

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-33799 IN THE)
NAME OF WILLIAM STEVEN)
RUDD MD)
_____)

**STAY OF PRELIMINARY VOID ORDER
GRANTING OF PETITION FOR
RECONSIDERATION**

This matter having come before the Department of Water Resources ("Department") as a petition to reconsider a preliminary order voiding an application for permit, the Department makes the following finds, concludes, and orders:

FINDINGS OF FACT

1. On February 10, 2014, the Department issued a preliminary order voiding Application for Permit No. 63-33799 in the name of William Steven Rudd, MD (Applicant). The order was issued for failure of the Applicant to respond to a November 1, 2013 and December 2, 2013 Department letters requesting additional information.

2. On February 17, 2014 a petition for reconsideration and an assignment of application was received from Stephen J Raymond (new applicant) by electronic mail. The petition requested additional time to submit a corrected application and other information/documents. Original documents and copies will be submitted upon Mr. Raymond's return after March 1, 2014.

CONCLUSIONS OF LAW

1. Rule 730.02.a. of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a.) in part states:

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.

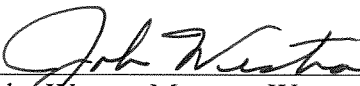
3. The petition for reconsideration and application assignment were filed timely. The new applicant should be granted additional time to submit the requested documents and information.

ORDER

IT IS HEREBY ORDERED the new Applicant's Petition for Reconsideration is **GRANTED**. This order grants an extension of time for the new Applicant to provide the necessary information and documents as outlined in the 12/04/2013 Department letter. The extension deadline is **May 1, 2014**.

IT IS FURTHER ORDERED the Preliminary Void Order issued on February 10, 2014 is **STAYED** until **May 1, 2014**. If the new Applicant fails to provide the information and documents on or before the set deadline, the Preliminary Void Order will become final without notice.

Dated this 25 day of February, 2014.


John Westra, Manager Western Region

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of February, 2014, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER** to the person(s) listed below:

Rachel Sommer
Administrative Assistant

Stephen Raymond
3800 Rock Garden Ln
Boise ID 83714



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 25, 2014

STEPHEN RAYMOND
3800 ROCK GARDEN LN
BOISE ID 83714

**RE: Order Granting Petition for Reconsideration
Application for Permit No. 63-33799**

Dear Applicants:

The accompanying order is an "**Order Granting Petition for Reconsideration**" issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed yellow information sheet.

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

Sincerely,


for:

John Westra, Manager
Western Regional Office

Enclosures

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a 'Preliminary Order' issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Grimm, Angie

From: Raymond, Stephen J. [Stephen.J.Raymond@espn.com]
Sent: Monday, February 17, 2014 9:23 AM
To: Grimm, Angie
Subject: Re: 63-33799 Permit Application Assignment Form
Attachments: DoWR Petition.pdf; DoWR Petition 1.pdf

Greetings Angela,

As discussed in our phone call last week, I am sending you electronic copies of a request for petition for reconsideration of the preliminary order voiding application regarding permit 63-33799 along with a signed copy of the assignment of application for permit from Steven Rudd to myself. I understand that these electronic copies must be replaced with the original forms and a revised application at the earliest convenience.

I will be traveling quite a bit in the coming weeks, but should be able to complete this process sometime during the week of March 2nd. If not, I will certainly be able to complete the process the week of March 23rd.

Kind regards,

Stephen Raymond

From: <Grimm>, Angie Grimm <Angie.Grimm@idwr.idaho.gov>
Date: Wednesday, February 12, 2014 6:22 PM
To: espn espn <stephen.j.raymond@espn.com>
Subject: 63-33799 Permit Application Assignment Form

Mr. Raymond,

Attached are the documents you requested during our phone conversation moments ago. Please let me know if you have any questions regarding how to proceed from here once you've had a chance to look things over.

Sincerely,

Angela M. Grimm, P.G.
Water Resources Agent, Sr.
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

Stephen Raymond
3800 Rock Garden Lane
Boise, ID 83714
860-218-3701

2/17/14

State of Idaho
Department of Water Resources
Attn: Angela M. Grimm
2735 Airport Way
Boise, ID 83705-5082

Dear Angela,

Thank you for taking the time to speak with me over the phone on Friday about the necessary steps for correcting the application for permit 63-33799.

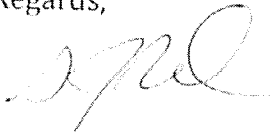
As I explained on the phone, I had been expecting that the previous property owner (Steven Rudd) had completed this matter in a timely fashion until I received your preliminary order voiding the application on February 13, 2014.

