4.0 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. well, sprinklers

b. 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.
c. Proposed well diameter is 16 inches; proposed depth of well is 400 feet.
d. Is ground water with a temperature of greater than 85° F being sought? N
e. If well is already drilled, when? _____; Drilling firm _____:
Well was drilled for (well owner) _____
7. Time required for completion of works and application of water to proposed beneficial use is 3 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity if KW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. _____

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	3W	10									25	25	25	25					100
		15		20	20		20	20		20									100

Total number of acres to be irrigated 200

10. Describe any other water rights used for the same purposes as described above. Black Canyon

Irrigation District water

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

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

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

12. Remarks: water bearing zone to be appropriated in
from 100 to 400 feet.

13. MAP OF PROPOSED PROJECT ATTACHED / Show clearly the proposed point of diversion, place of use, section number, township and range number.

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

Robert A. Goodell
(Applicant)

Received by LS Date 1/25/01 Time 10A Preliminary check by DAW
Fee \$ 370 Received by DB # W027319 Date 1/25/01
Publication prepared by DB Date 10/8/2008 Published in PRESS TRIBUNE
Publication approved _____ DATE: _____ Date OCTOBER 16 & 23, 2008

REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant ROBERT GOODELL
Mailing Address 27529 FREEZOUT RD
CAIDWELL ID 83607
Application No.
(if known)

 IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

 PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

 / WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

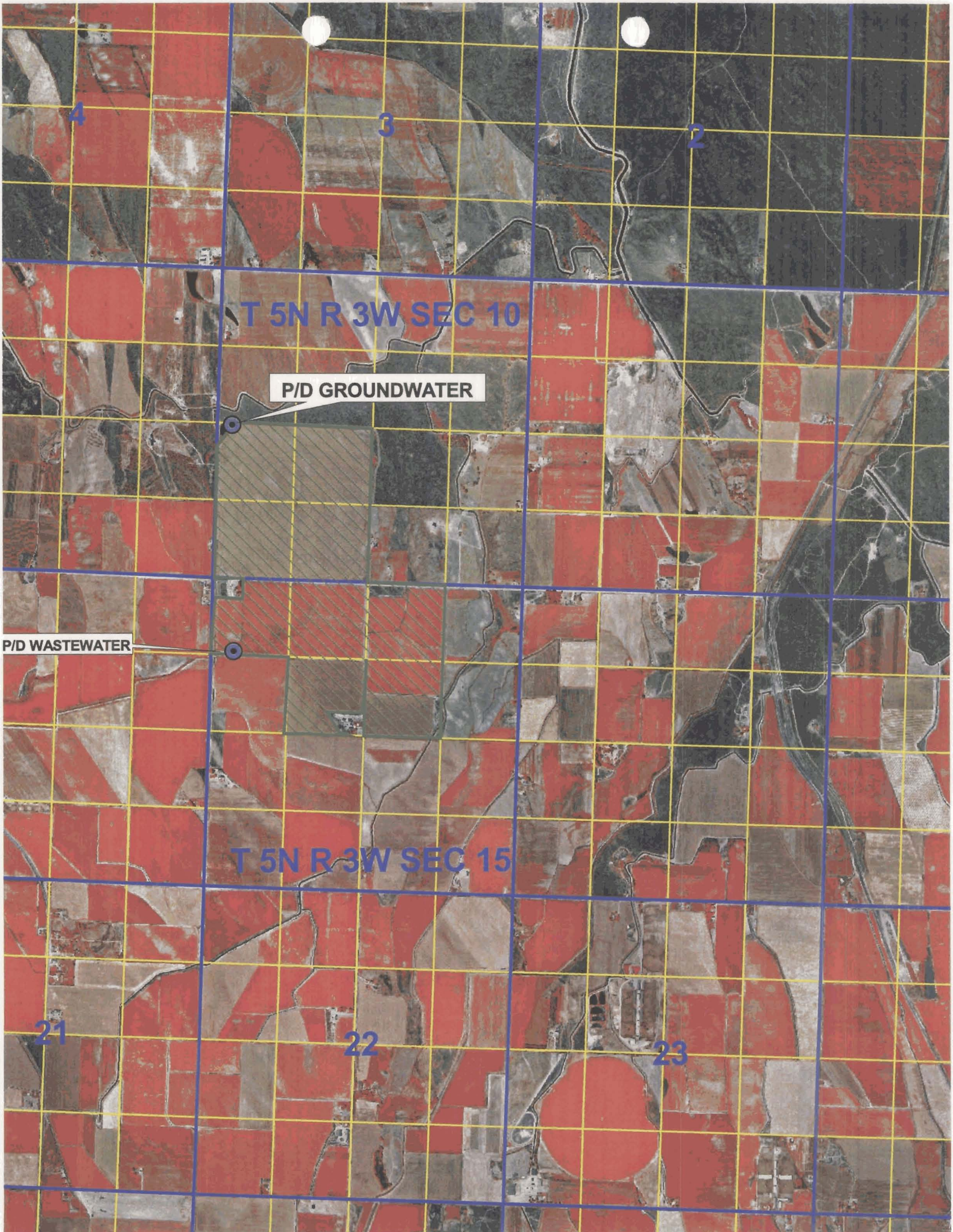
Robert Goodell

Date

1/25/01

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082



4

3

2

T 5N R 3W SEC 10

P/D GROUNDWATER

P/D WASTEWATER

T 5N R 3W SEC 15

21

22

23

Buffington, Denise

From: Buffington, Denise
Sent: Wednesday, October 08, 2008 8:29 AM
To: legals@idahopress.com
Subject: Legal Notices
Attachments: Canyon County Ads Cover Letter.RTF; 63-12489 Ad.RTF; 63-31145 Ad.RTF

