

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

IN THE MATTER OF PERMIT	)	ORDER GRANTING PETITION
NO. 13-7649 IN THE NAME OF	)	AND WITHDRAWING
<u>G & H DAIRY, LLC</u>	)	PRELIMINARY ORDER

On April 4, 2019, the Department issued a *Preliminary Order Voiding Permit* (“Preliminary Order”) in the name of G & H Dairy, LLC (“G & H”). The initial certificate of service contained an error in the mailing address for the permit holder and the envelope containing the *Preliminary Order* was returned to the Department undelivered. After correcting the error, the Department properly served the *Preliminary Order* on April 16, 2019.

The *Preliminary Order* voided Permit 13-7649 for failure of the permit holder to comply with three conditions of the permit. Specifically, the permit holder (1) had not demonstrated ongoing ownership of twenty shares of stock in West Cache Irrigation Company, (2) had not demonstrated ongoing ownership of mitigation water right 13-2164, and (3) had not installed a department-approved measuring device at the authorized point of diversion.

According to Rule 730.02 of the Department’s Rules of Procedure (IDAPA 37.01.01), any party may file a petition for reconsideration of a preliminary order within fourteen days of the service date of the order. On May 1, 2019, fourteen days after the Preliminary Order was mailed with the correct address, G & H filed a *Petition Contesting IDWR’s April 4, 2019 Preliminary Order Voiding Permit* (“Petition”).

G & H’s *Petition* included a copy of a stock certificate for twenty shares from West Cache Irrigation Company in the name of G & H. The *Petition* stated that G & H would install a department-approved measuring device at the authorized point of diversion on or before May 18, 2109. On May 20, 2019, the Department conducted a field exam for the ground water well associated with Permit 13-7649 and confirmed that a department-approved flow meter has been installed. G & H’s *Petition* also described ongoing negotiations to acquire ownership of mitigation water right 13-2164. The Department had previously confirmed that water right 13-2164 has been held unused, but was unable to confirm G & H’s ownership of the right.

G & H has demonstrated a renewed, good-faith effort to address the requirements of Permit 13-7649. The last remaining issue is related to ownership of mitigation water right 13-2164. G & H is currently negotiating with the Corporation of the Presiding Bishopric for the LDS Church to acquire mitigation water right 13-2164. The Department should provide G & H additional time to confirm its ownership of mitigation water right 13-2164. Therefore, the *Preliminary Order* should be withdrawn. The *Preliminary Order* should be reinstated, however, if G & H is unable to comply with the conditions of Permit 13-7649 within six months.

ORDER

IT IS HEREBY ORDERED that G & H's *Petition* is GRANTED. The *Preliminary Order Voiding Permit* (13-7649), issued by the Department on April 16, 2019, is WITHDRAWN. If G & H is unable to demonstrate ownership of mitigation water right 13-2164 on or before November 30, 2019, the *Preliminary Order* shall be reinstated.

Dated this 21st day of May, 2019.



James Cefalo
Water Resources Program Manager

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of May, 2019, I mailed a true and correct copy of the foregoing ORDER GRANTING PETITION AND WITHDRAWING PRELIMINARY ORDER, with the United States Postal Service postage prepaid and properly addressed to the person(s) listed below:

G & H Dairy, LLC
299 Addison Avenue W
Twin Falls, ID 83301

Adam McKenzie
102 N State Street, Suite 1
Preston, ID 83263

Courtesy copy sent to:

Buffi Morris
Senior Property Agent
PacifiCorp
1407 W North Temple, Suite 110
Salt Lake City, UT 84116



Sharla Cox
Administrative Assistant