



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

May 11, 2004

UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707

RE: Exchange of Water – Water Rights 2-2341, 2-2358, 2-2420

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Exchange of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Exchange of Water Right(s) 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 by the Department unless the **APPLICANT** petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,


Jeff Pappetsack, Manager
Water Right Permits Section

JP:klt

Enclosures

cc: Jeffrey C. Fereday/Deborah E. Nelson
Albert P. Barker/John K. Simpson
Kathleen Marion Carr
Daniel V. Steenson/Charles H. Honsinger
Scott L. Campbell
Roger D. Ling
Jerry R. Rigby
Gail McGarry
Steve Lester, IDWR Western Region
Lee Sisco, Watermaster

CERTIFICATE OF SERVICE

I hereby certify that on **May 11, 2004** I mailed a true and correct copy, certified, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Exchange of Water – Water Rights 2-2341, 2-2358, 2-2420

**JEFFREY C FEREDAY
DEBORAH E NELSON
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720**

**ALBERT P BARKER
JOHN K SIMPSON
BARKER ROSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139**

**KATHLEEN MARION CARR
OFFICE OF THE FIELD SOLICITOR
U.S. DEPT. OF THE INTERIOR
550 WEST FORT ST, MSC 020
BOISE ID 83724-0020**

**GAIL MC GARRY
U.S. DEPT. OF THE INTERIOR
BUREAU OF RECLAMATION
1150 N CURTIS RD STE 100
BOISE ID 83706-1234**

**DANIEL V. STEENSON
CHARLES H HONSINGER
RINGERT CLARK
PO BOX 2773
BOISE ID 83701-2773**

**SCOTT L CAMPBELL
MOFFATT THOMAS
PO BOX 829
BOISE ID 83701-0829**

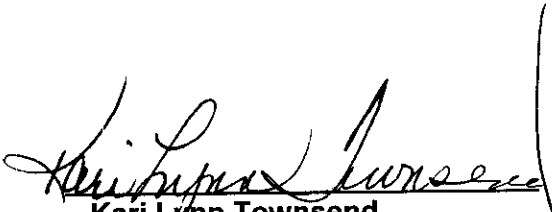
**ROGER D LING
LING & ROBINSON
PO BOX 396
RUPERT ID 83350**

**STEVE LESTER
IDWR, WESTERN REGION**

**JERRY R RIGBY
RIGBY THATCHER ANDRUS RIGBY KAM & MOELLER
PO BOX 250
REXBURG ID 83340-0250**

**LEE SISCO, WATERMASTER
6616 OVERLAND RD
BOISE ID 83709**

**UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707**


**Kari Lynn Townsend
Secretary**

**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.

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.