I would like to petition the department for reconsideration on this matter and will submit a corrected application and the necessary accompanying documents in a timely fashion now that I am aware of this situation.

I have attached an electronic copy of a completed assignment for application for permit from Steven Rudd to myself to this document, as he currently resides out of state, and will provide the original copy and an original copy of the application once I have returned from a business trip out of state on March 1.

Thank you in advance for your consideration in this matter.

Regards,



Stephen Raymond

Rev. 05/12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR PERMIT

To change the ownership of an application for permit

I, WILLIAM STEVEN RUDD, hereby assign to STEPHEN RAYMOND
Current applicant
 of, 3800 ROCK GARDEN LANE BOISE, ID 83714 New applicant(s) 860-218-3701
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 63-33799
 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):

_____ to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

Does the new applicant own the property at the:

Point of diversion? ☒ Yes ☐ No
 Place of use? ☒ Yes ☐ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

Dated this 14 day of FEBRUARY, 2014.

William Steven Rudd
 Signature of current applicant Title (if applicable)

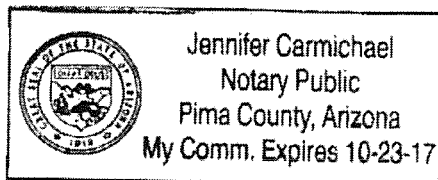
Stephen Raymond
 Signature of current applicant Title (if applicable)

State of ~~Idaho~~ ARIZONA

County of Pima

On this 14th day of February, 2014, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL



Jennifer Carmichael
 Notary Public
 My commission expires: 10/23/2017

Grimm, Angie

From: Raymond, Stephen J. [Stephen.J.Raymond@espn.com]
Sent: Friday, February 14, 2014 12:16 PM
To: Grimm, Angie
Subject: RE: 63-33799 Permit Application Assignment Form
Attachments: D339CA95-07FB-41A2-8C76-78FCAE465563-722-IF.PDF

Angie,

Here is an image of the completed assignment of application for permit form from Steven Rudd for application 63_33799. Can I sign this copy and email it to you or do I have to wait until I have the original in my possession next week? If you need the original, that will be complicated since I am due to travel for business next week and will need to plan contingencies if so.

Many thanks – Stephen Raymond

From: Grimm, Angie [<mailto:Angie.Grimm@idwr.idaho.gov>]
Sent: Wednesday, February 12, 2014 6:23 PM
To: Raymond, Stephen J.
Subject: 63-33799 Permit Application Assignment Form

Mr. Raymond,

Attached are the documents you requested during our phone conversation moments ago. Please let me know if you have any questions regarding how to proceed from here once you've had a chance to look things over.

Sincerely,

Angela M. Grimm, P.G.
Water Resources Agent, Sr.
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

TIME RECEIVED

February 14, 2014 10:50 AM MST

REMOTE CSID

520 797-4947

URATION

PAGES

2

STATUS

Received

FEB-14-2014 09:16A FROM:W STEVEN RUDD MD

520 797-4947

TO:12087807813

P.1/2

FAX COVER LETTER

Date: February 14, 2014

To: Tina Vorbeck
208 780-7813

From: Steve Rudd

Re: I have completed Steve Raymond's request for transfer of the water rights application. My scanner is poor and so I will fax you a copy today and mail the original. This is a holiday weekend, so no work will get done anyway. The letter should arrive by Tuesday.

Steve

Rev. 05/12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR PERMIT
 To change the ownership of an application for permit

I, WILLIAM STEVEN RUDD, hereby assign to STEPHEN RAYMOND
Current applicant New applicant(s)
 of, 3800 ROCK GARDEN LANE BOISE, ID 83714
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 63-33799
 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):

_____, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

Does the new applicant own the property at the:

Point of diversion? ☒ Yes ☐ No
 Place of use? ☒ Yes ☐ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

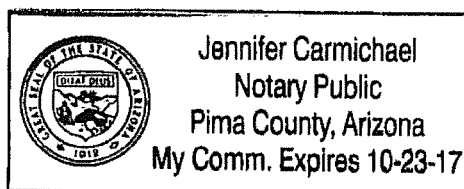
Dated this 14 day of FEBRUARY, 2014.

William Steven Rudd
 Signature of current applicant Title (if applicable) Signature of current applicant Title (if applicable)

State of ~~Idaho~~ ARIZONA)
 County of Pima)ss

On this 14th day of February, 2014, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL



Jennifer Carmichael
 Notary Public
 My commission expires: 10/23/2017