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Attorneys for Respondent

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER**

JOHN B. KUGLER,

Petitioner,

vs.

THE STATE OF IDAHO DEPARTMENT OF
WATER RESOURCES,

Respondent.

Case No. CV-2015-031

**AFFIDAVIT OF MEGHAN CARTER IN
SUPPORT OF MOTION TO LIFT
STAY AND REINSTATE BRIEFING
SCHEDULE**

MEGHAN CARTER, being first duly sworn, deposes and states:

1. I am an attorney representing the Idaho Department of Water Resources (“IDWR”). I am over the age of eighteen and the facts I state below are based on my personal knowledge.

2. On August 4, 2015, IDWR received, by email, an *Assignment of Permit* transferring ownership of permit 35-8359 from Lance D. Funk to John B. Kugler (“Kugler”) and Diane K. Kugler. A copy of the assignment is attached as Exhibit A.

3. On August 4, 2015, IDWR received a fax from Kugler indicating his desire to vacate the hearing before IDWR and proceed with the judicial review before the district court. A copy of the fax is attached as Exhibit B.

4. On August 4, 2015, IDWR issued *Order Cancelling Hearing*. A copy of the order is attached as Exhibit C.

DATED this 6th day of August 2015.

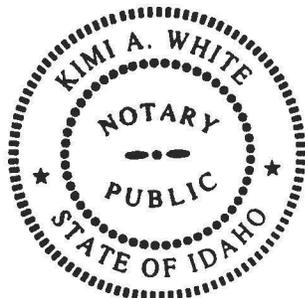
LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
CHIEF, NATURAL RESOURCES DIVISION



MEGHAN CARTER
Deputy Attorneys General
Idaho Department of Water Resources

SUBSCRIBED AND SWORN To before me this 6th day of August 2015.





NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
Commission Expires: 04/01/16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August 2015, I caused a true and correct copy of the foregoing document to be filed with the Court and served on the following parties by the indicated methods:

Original to:

SRBA District Court
253 3RD AVENUE NORTH
PO BOX 2707
TWIN FALLS ID 83303-2707
Facsimile: (208) 736-2121

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Facsimile
- E-mail

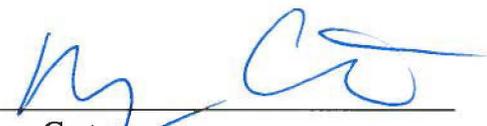
JOHN B KUGLER
2913 GALLEON CT NE
TACOMA WA 98422
FAX: (253)568-6529

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Facsimile
- E-mail

Courtesy Copy to:

ROBERT L HARRIS
PO BOX 50130
IDAHO FALLS ID 83405

- U.S. Mail, Postage Prepaid
- Hand Delivery
- Facsimile
- E-mail



Meghan Carter
Deputy Attorney General

Exhibit A

\$25 fee per permit

Received by _____

Receipt amt. \$ _____

Receipt no. _____

Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, Lance D. Funk, hereby assign to John B. Kugler and Diane K. Kugler
of, 2913 Galleon Ct. NE, Tacoma, WA 98422 253-568-6529
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Permit No(s): 35-8359 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 Permit Number(s): _____, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the 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.

Does the new permit holder own the property at the:

- Point of diversion? Yes No
- Place of use? Yes No

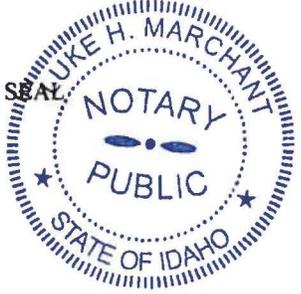
If no, describe the arrangement enabling the new owner to access the point of diversion and/or the place of use:
The Kuglers used to own the property where the point of diversion and place of use were located. The permit was inadvertently assigned to Lance Funk before the terms of a purchase of the permit could be finalized.

Dated this 4th day of August, 20 15.

Robert L. Jamies, ATTORNEY FOR LANCE FUNK Permit holder Title (if applicable) Permit holder Title (if applicable)

State of Idaho)
County of Bonner)ss

On this 4th day of August, 20 15, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.



[Signature]
Notary Public
My commission expires: July 20, 2021

Exhibit B

FAX SHEET

To: Idaho Dept. of Water Resources

FAX NO. (208) 287-6700

Attn: MEGAN CARTER

FROM: John B. Kugler

Fax No. (253) 568-6529

Dated Aug. 4, 2015

Re: Kugler Water Permit

1 page

Megan:

This note will confirm our conversation this morning when I advised you that I am joining you in the vacating of the scheduled hearing tomorrow. My wife and I still hope to accomplish an agreement of transferring the permit to Lance but at this time I will continue with the proceedings before the Court in Twin Falls. Lance's father was an old friend for many years so my preference is to sometime be able to complete an agreement with Lance.

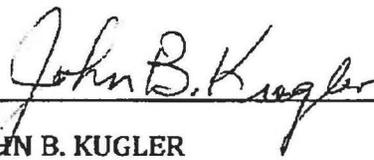

JOHN B. KUGLER

Exhibit C

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT TO
APPROPRIATE WATER NO. 35-8359
IN THE NAME OF JOHN B. KUGLER &
DIANE K. KUGLER

ORDER CANCELLING HEARING

The Idaho Department of Water Resources ("Department") scheduled a hearing to be held on August 5, 2015, to consider John B. Kugler's motion to reconsider the Department's *Preliminary Order Approving Assignment of Permit* issued on June 26, 2015, for Permit No. 35-8359 ("Permit"). The Assignment of Permit ("Assignment") transferred ownership of the Permit from John B. Kugler and Diane K. Kugler to Lance D. Funk ("Funk").

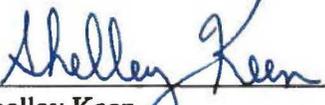
On August 4, 2015, the Department received John B. Kugler's request to vacate the scheduled hearing to allow more time for the parties to complete an agreement.

On August 4, 2015, Funk's attorney asked the Department to confirm that the scheduled hearing is no longer necessary.

ORDER

The hearing scheduled for August 5, 2015, in connection with Permit No. 35-8359 is **CANCELLED**.

Dated this 4th day of August, 2015.



Shelley Keen
Hearing Officer