

BEFORE THE DEPARTMENT OF WATER RESOURCES
FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 68533 IN THE)
NAME OF ROCKY MOUNTAIN LAND &)
CATTLE, LLC)
_____)

**ORDER IN RESPONSE
TO PETITION FOR
RECONSIDERATION**

On February 15, 2005, Rocky Mountain Land & Cattle, LLC. ("Rocky Mountain") petitioned the hearing officer to reconsider a Preliminary Order issued on February 1, 2005, and mailed on February 2, 2005. The Petition for Reconsideration was timely filed. The petition states that its purpose "is to focus on the amount of irrigated acreage." The petition states the following:

So far as we are aware, virtually the same acreage that is presently irrigated has been irrigated since many years prior to 1987. To our understanding, there is no proposal to change the acreage irrigated and we ought to be able to come to a satisfactory conclusion as to what that acreage really is. We do not accept that a mistake in the spreadsheet renders the information not credible; may require the mistake to be corrected. Why couldn't that map analyzers get together and review the discrepancies or areas of concern and see if they can agree on the number of acres within each quarter-quarter section historically irrigated, both for the purpose of this transfer proceeding and the SRBA processing?

Finding of Fact No. 29 in the preliminary order states:

The third page of Applicant's Exhibit no. 1-E is a spreadsheet that may have been instrumental in the applicant's determination of the acreage irrigated. The spreadsheet is incomplete and contains information that the hearing officer cannot reconcile with the map or with records of IDWR. The hearing officer finds that the information contained in the spreadsheet is not complete and is not credible.

The hearing officer assumes that the reference to a “mistake in a spreadsheet” rendering “the information not credible” is a reference to Finding of Fact No. 29.

The errors, discrepancies, or omissions contained in the spreadsheet that was a part of Exhibit No.1-E were identified by reviewing all of the other information available to the hearing officer. This information included the map that was the last page of the Applicant’s Exhibit No. 1-E because of the errors, discrepancies, or omission in the spreadsheet, the hearing officer felt it important to point out the problems with the spreadsheet, and that the hearing officer would not consider the information in reaching a decision.

Rocky Mountain argues that these mistakes should be “corrected.” The Petition for Reconsideration does not describe a process for correction or reconciliation. It does not rely on evidence in the record to support the validity of the spreadsheet or the information contained thereon. As a result, the hearing officer is unable to use the existing record to attempt to address the Petition for Reconsideration. Instead, the Petition for Reconsideration appears to request that the record be augmented with additional evidence.

As a result of the uncertainty about the intentions of Rocky Mountain in seeking a Petition for Reconsideration, but wanting to allow full review of a difficult place of use analysis, the hearing officer will grant the Petition for Reconsideration with a short timeframe for clarification.

ORDER

IT IS HEREBY ORDERED that the Petition for Reconsideration filed by Rocky Mountain Land & Cattle, LLC., is **granted**.

IT IS FURTHER ORDERED that Rocky Mountain has 28-days within which it must present information supporting an argument that the hearing officer should consider the data in

Applicant's Exhibit 1-E spreadsheet; or, alternatively, Rocky Mountain must file a Motion to Augment the Record. Any Motion to Augment the Record must be served upon all of the parties and be accompanied by a proposal for augmentation. Upon receipt of a Motion for Augmentation, IDWR will order a schedule for submittal of additional information and schedule an additional hearing, if necessary.

IT IS FURTHER ORDERED that failure to submit additional information within 28-days of the date of this order will result in an automatic denial of the Petition for Reconsideration.

DATED this 2nd day of March, 2005.



Gary Spackman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of March, 2005, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

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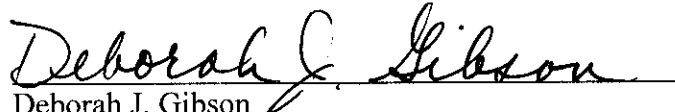
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