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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 94-
07548 IN THE NAME OF RATHDRUM
MOUNTAIN LLC

PETITION FOR RECONSIDERATION OF
MAY 27, 2016 PRELIMINARY ORDER
VOIDING PERMIT

INTRODUCTION

Idaho Feed and Cattle Company, LLC ("Petitioner"), pursuant to Idaho Code section 67-5243(3), submits this Petition for Reconsideration of the May 27, 2016 Preliminary Order in this matter (the "Preliminary Order"). Petitioner requests that the Idaho Department of Water Resources ("IDWR") rescind its order in light of the circumstances detailed below, which have created special difficulty for Petitioner in responding to the Field Exam Notice received from IDWR. Petitioner is willing to schedule a Field Exam with IDWR at its property, and is in the process of changing ownership of Permit No. 94-07548 (the "Permit") into its name.

- I. The May 27, 2016 Preliminary Order should be rescinded because special circumstances have rendered Petitioner unable to schedule a Field Exam to this point.

Petitioner accepts the Findings of Fact in the Preliminary Order, except to the extent paragraph three states IDWR received the Statement of Completion for Submitting Proof of Beneficial Use on July 13, 2010. IDWR's online records show this document was received July 19, 2010.

Petitioner is the owner of Kootenai County Parcel No. 47N03W097000, located within Section 9, Township 47 North, Range 3 West, Boise Meridian, Kootenai County, State of Idaho. This location is both the Place of Use and the Point of Diversion for the Permit. Petitioner purchased this property from Rathdrum Mountain, LLC ("Rathdrum Mountain") on September 22, 2014.

The IDWR Field Exam Notice dated September 1, 2015 does not appear to have been sent via certified mail. Petitioner cannot currently state whether it received this notice. The second Field Exam Notice to Petitioner, dated March 22, 2016, was received and signed for by John Brewster, Sr. on March 24, 2016. However, Mr. Brewster, Sr. was suffering from dementia at the time. He passed away shortly thereafter on April 12, 2016.

Due to his condition, Mr. Brewster, Sr. was not able to take action on the second Field Exam Notice or inform his family members about it before his passing. None of his surviving family members knew of any issue with the Permit until Mr. Brewster, Sr.'s wife, Karen Brewster, received the Notice of Intent to Void Permit 94-07548 ("Notice of Intent") on May 1, 2016. Mrs. Brewster, along with Mr. Brewster, Sr.'s other family members, are in the process of reviewing all of his records and correspondence. As a result, they lacked sufficient time to review the Notice of Intent and schedule a Field Exam within 30 days.

Further, Rathdrum Mountain, the current Permit holder, could not take action on the Field Exam Notices because it no longer owns the Place of Use and Point of Diversion property. As stated in paragraph six of the Findings of Fact in the Preliminary Order, Rathdrum Mountain would not relinquish the Permit because it no longer owns the property.

Petitioner wants to convert the Permit into a permanent licensed Water Right and is willing to take the required actions to do so. Mr. Brewster, Sr.'s son, John Brewster, Jr., resides on the parcel served by the Permit. Beneficial uses for water have been developed, in accordance with the Permit, for Domestic, Stockwater, and Irrigation. Mr. Brewster, Jr. is willing to schedule a Field Exam with IDWR as soon as possible. Moreover, Petitioner is preparing an Assignment of Permit to acquire the Permit from Rathdrum Mountain.

CONCLUSION

Petitioner believes the circumstances detailed above warrant a decision by IDWR rescinding the Preliminary Order. Petitioner has not willfully ignored IDWR's requests for a Field Exam on the property. Rather, the condition of John Brewster, Sr. shortly before his

passing rendered him unable to act on the Field Exam Notice or inform his family members about the notice. Mr. Brewster, Sr.'s family has been attending to necessities since his passing and has not yet been able to schedule a Field Exam. However, Mr. Brewster, Jr. wishes to schedule a Field Exam as soon as IDWR is able.

For the reasons above, Petitioner respectfully requests that IDWR reconsider and rescind the Preliminary Order.

Dated this 23rd day of June, 2016.



Gregory M. George, ISB No. 9937
Attorney for Petitioner

CERTIFICATE OF SERVICE

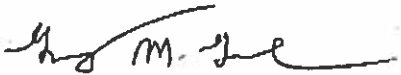
I hereby certify that on this 23rd day of June, 2016, I served a true and correct copy of the foregoing **PETITION FOR RECONSIDERATION** by the method indicated below, and addressed to the following:

Rathdrum Mountain, LLC
c/o Michael Bibin
1299 W. Riverstone Dr., Ste. 100
Coeur d'Alene, ID 83814

☒ U.S. Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Morgan Case
Idaho Department of Water Resources
Northern Regional Office
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Telephone: (208) 762-2800
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