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

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 69262 IN THE)
NAME OF IDAHO POWER COMPANY)
_____)

ORDER CHANGING MEASURING
DEVICE REQUIREMENT

On November 21, 2002, the Idaho Department of Water Resources ("Department") issued a Preliminary Order in connection with the above captioned matter with a condition of approval as follows:

2. Prior to the diversion and use of water under this transfer approval, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion in accordance with Department specifications.

Since data logger(s) presently are not needed to determine the amount of water diverted under the transfer, the Department should change Condition of Approval 2 to eliminate the requirement for data loggers.

ORDER

IT IS THEREFORE HEREBY ORDERED that Condition of Approval 2 be changed to read as follows:

2. Prior to the diversion and use of water under this transfer approval, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications and shall report the amount of water diverted to the Department at the end of each calendar year.

Dated this 28th day of February, 2003.


L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 69262

This is to certify that: IDAHO POWER CO
PO BOX 70
BOISE ID 83707
(208)388-2181

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
61-2168	WR/Decreed	04/23/1964	3.5 cfs	1116 af	248.0	295.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
61-2168	YES	YES	YES	NO	YES	YES

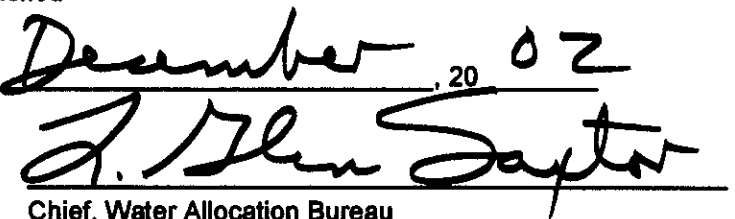
Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
61-2168	61-11939	0.92 cfs	293.4 af	N/A	1.4	61-11938	2.58 cfs	822.6 af	182.8	229.8
TOTALS		0.92 cfs	293.4 af	N/A	1.4		N/A	N/A	N/A	N/A

Rights 61-11938 and 61-11939 are subject to the conditions of the Preliminary Order dated 11-21-2002 which has become final in the matter of Application for Transfer 69262.

Detailed Water Right Description(s) attached

Dated this 30th day of December, 2002


Chief, Water Allocation Bureau

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WATER RIGHT NO. 61-11938
As Modified by Transfer No. 69262

In accordance with the approval of Transfer No. 69262, Water Right No. 61-11938 is now described as follows.

Right Holder: M PETER NIELSEN
 3955 S 136 W
 MOUNTAIN HOME ID 83647

Priority Date: April 23, 1964

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	2.58 CFS	822.6 AF
			2.58 CFS	822.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SENENW Sec. 19 Twp 04S Rge 05E ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	05E	19	39.0	38.0	37.0	22.0	39.0	7.4	7.4	40.0									229.8

Total Acres: 229.8

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 182.8 acres within the place of use described above in a single irrigation season.
2. Rights 61-11938 and 61-11898 when combined shall not exceed a total diversion rate of 2.58 cfs, a total annual maximum diversion volume of 822.6 af at the field headgate, and the irrigation of 229.8 acres.
3. Right 61-11898 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
4. Right 61-11898 is also diverted through the point(s) of diversion described above.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 10-26-2000.

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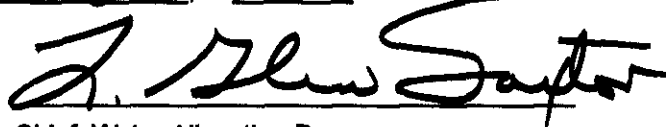
WATER RIGHT NO. 61-11938
As Modified by Transfer No. 69262

CONDITIONS OF APPROVAL

6. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 30th day of December, 20 02



Chief, Water Allocation Bureau

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WATER RIGHT NO. 61-11939

As Modified by Transfer No. 69262

In accordance with the approval of Transfer No. 69262, Water Right No. 61-11939 is now described as follows.

Right Holder: IDAHO POWER CO
PO BOX 70
BOISE ID 83707
(208)388-2181

Priority Date: April 23, 1964

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.02 CFS	6.3 AF
INDUSTRIAL	01/01	to 12/31	0.90 CFS	287.1 AF
COOLING	01/01	to 12/31	0.90 CFS	287.1 AF
			0.92 CFS	293.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWNW Sec. 10 Twp 03S Rge 06E ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	10																	1.4
Total Acres: 1.4																			

PLACE OF USE: INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	10																	X

PLACE OF USE: COOLING

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	10																	X

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WATER RIGHT NO. 61-11939

As Modified by Transfer No. 69262

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. Prior to the diversion and use of water under this transfer approval, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications
3. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.
4. Prior to diversion of water authorized under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
5. 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 lands above.
6. The maximum volume of water diverted under this right shall not exceed 293 AF per year of which no more than 164 AF per year can be consumptively used.
7. The right holder shall accomplish the change authorized by this approval within 5 years.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 30th day of December, 2002


Chief, Water Allocation Bureau

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 28, 2003

JOHN K SIMPSON
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139

RE: Transfer No. 69262 (W.R. No. 61-11938 & 61-11939)

Dear Permit Holder:

Enclosed is an Order Changing Measuring Device Requirement for the above referenced water rights. The Department of Water Resources (department) has issued the enclosed order 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 or files an exception and/or brief as described in the enclosed information sheet.**

If you have questions concerning this order, please contact Glen Saxton, at 327-7900.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office
Tim Luke, Water Distribution

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✓ Database updated to
reflect change. 3-28-03 *Q28*

**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. 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.

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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.

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MEMORANDUM

TO: FILE 61-11939

FROM: VAULT

RE: TRANSFER # 69262

DATE: 12.30.02

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**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 61-2168

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