

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested



RETURNED
TO SENDER

NO STREET DELIVERY
FOR YOUR RECORDS:
P.O. BOX 21
NEWDALE ID 83436

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE
PITNEY BOWES
02 1M
0004227270 JUN 20 2008
MAILED FROM ZIP CODE 83702

RECEIVED

JUN 30 2008

DEPARTMENT OF
WATER RESOURCES

Transfer
73415
22-2200

REESE J GODFREY
8671 E HWY 33
NEWDALE ID 83436

HOLDEN KIDWELL HAHN & CRAPO PLLC

NIXIE

937 CC 1

72 06/24/08

RETURN TO SENDER
NO MAIL RECORD
UNABLE TO FORWARD

BC: 837200098

*0395-04416-24-23

83436
83720@0098





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

June 20, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

LAYNE HARRIS
PO BOX 63
NEWDALE ID 83436

REESE J GODFREY
8671 E HWY 33
NEWDALE ID 83436

BOYD E HOWARD
PO BOX 76
NEWDALE ID 83436

CAROL OSTERMILLER
8881 E HWY 33
PO BOX 142
NEWDALE ID 83436

RE: Order Withdrawing Preliminary Order issued May 15, 2008
Transfer No. 73415
Water Right No.: 22-12900, 22-2200, and 22-7397

Dear Water Right Holders and Interested Parties:

The accompanying order is a "**preliminary order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-287-4947.

Sincerely,

for Shelley W. Keen, Manager
Water Right Permits Section

Enclosures

cc: HOLDEN KIDWELL HAHN & CRAPO PLLC

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 73415 IN THE NAME OF)
LAYNE HARRIS)
_____)

**ORDER WITHDRAWING
A PRELIMINARY ORDER**

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

FINDINGS OF FACT

1. On May 15, 2008, the Department approved Transfer of Water Right No. 73415 (transfer) 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. On May 26, 2008, the Department received a Petition for Reconsideration of the order (petition) pursuant to Rule 730.02.a of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a). The petitioner seeks reconsideration of the transfer approval and asks that the transfer approval be stayed until objections on an associated right are resolved in the Snake River Basin Adjudication process.

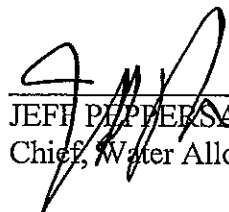
CONCLUSIONS OF LAW

1. The Department can withdraw a preliminary order before it becomes final.
2. The Department should put the Application for Transfer on hold until the objection is resolved.

ORDER

IT IS HEREBY ORDERED that the preliminary order issuing Transfer No. 73415 is **WITHDRAWN**.

Dated this 19th day of June, 2008.



JEFF PEPPERSACK
Chief, Water Allocation Bureau

ORDER WITHDRAWING A PRELIMINARY ORDER

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2008, I mailed a true and correct copy, certified postage prepaid, of the foregoing ORDER WITHDRAWING A PRELIMINARY ORDER to the persons listed below:

RE: Order Withdrawing Preliminary Order issued May 15, 2008
Transfer No. 73415
Water Right No.: 22-12900, 22-2200, and 22-7397

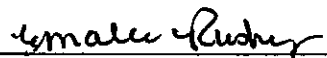
LAYNE HARRIS
PO BOX 63
NEWDALE ID 83436

BOYD E HOWARD
PO BOX 76
NEWDALE ID 83436

CAROL OSTERMILLER
8881 E HWY 33
PO BOX 142
NEWDALE ID 83436

REESE J GODFREY
8671 E HWY 33
NEWDALE ID 83436

HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405-0130



Emalee Rushing
Office Services Supervisor

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.