

MEMORANDUM

TO: Shelley Keen
FROM: Aaron Marshall 
DATE: June 10, 2010
SUBJECT: Permit 22-7114

On December 4, 2008, IDWR issued a preliminary order voiding permit no. 22-7114 on the basis that no beneficial use of water was developed above and beyond prior water rights within the authorized development period. The certificate of service for the preliminary order is dated December 8, 2008. The preliminary order was mailed to the permit holders, Steveco Canyon Farms Inc. and Northwest Farm Credit Services ACA. The preliminary order was not mailed to the attorney representing Steveco Canyon Farms, Robert L. Harris. The Department did not receive a petition for reconsideration of the preliminary order within 14 days of the service date.

Presumably, since no petitions were filed within 14 days of the service date, the preliminary order became a final order pursuant to Rule 730.02.b. of the Department's Rules of Procedure.

On January 6, 2009, the Department mailed a copy of the preliminary order to Mr. Harris. On January 20, 2009, IDWR received a petition for hearing before the Director from Mr. Harris. The Director has not conducted a hearing in this matter.

On January 22, 2010, Mr. Harris and Ernest Carlsen, IDWR Water Resource Program Manager, signed a Resolution of Protest against Voiding Permit 22-7114. Both agree that 2.94 cfs of water from Canyon Creek was developed under permit 22-7114 within the authorized development period above and beyond prior water rights. Upon further review, I concur that a water right was developed under permit 22-7114 for 2.94 cfs from Canyon Creek – but not additional acres or volume in excess of prior rights.

Since the preliminary order presumably became a final order, does the Department have any means of withdrawing the order and issuing a license?

Or, must the Director hold a hearing in accordance with the Rules of Procedure?