

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

**IN THE MATTER OF APPLICATION FOR )  
PERMIT #63-12489 IN THE NAME OF )     **PRELIMINARY ORDER**  
GEORGE NOURSE )     **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 October 2, 1998, George Nourse filed application for permit #63-12489 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 Mr. Nourse 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 George Nourse.

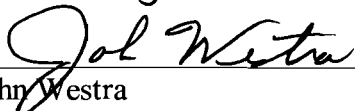
**CONCLUSIONS OF LAW**

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. George Nourse failed or refused to provide IDWR the requested information. The application should be voided.

**ORDER**

***IT IS HEREBY ORDERED that Application for Permit #63-12489 in the name of George Nourse be VOIDED.***

Dated this 29<sup>th</sup> day of August, 2008

  
\_\_\_\_\_  
John Westra  
Manager, Western Regional Office

## CERTIFICATE OF SERVICE

I hereby certify that on this 5<sup>th</sup> 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 #63-12489

**George Nourse**  
**15702 Riverside**  
**Caldwell ID 83605**

Ident. No. 63-12489

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: GEORGE NOURSE  
Address: 15702 RIVERSIDE  
CALDWELL ID 83605  
208-454-7510
2. Source: GROUNDWATER  
3. Location of Point of Diversion: Trib. to: NWSWNE Sec. 17, Township 03N, Range 03W  
CANYON County
4. Water will be used for the following purposes:

| Purpose    | From  | To    | CFS   | (or) | AF |
|------------|-------|-------|-------|------|----|
| COMMERCIAL | 01/01 | 12/31 | 0.280 |      |    |
5. Total quantity to be appropriated is:  
0.280 CFS (and/or) AF
6. Proposed diverting works:
  - a. Description of ditches, flumes, pumps, headgates, etc.  
WELL, PUMP AND PIPELINE
  - 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 8 inches; proposed depth of well is 160  
feet.
  - d. Is groundwater with a temperature greater than 85F being sought? NO
  - e. If well is already drilled, when?  
Drilling Firm  
Well was drilled for
7. Time required for the completion of the works and application of  
the water to the proposed beneficial use is 2 year(s).
8. Place of Use: COMMERCIAL

TWN RGE SEC  
03N 03W 17 SWNE

9. 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.

10. Remarks:

11. 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.

SEE Original →  
↓

\_\_\_\_\_  
Applicant

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_

Fee \$ \_\_\_\_\_ Receipted by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_

Publication prepared by DB Date 10/8/08 Published in PRESS TRIBUNE

Publication approved \_\_\_\_\_ DATE: \_\_\_\_\_ Date ↑ OCTOBER 16 & 23, 2008

STATE OF IDAHO

Ident. No. 63-12489

RECEIVED

DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 02 1998

APPLICATION FOR PERMIT

OCT 02 1998

WATER RESOURCES  
WESTERN REGION

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of applicant George Nourse Phone (208) 454-7510  
Post office address 15702 Riverside, Caldwell, ID 83605

2. Source of water supply Ground Water which is a tributary of \_\_\_\_\_

3. Location of point of diversion is NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 17 Township 3N Range 3W B.M. Canyon County; additional  
points of diversion if any: N/A

4. Water will be used for the following purposes:

Amount 0.28 for Commercial purposes from 1/1 to 12/31 (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) .28 and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Groundwater Well

b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total  
reservoir capacity \_\_\_\_\_ acre-feet; period of year when water will be diverted to storage:  
\_\_\_\_\_ to \_\_\_\_\_ inclusive.

c. Proposed well diameter is 8 inches; proposed depth of well is 160 feet.

d. Is ground water with a temperature of greater than 90°F being sought? No

7. Time required for the completion of the works and application of the water to the proposed beneficial use is  
2 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 in KW. \_\_\_\_\_
- b. Stockwatering; list number and kind of livestock. \_\_\_\_\_
- c. Municipal; show name of municipality. \_\_\_\_\_
- d. Domestic; show number of households. Domestic use is for 67 RV spaces and 1 restaurant  
& landscape watering
- 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 | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 3N  | 3W    | 17   |     |     | C   |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. None

11. a. Who owns the property at the point of diversion? George Nourse
- b. Who owns the land to be irrigated or place of use? George Nourse
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. \_\_\_\_\_

12. <sup>COMMENTS</sup> ~~Remarks:~~ Maximum diversion rate of 0.28 cfs or 125 gpm when buildout is completed  
and existing portions of the park and restaurant are incorporated.

