

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NOS. 55-07440, 55-07441, 55-07442) **ORDER GRANTING PETITION**
55-07443, 55-07444, 55-07445, 55-07446,) **FOR RECONSIDERATION,**
55-07447, 55-07448, 55-07449, 55-07450,) **WITHDRAWING FINAL ORDER,**
55-07451, 55-07452, 55-07454, 55-07455) **AND AUGMENTING THE**
AND 55-07456 IN THE NAME OF HANLEY) **RECORD**
RANCH.)

PROCEDURAL HISTORY

In 1993, Hanley Ranch filed 16 applications for permit numbered 55-07440 to 55-07456 excluding 55-07453 with the Idaho Department of Water Resources (“IDWR”). The applications were protested by the Bureau of Land Management (“BLM”).

On March 7, 2000, IDWR conducted a hearing.

On October 19, 2013, IDWR issued a Final Order (“Final Order”) granting the applications.

On November 8, 2013, BLM filed a Petition for Reconsideration and Clarification (“Petition”). Attached to the Petition was the Affidavit of Fredric W. Price with three exhibits.

ANALYSIS OF PETITION FOR RECONSIDERATION

In its Petition, BLM states that Hanley Ranch has not been authorized to graze on Trout Springs Allotment no. 539 since 2007. *Petition* at 2. The allotment was closed to grazing in 2008 and in 2009 Hanley Ranch was denied a grazing permit renewal due to an unsatisfactory record of performance. *Petition* at 2. The BLM’s denial of permit was affirmed by the Interior Board of Land Appeals (“IBLA”) in March 2013. *Petition* at 2. Hanley Ranch has not appealed the IBLA decision. *Petition* at 2.

The Director’s October 19, 2013 Final Order was premised upon Hanley Ranch’s authorization to use federal land: “Because of its grazing allotment permit, Hanley Ranch has the ability to beneficially use water as proposed.” *Final Order* at 5. In addition the Final Order recognized the possibility that the grazing permit could be cancelled or not renewed and placed conditions on the water right permits, recognizing that such a permit does not provide authorization for entry onto federal lands. *Final Order* at 6.

IDWR received information that Hanley Ranch's access to the BLM grazing allotment has been revoked. The revocation of Hanley Ranch's grazing allotment could fundamentally change the Director's legal analysis and basis for the earlier order. The Petition is granted and the October 19th Final Order is withdrawn. Additionally, the record should be augmented with the information provided in Mr. Price's affidavit and its attached exhibits for further consideration.

ORDER

IT IS HEREBY ORDERED that petition for reconsideration in the matter of application for permit nos. 55-07440, 55-07441, 55-07442, 55-07443, 55-07444, 55-07445, 55-07446, 55-07447, 55-07448, 55-07449, 55-07450, 55-07451, 55-07452, 55-07454, 55-07455 and 55-07456 is **GRANTED**.

IT IS FURTHER ORDERED that pursuant to IDAPA 37.01.01.760, the October 19, 2013 Final Order is **WITHDRAWN**.

IT IS FURTHER ORDERED that the record in the matter of the above listed subcases is augmented with the Affidavit of Fred W. Price and its attached exhibits. A copy of the affidavit and its exhibits are available upon request.

IT IS FURTHER ORDERED that any party may respond to the augmented evidence either by submitting additional written facts, written legal argument, and/or by requesting a hearing regarding the augmented evidence. **Any written response or request for hearing regarding the augmented evidence must be submitted to the Director on or before December 20, 2013.** Any written response shall be limited to the status of Hanley Ranch's BLM grazing permit.

Dated this 26th day of November 2013.


Gary Spackman, Director

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of November, 2013 a true and correct copy, of the document(s) described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: ORDER GRANTING PETITION FOR RECONSIDERATION, WITHDRAWING FINAL ORDER, AND AUGMENTING THE RECORD.

MICHAEL F HANLEY
HANLEY RANCH
PO BOX 271
JORDAN VALLEY OR 97910

GARY MADENFORD & FRED PRICE
BUREAU OF LAND MGMT
1387 S VINNELL WY
BOISE ID 83709

WILLIAM M FERRY
OFFICE OF THE SOLICITOR
FEDERAL BLDG & US COURTHOUSE
MSC 020-440 W FORT ST
BOISE ID 83724-0020

DARYL I ALBISTON
OWYHEE AREA MGR
BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705-5389



Deborah J. Gibson
Admin. Assistant for the Director