

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

IN THE MATTER OF DIVERSION AND USE
OF WATER NOT IN CONFORMANCE WITH
CONDITIONS OF APPROVAL OF TRANSFER
NO. 5197 INVOLVING RIGHTS NOS. 36-02457B,
36-07760B AND 36-08063F IN THE NAME OF
F.F. GUNNING

**ORDER GRANTING
PETITION FOR
RECONSIDERATION**

On May 25, 2000, the Idaho Department of Water Resources (Department) issued a Preliminary Order rescinding the approval of Application for Transfer No. 5197 (preliminary order). The Department served a copy of the preliminary order upon interested parties.

On June 2, 2000, Robert E. Williams, on behalf of the right holder, filed a timely Petition for Reconsideration (petition) of the preliminary order. A brief in support of the petition for reconsideration was filed by Mr. Williams. No responses or objections to the petition have been received. Department Rule of Procedure 730.02 a provides that the hearing officer issuing a preliminary order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. IDAPA 37.01.01.730.02.a.

On June 9, 2000, Mr. Williams filed, on behalf of the right holder, a "Complaint for Declaratory Relief Under I.C. Section 10-1201 Et Seq." seeking a determination of the effect of certain Gooding County ordinances on the operation of Gunning Dairy. The matters at issue in the preliminary order have been placed before the district court.

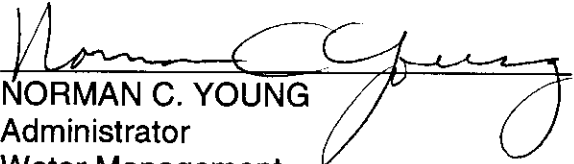
ORDER

The Department having reviewed the petition for reconsideration, and good cause appearing therefor, it is **HEREBY ORDERED** that the petition is **GRANTED** upon the following conditions:

1. Granting of the petition does not represent Department concurrence with any of the substantive allegations contained in the petition or the supporting brief.

2. The Department hearing officer shall provide further opportunity for review of the preliminary order after a decision is issued by the court on the relevant issues.

Dated this 22 day of June 2000.


NORMAN C. YOUNG
Administrator
Water Management

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 22nd day of June, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing document to the following:

DOCUMENT SERVED: ORDER GRANTING PETITION FOR RECONSIDERATION

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P.O. Box 716
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2923 South 2200 East
Wendell, 83355

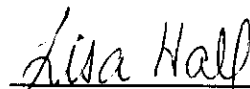
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