

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 72-7536) **ORDER DENYING PETITION**
IN THE NAME OF GEORGE E SANTEE) **FOR RECONSIDERATION**
_____)

This matter having come before the Department of Water Resources (Department) as a petition to reconsider the issuance of a water right license, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On February 2, 1996, the Department issued Permit 72-7536 (permit) authorizing George E. Santee, Jr., (right holder) to develop a right to divert 0.90 cfs from groundwater in Govt. Lot 8, Section 9, Township 15 North, Range 20 East B.M., Custer County, to irrigate 45 acres.
2. On December 23, 1998, the Department received a proof of beneficial use statement for the permit.
3. On August 24, 2000, a Department field examiner conducted an inspection to verify the beneficial use of water developed in accordance with the permit. The examiner reported that the permit holder had diverted 0.28 cfs from groundwater for irrigation purposes in accordance with the permit.
4. On December 27, 2010, the Department issued Water Right License 72-7536 (license) confirming the right to divert up to 0.28 cfs from groundwater in Govt. Lot 8, Section 9, Township 15 North, Range 20 East, B.M., Custer County, to irrigate 29.9 acres.
5. On January 7, 2011, the Department received a petition for reconsideration (petition) of the order from the right holder. The right holder asked the Department to review additional evidence submitted to substantiate a diversion rate exceeding 0.28 cfs.

ANALYSIS

The right holder supplied a copy of the November 24, 1998 pivot design sheet developed by Valmont Industries Inc. for his irrigation system. The document shows that the system was designed for 160 gpm (0.356 cfs), which is a higher rate than was measured by the Department's field examiner in the summer of 2000. The information provided by the right holder does not indicate whether changes were made during installation. Discrepancies between original design and "as built" installation are common. Even small changes can affect a system's actual performance. In addition, the aquifer yield may be different than what was anticipated by the system designer. An "as-built" verification measurement would have confirmed the installed rate and resolved the discrepancy between the designed rate and the measured rate.

The Department's field examiner did not provide diagnostics for her measuring device setup. However, a review of the photos of the setup show that the examiner's meter appears to have been positioned correctly on an adequate length of pipe at the pivot. The measurement appears to have been done correctly. It is more certain and therefore superior to pre-construction plans.

Power use records from the authorized development period for the permit are available. However, the calculations involved in developing a power factor use the only available measurement (the field examiner's measurement) and require more detailed records of pumping than are typically available. Because the method introduces several opportunities for error it is inferior to an onsite measurement.

CONCLUSIONS OF LAW

1. The license was issued as a preliminary order (order) of the Department pursuant to Idaho Code § 67-5243 and Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730).
2. Rule 730.02.a. of the Department's Rules of Procedure (IDAPA 37.01.01.730) provides in pertinent part as follows:

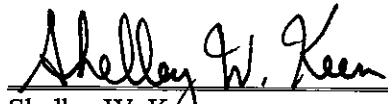
Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

3. The petition was timely.
4. The right holder has not provided adequate information to show that the license is in error.
5. The Department should deny the petition for reconsideration of the order pursuant to Rule 730.02.a.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the order issuing Water Right License 72-07536 is **DENIED**.

Dated this 20th day of January, 2011.



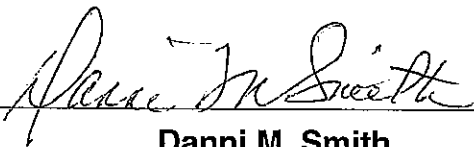
Shelley W. Keen,
Manager, Water Rights Section

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2011 I mailed a true and correct copy, postage prepaid, of the foregoing ORDER DENYING PETITION FOR RECONSIDERATION to the person listed below:

RE: WATER RIGHT LICENSE NO. 72-7536

**GEORGE E SANTEE JR
PO BOX 2341
IDAHO FALLS ID 83403-2341**



**Danni M. Smith
Office Services Supervisor**