

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER #77529 IN THE NAME	)	PRELIMINARY ORDER
OF BITTERCREEK MEADOWS WATER	)	REJECTING APPLICATION
AND SEWER USERS ASSOCIATION	)	
	)	

This matter having come before the Idaho Department of Water Resources as a result of an application for transfer, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On September 12, 2011, Bittercreek Meadows Water & Sewer Users Association (Applicant) filed application for transfer no. 77529 for water right no. 63-31957 with the Idaho Department of Water Resources (Department). Water right no. 63-31957 is owned by the City of Meridian.
2. On September 19, 2011, the Department sent the Applicant's Consultant electronic mail requesting the Applicant's intentions regarding the application and necessary additional information.
3. On September 22, 2011, the Department received a letter from the Consultant requesting additional clarification and guidance regarding the requested information.
4. Between September 26, 2011, and November 1, 2011, the Department and the Consultant exchanged several electronic mails regarding the information requested by the Department.
5. On November 1, 2011, the application was protested by Ken and Susan Bricker.
6. On March 30, 2012, a prehearing conference was held regarding the application and the protest. A deadline was set for April 14, 2012, by which the applicant was to submit the information originally requested.
7. To date, the Department has not received a response or the requested information from the Consultant / Applicant.

CONCLUSIONS OF LAW

1. Idaho Code (IC)§ 42-222 states in pertinent part:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation or water resources in the State of Idaho and is in the local public interest...

2. Without the requested additional information from the Applicant, the Department cannot ascertain that the changes proposed in the application for transfer are consistent with the provisions of Idaho Code §42-222.

3. The Applicant and/or Consultant has failed or refused to provide the Department the requested information. The application for transfer should be rejected.

ORDER

IT IS HEREBY ORDERED that Application for Transfer #77529 in the name of Bittercreek Meadows Water & Sewer Users Association be REJECTED.

Dated this 8th day of August, 2012

Vicky Musie

Vicky Musie
Prehearing Officer, Western Regional Office

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August, 2012, I mailed a true and correct copy, certified mail, of the foregoing **PRELIMINARY ORDER** to the persons listed below:

BITTERCREEK MEADOWS WATER & SEWER USERS ASSOC.
2040 SOUTH EAGLE RD
MERIDIAN ID 83642

MOUNTAIN WATERWORKS LLC
TIM FARRELL
3152 S BOWN WAY
BOISE ID 83716

KEN AND SUSAN BRICKER
5020 SOUTH COUNTRY LIFE LANE
MERIDIAN ID 83642

Mandi Pearson

Mandi Pearson
Office Specialist II