

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 95-09351 IN THE NAME OF)
COEUR D'ALENE FIBER FUELS INC (CDAFF))
_____)

**ORDER WITHDRAWING
AND REPLACING A
FINAL ORDER**

This matter having come before the Department of Water Resources (Department), the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On August 21, 2006, the Department issued Permit to Appropriate Water No. 95-09351 (permit) 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. In September, 2006, the Department found that an administrative error had been made and only 0.75 acres, rather than 15 acres, should have been included in the place of use for irrigation.
3. No notice of appeal to District Court has been filed and the expiration of the time for appeal to District Court will not occur until September 26, 2006.

CONCLUSIONS OF LAW

1. Pursuant to Rule 760 of the Department's Rules of Procedure (IDAPA 37.01.01.760), the agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it.
2. The Department should correct the place of use on the permit.

ORDER

IT IS HEREBY ORDERED that Permit No. 95-09351 dated August 21, 2006, is **WITHDRAWN** and **REPLACED** with Permit No. 95-09351 issued on this date in connection with this order.

Dated this 12th day of September, 2006.


for KARL J DREHER, Director