

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO.)	ORDER WITHDRAWING
63-9890 IN THE NAME OF VETERANS)	A PRELIMINARY ORDER
ADMINISTRATION MEDICAL CENTER)	
_____)	

This matter having come before the Department of Water Resources (Department) as a result of the issuance of water right license 63-9890, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On February 6, 2012, the Department issued water right license 63-9890 (license) pursuant to the provisions of Section 42-219, Idaho Code. The license was issued in the name of Veterans Administration Medical Center (water right holder). The Department issued the license as a preliminary order pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). Notice of the preliminary order was mailed to the water right holder.
2. On March 20, 2012, the Department received a Petition for Reconsideration of the order from the U.S. Department of Justice representing the water right holder. The petition requested removal of a combined use condition on the license.
3. The Department's records for water right 63-9890 contain communications confirming the U.S. Department of Justice is acting as the water right holder's representative.
4. The Department did not send notification to the U.S. Department of Justice that the preliminary order had been issued.
5. Rule 55 of the Department's Rules of Procedure (IDAPA 37.01.01.055) provides in part:

The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency.

CONCLUSIONS OF LAW

1. The Department did not provide proper notice as described in IDAPA 37.01.01.055, and therefore, the preliminary order did not become final.
2. The Department can withdraw a preliminary order before it becomes final.
3. The Department should withdraw the preliminary order in order to substitute a new preliminary order and provide proper notice of its issuance to the right holder's representative.

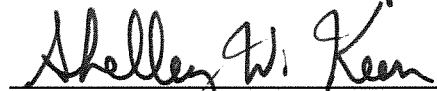
ORDER

ORDER

IT IS THEREFORE HEREBY ORDERED that the February 6, 2012, preliminary order issuing Water Right License No. 63-9890 is **WITHDRAWN**.

IT IS FURTHER HEREBY ORDERED that the Department shall issue another Water Right Licensed for Right No. 63-9890 and shall properly serve the right holder's representative.

Dated this 11th day of April, 2012.

A handwritten signature in black ink, reading "Shelley W. Keen". The signature is written in a cursive style and is positioned above a horizontal line.

Shelley W. Keen, Manager
Water Right Permits Section