

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

IN THE MATTER OF WATER RIGHT)	
LICENSE NOS. 98-7771 AND 98-7829)	
IN THE NAME OF U.S. DEPARTMENT)	ORDER WITHDRAWING
INTERIOR, FISH AND WILDLIFE SERVICE)	PRELIMINARY ORDERS
_____)	

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

FINDINGS OF FACT

1. On February 3, 2011, the Department issued Water Right License Nos. 98-7771 and 98-7829 (licenses) to U.S. Department of Interior, Fish and Wildlife Service (right holder), for wildlife storage and diversion to storage uses for wetland habitat enhancement at Kootenai National Wildlife Refuge (refuge) in Boundary County. License 98-7771 authorized the use of 6.99 cubic feet per second (cfs) of water for diversion to storage purposes and 444.0 acre-feet (af) of water for wildlife storage purposes. License 98-7829 authorized the use of 3.01 cfs of water for diversion to storage purposes and 850 af of water for wildlife storage purposes. The licenses share the same point of diversion but have different places of use within the refuge.

2. The licenses were issued as preliminary orders (orders) of the Department pursuant to § 67-5243, Idaho Code, and Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730).

3. On February 7, 2011, the Department served a true and correct copy of the orders to the right holder by U. S. Mail.

4. On February 18, 2011, the Department received, via facsimile transmission and electronic mail, a petition for reconsideration of the orders (petition) pursuant to Rule 730.02.a of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a). Through the petition the right holder requested that: wildlife be recognized as a beneficial use on both licenses; the combined diversion rate limit for 98-7366, 98-7771, and 98-7829, when used in combination, should be no less than 12.29 cfs of water; and the maximum diversion volume limit for both licenses be increased.

5. On March 8, 2011, the Department and the right holder engaged in a telephone conference to discuss the petition. The right holder would like time to assemble information to support its petition.

6. Rule 730.02.a. of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a.) provides in pertinent part as follows:

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.

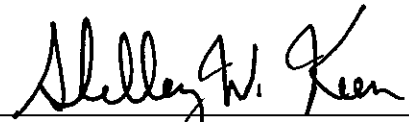
CONCLUSIONS OF LAW

1. The petition was timely.
2. The Department can withdraw a preliminary order before it becomes final.
3. The Department needs additional information and/or time to determine if the license should be revised as requested in the petition.

ORDER

IT IS HEREBY ORDERED that the preliminary orders issuing License No. 98-7771 and 98-7829 are **WITHDRAWN**.

Dated this 11th day of March, 2011.



SHELLEY KEEN, Manager
Water Rights Section

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2011,, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER WITHDRAWING PRELIMINARY ORDERS to the persons listed below:

RE: WATER RIGHT NO.

98-7771 & 98-7829

**US DEPT OF INTERIOR
FISH & WILDLIFE SERVICE
911 NE 11TH AVE
PORTLAND OR 97232-4181**

**THOMAS SMILEY, REGIONAL ENGINEER
US DEPT OF INTERIOR
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**Danni M. Smith
Office Services Supervisor**