Attached, please find (2) legal notice being submitted for publication in the Press Tribune. Please contact me if you have any questions or are not able to run the ads on the dates listed.

Thank you,

Denise Buffington
Idaho Department of Water Resources
Western Region

10/8/2008

October 08, 2008

Legal Notice Department

PRESS-TRIBUNE

PO BOX 9399

NAMPA ID 83652

RE: Application for Permit No. 63-12489 & 63-31145

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 11/03/2008. 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:

63-31145

MICHAEL R GOODELL
14899 SAND HOLLOW RD
CALDWELL ID 83607

Point(s) of Diversion NWNWSW S10 T05N R03W CANYON County Source GROUND WATER

Use: IRRIGATION 03/01 To 11/15 4 CFS

Total Diversion: 4 CFS

Date Filed: 01/25/2001

Place Of Use: IRRIGATION

T05N R03W S10 NESW NWSW SWSW SESW

T05N R03W S15 NWNE SWNE NENW NWNW SENW

Number of Acres 200

Remark: Water bearing zone to be appropriated is from 100 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 11/03/2008. The protestant must also send a copy of the protest to the applicant.

DAVID R. TUTHILL, JR., Director

Published on October 16th & 23rd, 2008

Response Form

RECEIVED
SEP 18 2008
WATER RESOURCES
WESTERN REGION

Name of Applicant: Michael R Goodell
Address: 14899 Sand Hollow RD
Caldwell ID 83607

Application No: # 63-31145

(Please read carefully and mark)

☒ **Yes, I intent to proceed with the water use development outlined in the application. I retain full possessory interest in the listed point of diversion and place of use locations on the application. I request the Department continue processing the application.** (Please describe on the back updates/changes needed on your application)

(Please fill in) **The estimated (well) water bearing zone will be**
100 ft to 400 ft below the ground surface.

☐ **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 23 day of July 2008

Applicant Signature Michael R Goodell

Printed Applicant Name Michael R Goodell

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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

August 29, 2008

Michael Goodell
14899 Sand Hollow RD
Caldwell ID 83607

RE: Preliminary Order in the Matter of Application for Permit #63-31145

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,

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.

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 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

July 23, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Michael R Goodell
14899 Sand Hollow RD
Caldwell ID 83607

RE: Held Application for Permit #63-31145--Filed 01/25/01

COPY

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. Please check carefully the specifics on the application. You must still have full possessory interest-ownership in the listed point of diversion and place of use land locations for processing consideration. Your application will need to have public notice published in your 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.

We are asking for you to convey your intentions regarding this application by completing the attached response form. *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, provide any updates/changes needed, and list the water bearing zone for the well source.

OR

- Mark the **NO** response to withdraw the application. The application 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 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



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

DAVID R. TUTHILL, JR.
Director

May 13, 2008

Michael Goodell
14899 Sand Hollow Rd.
Caldwell, ID 83607

COPY

Re: Assignment of Application for Permit No. 63-31145

Dear Mr. Goodell:

The Department received the above referenced Assignment of Application for Permit on April 11, 2008. This document requests assignment of Application for Permit No. 63-31145 into your name from the name of Robert Goodell. Department records have been updated in accordance with this request.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov.
Please contact me at 208-334-2190 if you have any questions.

Sincerely,


Angela M. Grimm
Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 22, 2001

Robert Goodell
27529 Freezout Rd
Caldwell ID 83607

Re: Application for Permit No. 63-31145 to Appropriate Ground Water

Dear Mr. Goodell:

You filed an application to appropriate ground water for irrigation purposes with the Idaho Department of Water Resources (IDWR). IDWR understands that you filed the application to irrigate lands that have been irrigated in the past with surface water delivered by Black Canyon Irrigation District. IDWR also understands that you may not be able to irrigate these lands with surface water in the future, and that you are seeking an alternate supply of irrigation water.

I had hoped initially that when these applications were filed, I could promote the review and approval of these applications. It now appears, because of drought conditions and because of the ongoing suspension of processing of water rights in the Boise River Basin, that IDWR will not approve your applications without the submittal of a plan proposing mitigation for your ground water withdrawal. This office would be happy to visit with you about possible mitigation plans. A typical mitigation plan contributes surface water to the Boise River as compensation for your ground water withdrawal.

Should you have any questions regarding this letter, please Dan Nelson or Lori Graves of this office.

Sincerely,

Gary Spackman

GS:st