

BEFORE OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF WATER RIGHT)
LICENSE NO. 45-7683 IN THE NAME OF)
ELDON ADAMS)
_____)

**ORDER DENYING PETITION
FOR RECONSIDERATION**

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

FINDINGS OF FACT

1. On June 24, 1991, the Department issued Permit 45-7683 (permit) authorizing Eldon Adams (permit holder) to develop a right to divert 0.29 cubic feet per second (cfs) from a ground water source for irrigation of 14.5 acres. The permit included a condition requiring Proof of Beneficial Use (proof) to be submitted on or before July 1, 1993.

2. On May 11, 1993, the Department received a proof statement for the permit. The proof statement indicated that the permit holder had diverted ground water from a well drilled in 1989 and used it for the permitted irrigation use.

3. On August 20, 1995, a Department field examiner conducted an examination to verify the beneficial use of water established in connection with the permit. The examiner reported that the well used to supply water for the permitted purpose of use contained a 1.5 horsepower Dayton submersible pump capable of supplying a maximum diversion rate of 0.07 cfs of water. The examiner also reported that the ground water use established by the permit holder supplements the use of surface water diverted from Marsh Creek. The examiner reported the irrigated place of use to be 11.5 acres. IDWR reviewers revised the irrigated place of use to 12.0 acres after reviewing aerial photography.

4. On April 4, 2011, the Department issued Water Right License 45-7683 for the diversion of up to 0.07 cfs of ground water for supplemental irrigation on 12.0 acres of land.

5. On April 12, 2011, the Department received the permit holder's petition for reconsideration of License 45-7683. The permit holder indicated that License 45-7683 should have been issued for a greater diversion rate and a larger place of use. The permit holder also indicated that the use of the ground water is his primary irrigation source; it is not supplemental to the Marsh Creek surface water rights.

6. On April 18, 2011, the Department requested additional information to support the points identified in the petition.

7. On April 25, 2011, the Department received additional information submitted by the permit holder to support the April 12, 2011, petition. The documentation included: a well driller report for a well drilled by Tom MacKenzie in January of 2002; pump curve information for a 7.5 horsepower 4-stage pump; a USDA farm map dated April 25, 2011, showing a different place of use from that confirmed during the August 20, 1995, field examination; and Marsh Creek Water District 45F records containing monthly delivery records for the years 2002 – 2011.

8. The Water District 45F records submitted to the Department by the permit holder show that the permit holder diverts water pursuant to Marsh Creek water rights for irrigation purposes.

CONCLUSIONS OF LAW

1. The authorized development period for Permit 45-7683 ended on May 11, 1993, when the permit holder submitted a proof of beneficial use statement.

2. The information provided by the permit holder does not indicate that the permit holder diverted and used more than 0.07 cfs of water or irrigated more than 12.0 of acres of land in connection with the permit during the authorized development period for the permit.

3. The information provided by the permit holder does not demonstrate that ground water was his primary source of irrigation water for the permitted place of use during the authorized development period for the permit.

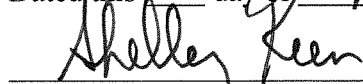
4. The petitioner has not provided sufficient reason for the Department to grant the petition.

5. The Department should deny the petition pursuant to Rule 730.02.a of the Department's Rules of Procedure (IDAPA 37.01.01.730.02a).

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the preliminary order issuing Water Right License No. 45-7683 is **DENIED**.

Dated this 2nd day of May, 2011.



Shelley Keen, Manager
Water Right Section