
BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF LICENSE)
NO. 55-13891 IN THE NAME OF)
QUINTANA RANCH LIMITED)
PARTNERSHIP)

**ORDER GRANTING PETITION
FOR RECONSIDERATION AND
WITHDRAWING PRELIMINARY
ORDER**

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

FINDINGS OF FACT

1. On April 13, 2009, the Department of Water Resources issued permit no. 55-13891 (permit) to Thomas Quintana (permit holder) authorizing him to appropriate 20 acre feet from Deer Creek to be used for stockwater storage purposes within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Township 06 North, Range 04 West, B.M., Owhyee County.
2. On August 3, 2009, the Department received Proof of Beneficial Use for the permit.
3. On April 27, 2013, the Department conducted a field examination and found that the permit holder had developed a portion of his water use at a different legal description than authorized by the permit. The reported change included development of a stockwater pond in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 06 North, Range 04 West, B.M., Owhyee County.
4. On October 17, 2013, the Department sent notice to the permit holder's successor in interest, Quintana Ranch Limited Partnership, stating that the permit has to be amended before the Department can issue a water right license including the portion of use developed at a different legal description than authorized by the permit. An Application for Amendment form was enclosed with the notice.
5. On November 27, 2013, the Department received the Application for Amendment of the permit which described the place of use and points of diversion found by the examiner.
6. On December 6, 2013, the Department issued license no. 55-13891, including a point of diversion and a portion of the place of use in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 06 North, Range 04 West, B.M., Owhyee County. In connection with the license, the Department processed a Notice of Change in Water Right Ownership, changing the right from Thomas Quintana to Quintana Ranch Limited Partnership.
7. On December 20, 2013, the BLM filed a Petition for Reconsideration in connection with

ANALYSIS OF PETITION FOR RECONSIDERATION

In its Petition, the BLM states that the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, Township 06 North, Range 04 West, B.M., Owhyee County, falls entirely within the Blackbird Point Allotment owned by the BLM. It further states that Quintana Ranch Limited Partnership is not an authorized grazing permittee in the Blackbird Point Allotment and has not been authorized to construct a stockwater reservoir within the Blackbird Point Allotment. The BLM argues that a water right cannot be established in trespass. The BLM requests that the place of use and point of diversion identified in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, 06 North, Range 04 West, B.M., Owhyee County, be removed from the license. The Department should grant the petition and withdraw the preliminary order issuing the license.

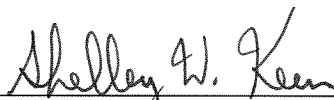
ORDER

IT IS HEREBY ORDERED that the petition for reconsideration is **GRANTED**.

IT IS FURTHER ORDERED that pursuant to IDAPA 37.01.01.760, the December 6, 2013 preliminary order is **WITHDRAWN**.

IT IS FURTHER ORDERED that Quintana Ranch Limited Partnership may respond to the allegations in the petition by submitting additional written facts or written legal argument, and/or by requesting a hearing regarding the petition. **Any written response or request for hearing regarding must be submitted to the Department on or before February 10, 2014.**

Dated this 8th day of January, 2014.



Shelley Keen, Manager
Water Rights Section

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2014, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER GRANTING PETITION FOR RECONSIDERATION AND WITHDRAWING PRELIMINARY ORDER to the person (s) listed below:

RE: WATER RIGHT LICENSE NO: 55-13891

**QUNITANA RANCH LIMITED PARTNERSHIP
C/O TIM QUINTANA
3876 HWY 95
HOMEDALE ID 83628**

**USDI BUREAU OF LAND MANAGEMENT
ATTN: FREDRIC W PRICE
1387 S VINNELL WAY
BOISE ID 83709-1657**

**USDI BUREAU OF LAND MANAGMENT
ATTN: J ALLEN TARTER
BOISE DISTRICT
3748 DEVELOPMENT AVE
BOISE ID 83705**



Jean Hersley
Technical Records Specialist II