



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BLITCH" OTTER
Governor

GARY SPACKMAN
Director

May 2, 2018

SUE GOFFIN
MARTIN GOFFIN
HC 76 BOX 4043
GARDEN VALLEY ID 83622

Re: Order in the matter of Water Right Permit No. 65-12974C

Dear Interested Parties:

The accompanying order issued by the Department is an Order Granting Petition for Reconsideration.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

 Rachel Nally for

Nick Miller
Western Regional Manager

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

**IN THE MATTER OF PERMIT TO)
NO. 65-12974C IN THE NAME OF)
MARTIN GOFFIN OR SUE GOFFIN)
_____)**

**ORDER GRANTING PETITION
FOR RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of a preliminary order voiding a permit and refusing to issue a license, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On February 29, 1989, Fay Livingston and Earl Livingston applied to the Department for a permit to appropriate 0.27 cubic feet per second of groundwater within the NW¼SW¼ of Section 33, Township 10 North, Range 04 East, B.M., for irrigation, heating, and domestic purposes associated with three homes in Boise County.
2. On December 07, 1989, the Department approved the application as permit no. 65-12974.
3. On November 14, 1995, the Department received the proof of beneficial use statement for the permit signed by Fay Livingston.
4. On November 14, 1995, the Department received and later processed three assignment of permit forms that split permit no. 65-12974 into three approximately equal parts. The portion assigned to Martin or Sue Goffin (permit holder) was designated 65-12974C (permit). The two remaining portions were designated as 65-12974A and 65-12974B.
5. On June 06, 1998, a field examination of permit nos. 65-12974A, 65-12974B, and 65-12974C was conducted by examining Lots 1, 2, and 3 of the Livingston Estates Subdivision. Those lots were examined based on the proposal described in the application for 65-12974. The examiner found that a well and diversion system had been developed under 65-12974A and 12974B for lots 2 and 3 of the Livingston Estates Subdivision. No system was developed for Lot 1 and the examiner concluded that a beneficial use was not developed under permit no. 65-12974C.
6. On February 14, 2018, the Department sent the permit holder a notice of intent to void to the address on file. The notice was returned as undeliverable on February 20, 2018.
7. On April 4, 2018, the Department issued a preliminary order (order) voiding Permit to Appropriate Water No. 65-12974C and provided notice of the order to the permit holder.
8. Rule 730.02.a. of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a.) provides in pertinent part as follows:

Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition

for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

9. On April 11, 2018, the permit holder filed a Petition for Reconsideration (petition) with the department in connection with the order. The petition asserts that the permit was developed on a different lot than originally proposed by Fay Livingston and Earl Livingston.

10. Documentation submitted with the petition, as well as well drilling records in the Department's files support the assertion that the permit may have been developed by Livingston during the development period.

CONCLUSIONS OF LAW

1. The petition was filed timely.
2. The Department should grant the petition for reconsideration of the order pursuant to Rule 730.02.a. of the Department's Rules of Procedure.
3. The Department should reinstate the permit and conduct a field examination to determine the extent of beneficial use developed under the permit.

ORDER

IT IS HEREBY ORDERED that the petition is **GRANTED** pursuant to Rule 730.02.a. of the Department's Rules of Procedure.

IT IS FURTHER ORDERED that the permit holder shall cooperate with the Department's field examiner to make the permitted point of diversion and place of use available for inspection during the 2018 irrigation season.

IT IS FURTHER ORDERED that the permit holder shall submit information that may be requested by the field examiner to confirm the extent of the beneficial use of water established in connection with the permit during the authorized development period for the permit. The information shall be submitted within 30 days of the request unless the Department grants additional time in response to a written request from the permit holder.

Dated this 2nd day of May, 2018.


Nick Miller
Manager, IDWR Western Region

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2018, true and correct copies of the foregoing **ORDER GRANTING PETITION FOR RECONSIDERATION** were served by placing a copy of the same with postage prepaid, and properly addressed to the following:

RE: 65-12974C

SUE GOFFIN
MARTIN GOFFIN
HC 76 BOX 4043
GARDEN VALLEY ID 83622



Rachel Neely
Administrative Assistant