

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 80621 IN THE) **ORDER DENYING PETITION**
NAME OF CITY OF KETCHUM) **FOR**
_____) **RECONSIDERATION**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of an approved transfer, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On March 4, 2016, the Department issued a preliminary order approving Transfer of Water Right No. 80621 (transfer) authorizing the City of Ketchum (city) to divert seven ground water rights held by the city from seven existing wells.
2. On March 18, 2016, the Department received a petition for clarification/reconsideration. The petition sought clarification of condition #3 placed on each water right in the transfer approval. The condition states:

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, this right retains its original priority for well locations authorized under this right as identified in the decree dated 6/29/11.

3. On March 21, 2016, the Department sent a letter to the city to clarify the condition.
4. On March 28, 2016, the Department and the city held a conference call to further discuss the condition. During the conference call it was agreed the city would propose alternative wording for the condition for consideration by the Department.
5. On April 1, 2016, the Department received a letter from the city requesting either omitting the condition or modifying it as follows:

To the extent necessary for priority administration during delivery calls between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, this right retains its original priority date for well locations and original quantity of water that can be pumped from the well, in this instance, set forth in the decree dated 6/29/11.

6. The Department is encouraged by the proposed alternative language but finds it may be too restrictive for administration in certain situations.

CONCLUSIONS OF LAW

1. Idaho Code §67-5243(3) provides in pertinent part as follows:

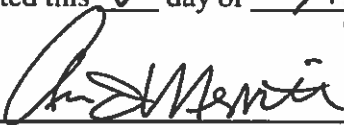
Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. Rule 730.02.a. of the Rules of Procedure of the Department provides in pertinent part that the Department 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.”
3. The city has not provided an adequate alternative wording for condition #3.
4. The Department should deny the petition for reconsideration of the order pursuant to Idaho Code §67-5243(3).

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the order approving Transfer No. 80621 is **DENIED** pursuant to Idaho Code §67-5243(3).

Dated this 8th day of April, 2016.



Allen Merritt
Southern Region Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April, 2016, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER DENYING PETITION FOR RECONSIDERATION** to the person(s) listed below:

**Documents enclosed: Order Denying Petition for Reconsideration for
Water Right Transfer No. 80621 (City of Ketchum)**

CITY OF KETCHUM
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MSBT LAW
CHERESE MC LAIN
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BOISE, ID 83702

BROCKWAY ENGINEERING
2016 N WASHINGTON ST, STE 4
TWIN FALLS, ID 83301

SHELLEY KEEN, IDWR	<i>Via e-mail</i>
JEFF PEPPERSACK, IDWR	<i>Via e-mail</i>



**Denise Maline
Administrative Assistant**