

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 13-7127)
IN THE NAME OF MILLER FAMILY REAL)
ESTATE, 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 a water right license, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On November 23, 2005, the Department issued Water Right License 13-7127 (license) confirming that Miller Family Real Estate, LLC, (right holder) had established a right to divert and store 600.0 AF of water from Current Creek, a tributary of Stockton Creek, for recreational use in Bannock County.
2. The Department issued the license as a preliminary order (order) pursuant to Idaho Code § 67-5243 and Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730).
3. Idaho Code § Section 67-5243(3) 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.
4. On December 13, 2005, the Department received a petition for reconsideration (petition) of the preliminary order issuing Water Right License 13-7127 from John A. Rosholt (petitioner), attorney for the right holder.
5. In his petition, the petitioner stated that the license should have authorized the irrigation of 120 acres as an additional beneficial use of water stored in connection with the water right.
6. The petitioner did not submit a brief or additional documentation or evidence in connection with the petition.

7. On December 15, 2005, the Department sent the petitioner a notice granting him 60 days to provide information or documentation in support of the assertions made in the petition.

8. On February 21, 2006, the petitioner told Department staff by telephone that he would not be able to provide additional evidence to support the petition.

CONCLUSIONS OF LAW

1. The petitioner has not provided adequate information to show that the license is in error.

2. The Department should deny the petition for reconsideration of the order pursuant to Idaho Code § 67-5243(3).

ORDER

IT IS HEREBY ORDERED that the petition for reconsideration of the preliminary order issuing Water Right License 13-7127 is **DENIED** pursuant to Idaho Code § 67-5243(3).

Dated this 23rd day of February, 2006.


GARY SPACKMAN
Chief, Water Allocation Bureau