

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

IN THE MATTER OF	)	
APPLICATION FOR TRANSFER	)	ORDER DISMISSING PETITION
NO. 83745 IN THE NAME OF	)	FOR RECONSIDERATION
<u>SUNSET FARM & RANCH LLC</u>	)	

The Idaho Department of Water Resources (“Department”) conducted an administrative hearing for this contested case on February 4, 2021. The hearing officer for the Department issued a *Preliminary Order Approving Transfer* (“Preliminary Order”) on February 25, 2021. On March 11, 2021, protestant Larry Quist (“Quist”) filed an untitled document (hereinafter “Petition”) asking the hearing officer to reconsider the *Preliminary Order*.

Quist’s *Petition* is short. It states, in its entirety:

Larry Quist is requesting Department of Water Resources to reconsider ruling on case number 83745 in the name of Sunset Farm & Ranch LLC regarding the stacking of water rights and my being ordered to taking my water rights off to accommodate Sunset Farm and Ranch.

Issue number 2, adding a second point of diversion, the issue is, does it constitute a new source of water that would interfere with existing water rights.

Adding a second diversion for the well water rights is inefficient because of the loss in running the water down the river.

I request for oral argument for further explanation.

Rule 230.02 of the Department’s Rules of Procedure (IDAPA 37.01.01) sets forth the required content of petitions filed in a contested case before the Department. It states that a petition must “fully state the facts upon which [it is] based,” “refer to the particular provisions of statute, rule, or other controlling law upon which [it is] based,” and “state the relief desired.”

The Quist *Petition* does not identify any facts from the *Preliminary Order* that are in error or any facts that are relevant to the *Petition*. Further, the *Petition* does not contain any persuasive arguments about how the conclusions of law in the *Preliminary Order* are in error. The *Petition* does not refer to the review criteria set forth in Idaho Code § 42-222 (the standards used to evaluate transfer applications). Finally, the *Petition* does not identify the relief sought by Quist. It is not clear whether Quist is asking the hearing officer to reverse his decision entirely and deny the application or to simply change one component of the approval.

Rule 304 of the Department's Rules of Procedure (IDAPA 37.01.01) states: "Defective, insufficient or late pleadings may be returned or dismissed." The Quist *Petition* is insufficient because it does not contain any the required elements of a valid Petition for Reconsideration. Quist promises to provide further explanation of his *Petition* during oral argument. A promise to provide additional information in the future, however, is not justification to avoid the minimum requirements for a petition for reconsideration. Therefore, the Quist *Petition* should be dismissed.

ORDER

IT IS HEREBY ORDERED that the *Petition* filed by Quist is DISMISSED because it does not meet the minimum standards for a petition set forth in IDAPA 37.01.01.230.02.

Dated this 16th day of March 2021.



James Cefalo
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of March 2021, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed, to the following:

Document Served: Order Dismissing Petition for Reconsideration

Sunset Farm & Ranch LLC
PO Box 827
Arco, ID 83213

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Christina Henman
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