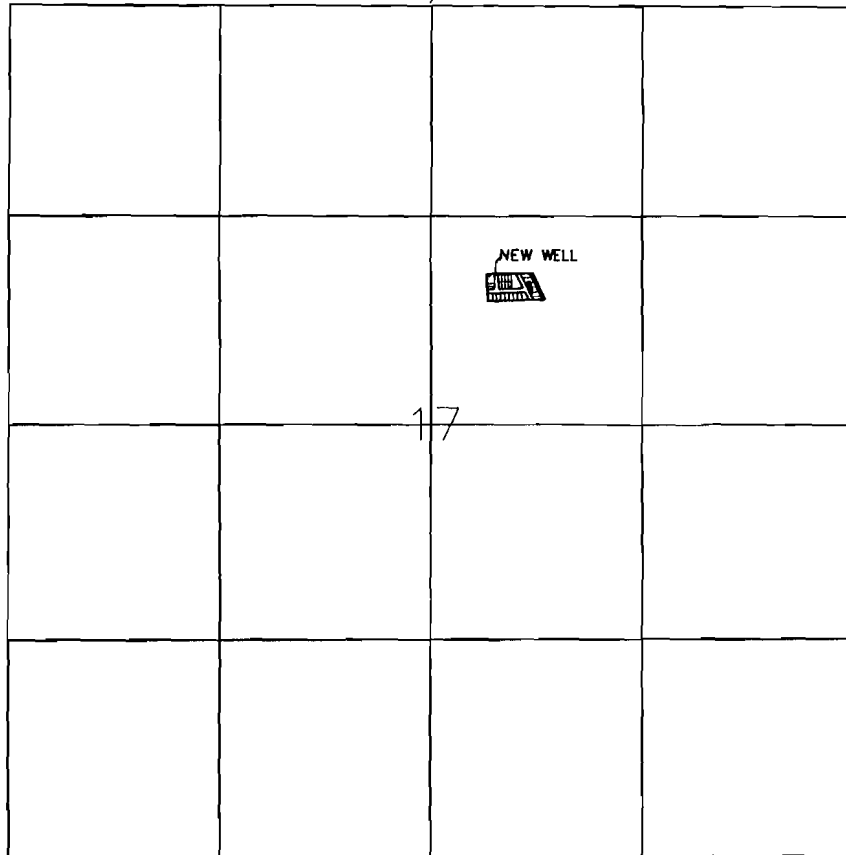
Sec 17 T3N R3W

SEE ATTACHED MAP

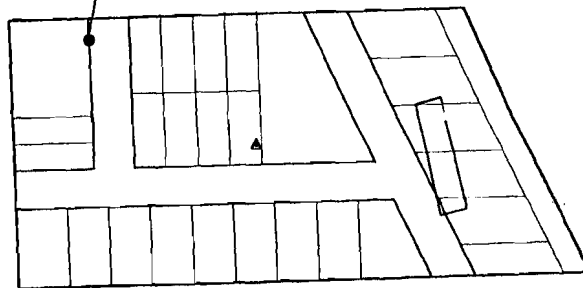
George H. Mowat  
(Applicant)

9/23/98

T3N,R3W



NEW WELL



Received by KS Date 10/2/98 Time 8:35AM Preliminary check by KS  
Fee \$ 100.00 Receipted by KS # CN1355A Date 10/2/98  
Publication prepared by DB Date 10/8/2008 Published in PRESS TRIBUNE  
Publication approved \_\_\_\_\_ DATE: \_\_\_\_\_ Date ↑ OCTOBER 16 & 23, 2008

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. \_\_\_\_\_, and said application is hereby \_\_\_\_\_.

1. Approval of said application is subject to the following limitations and conditions:
  - a. SUBJECT TO ALL PRIOR WATER RIGHTS.
  - b. Proof of construction of works and application of water to beneficial use shall be submitted on or before \_\_\_\_\_, 19 \_\_\_\_.
  - c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
  - d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
  - e. Other:

Ident. No. 63-12489

Comments: Date: 12/17/1998 User-ID: STAYLOR

Subject: Diversion Rate

Domestic use is for 67 RV spaces and 1 restaurant & landscape watering.

Maximum diversion rate of 0.28 cfs or 125 gpm when buildout is completed and existing portions of the park and restaurant are incorporated.

**Buffington, Denise**

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**From:** Buffington, Denise  
**Sent:** Wednesday, October 08, 2008 8:29 AM  
**To:** [legals@idahopress.com](mailto: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:

63-12489

GEORGE NOURSE  
15702 RIVERSIDE  
CALDWELL ID 83605

Point(s) of Diversion NWSWNE S17 T03N R03W CANYON County Source GROUND WATER

Use: COMMERCIAL 1/01 To 12/31 0.28 CFS

Total Diversion: 0.28 CFS

Date Filed: 10/02/1998

Place Of Use: COMMERCIAL

T03N R03W S17 SWNE

Remark: Water bearing zone to be appropriated is from 140 to 150 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 16<sup>th</sup> & 23<sup>rd</sup>, 2008

# Response Form

**Name of Applicant:** George Nourse  
**Address:** 15702 Riverside  
Caldwell ID 83605

**Application No:** # 63-12489

(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**  
140 ft to 150 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 8 day of Sept 2008

Applicant Signature George W Nourse

Printed Applicant Name George W NOURSE

**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](http://www.idwr.idaho.gov)

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C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

August 29, 2008

George Nourse  
15702 Riverside  
Caldwell ID 83605

**RE: Preliminary Order in the Matter of Application for Permit #63-12489**

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](http://www.idwr.idaho.gov)

July 23, 2008

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

George Nourse  
15702 Riverside  
Caldwell ID 83605

### **RE: Held Application for Permit #63-12489--Filed 10/02/98**

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 - (208) 334-2190

FAX (208) 334-2348

12/17/98

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

George Nourse  
15702 Riverside  
Caldwell ID 83605

***RE: APPLICATION FOR PERMIT***

Dear Applicant:

Your application for permit to appropriate ground water for a consumptive use was received on 10/02/98. Processing of the application must be delayed.

Due to continued drought and to protect existing water rights and water supplies, the Director of this agency declared a moratorium on May 15, 1992 concerning water right applications proposing new consumptive uses of public water, regardless of source. The moratorium was lifted in May 1995, but application processing was subsequently suspended until technical data are available from the Treasure Valley Hydrologic Study now underway.

This office will hold your application and will resume processing as soon as possible based on the above considerations. Applications received will be processed in priority order. Delays related to department actions do not affect the date of priority or seniority of an application.

Please contact me at 334-2190 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Lori Graves', is written over a horizontal line.

Lori Graves  
Sr. Agent