

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT)
NO. 63-33205 IN THE NAME OF)
MIDDLETON BUS LLC)
_____)

**PRELIMINARY ORDER GRANTING
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 October 8, 2013, the Department issued a preliminary order voiding Application for Permit No. 63-33205 in the name of Middleton Bus LLC (Applicant). The order was issued for failure of the Applicant to respond to an August 30, 2013 Department letter requesting the scheduling of a field license examination.

2. On October 22, 2013, a timely petition for reconsideration with contact availability/information was received from the Applicant.

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.

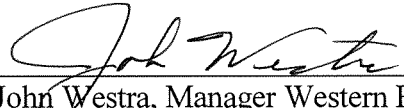
2. A timely petition for reconsideration with contact information was filed with the Department. The Department should grant the petition for reconsideration.

ORDER

IT IS HEREBY ORDERED the Petition for Reconsideration submitted by the Applicant is **GRANTED** pursuant to Rule 730.02.a. of the Department's Rules of Procedure.

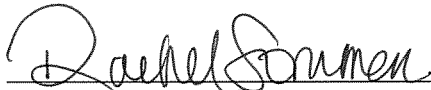
IT IS FURTHER ORDERED the preliminary order voiding permit No. 63-33205 is **WITHDRAWN**. The permit is **REINSTATED** and the licensing process will continue.

Dated this 24th day of October, 2013.


John Westra, Manager Western Region

CERTIFICATE OF SERVICE

I hereby certify that on this 25TH day of January, 2011, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER** to the person(s) listed below:


Rachel Sommer
Administrative Assistant

Middleton Bus LLC
22973 S 21st Ave W
Middleton ID 83644



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

October 25, 2013

MIDDLETON BUS LLC
22973 S 21ST ACE WEST
MIDDLETON ID 83644

**RE: Order Granting Petition for Reconsideration
Application for Permit No. 63-33205**

Dear Applicants:

The accompanying order is an "**Order Granting Petition for Reconsideration and Void Order Withdrawal**" 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,



Rachel Sommer
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.

RECEIVED

OCT 22 2013

WATER RESOURCES
WESTERN REGION

MIDDLETON BUS LLC

22973 S. 21ST AVE. W.

MIDDLETON, IDAHO 83644

208-459-0195

October 16, 2013

Dear John Westra,

We are petitioning the preliminary order to void our Permit No. 63-33205. We had not received the notice that was sent on August 30, 2013 and was not aware that anything more was needed. We were under the impression that we had finalized all information in October of 2011. We would welcome a field exam when it is convenient for you. We are available Monday thru Friday from 7:00 am. to 6:00 pm. Thank you for your help and consideration.

Sincerely,


Steve Vis

Middleton Bus Llc.

M:006720 BUS LLC
Steve V's
22973 S. 21st. Ave. W.
M:006720, ID. 83644

RECEIVED
OCT 21 2013
DEPARTMENT OF
WATER RESOURCES

State of IDAHO
Department of Water Resources
Attn. John Westra
Boise, ID. 83725-5082

BOISE ID 837
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