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DEPARTMENT OF
WATER RESOURCES

Attorneys for Petitioners, John & Julie Franson

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER RE Preliminary)
Order for Approved License Number 11-) **PETITION FOR RECONSIDERATION**
7342)
_____)

COMES NOW Petitioners, John Franson and Julie Franson, by and through counsel, hereby petition for reconsideration of the Preliminary Order of Director David R. Tuthill, Jr. issued on or about July 22, 2008 and served on July 29, 2008, pursuant to Idaho Code § 67-5243, IDWR Rules of Procedure 730, and IDAPA 37.01.01, upon the grounds and for the reasons set forth below.

1. The license authorizes .02 cfs/0.1 AF for stockwater and .02 cfs/.6 AF for domestic from a Spring tributary to Sinks in Township 9 South, Range 42 East, and Section 30 of Caribou County. As part of the domestic use, the license authorizes the irrigation of up to ½ acre. However, the original permit application was for stockwater, domestic, and irrigation of greater than ½ acre.

2. Petitioners hereby incorporate by reference FF Nos. 1, 2, 3, 4, and 10 of the *Preliminary Order Voiding Permit* issued by Jeff Peppersack on May 15, 2008.

3. Petitioners hereby incorporate by reference the affidavits and other correspondence filed previously in this matter, which are part of IDWR's public file.

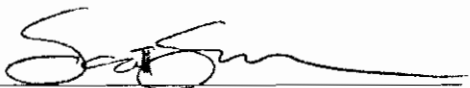
4. Based upon information obtained from the family of the prior owner of the property, all documents pertaining to the historical beneficial use for irrigation for this water right permit application were destroyed after the death of the proper owner.

5. As a result, Petitioners require additional time to investigate and conduct research in an attempt to locate supporting evidence of the extent of past irrigation on their subject property. Unfortunately, since the original application for permit was submitted to IDWR in 1983 and further, since a beneficial use field examination was never conducted, it has been a difficult task to locate supporting evidence of the historical irrigation. Accordingly, petitioners have had to rely upon the testimony and recollection of those living in the area during the development period of this water right. CRIP maps have been requested and additional time will be necessary to review them for purposes of this water right permit application.

6. Based upon the foregoing, petitioners respectfully request that IDWR refrain from issuing a final order to allow time of at least one month for additional review, investigation and reconsideration of the preliminary order.

Respectfully submitted this 12 day of August, 2008.

RACINE, OLSON, NYE, BUDGE & BAILEY

By: 
SCOTT J. SMITH
Attorney for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of August, 2008, I served a true and correct copy of the foregoing document by delivering it to the following individuals by the method indicated below, addressed as stated.

Mr. David R. Tuthill, Director
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
Fax: (208)287-6700
Dave.tuthill@idwr.idaho.gov

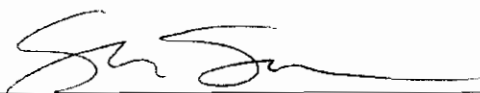
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☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery
☐ E-Mail

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