

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 75180 IN THE)
NAME OF THUNDER ELEVEN LLC)

**ORDER DENYING PETITION
FOR RECONSIDERATION**

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

FINDINGS OF FACT

1. On October 1, 2008, the Department received Application for Transfer No. 75180 in the name of Thunder Eleven LLC, prepared by Rocky Mountain Environmental, requesting to change the point of diversion, place of use and nature of use for 0.02 cfs of water right 22-13842 in the name of Guiomar W. Hufsmith.

- ~~2. To confirm chain of title for the 0.02 cfs the following documents were submitted with the~~
transfer application:

Option Agreement for Purchase and Sale of Water Right, signed October 19, 2006, by
Robert and Guiomar Hufsmith and Idaho Water Co. by Del Kohtz (not recorded)
Contract #0652, Agreement for Purchase and Sale of Water Right, signed November 15,
2006, by Del Kohtz of Idaho Water Co. and Joe Landstrom (not recorded)
Special Warranty Deed for Water Rights, signed November 15, 2006, by Del Kohtz
of Idaho Water Co. and Joe Landstrom (not recorded)
Quitclaim Deed, signed August 20, 2008, by Joe Landstrom and Shelley B. Landstrom,
recorded as Instrument #200032 in Teton County Idaho
Quitclaim Deed, signed September 2, 2008, by Joe Landstrom, recorded as Instrument
#200033 in Teton County Idaho
Special Warranty Deed for Water Rights, signed September 25, 2008, by Joe Landstrom

3. On January 28, 2009, the Department issued a preliminary order approving transfer #75180, splitting water right 22-13842 into 22-13897 and 22-13898 and leaving the two new water rights in the name of Guiomar W. Hufsmith.
4. On February 9, 2008, the Department received a petition for reconsideration (petition) of the order from Rocky Mountain Environmental (petitioner). The petitioner asks the Department to amend the order changing the ownership of water right 22-13898 to reflect Thunder Eleven LLC.

CONCLUSIONS OF LAW

1. Section 67-5243(3), *Idaho Code*, provides in pertinent part as follows:

Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the issuance of that order. The presiding officer shall render a written order disposing of the petition.

2. Rule 730.02.a. of the Rules of Procedure of the Department provides in pertinent part that the Department 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. It is the Department's position that The Option Agreement for Purchase and Sale of Water Right, signed October 19, 2006, by Robert and Guiomar Hufsmith and Idaho Water Co. by Del Kohtz, provides authorization for filing a transfer application but does not acknowledge the actual purchase of 0.02 cfs from Guiomar W. Hufsmith.
4. The Department should deny the petition for reconsideration of the order pursuant to Section 67-5243(3), *Idaho Code*.

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the preliminary order approving Application for Transfer # 75180 is **DENIED** pursuant to Section 67-5243(3), *Idaho Code*.

Dated this 3 day of March, 2009.


Ernest Carlsen
Water Resource Program Manager