

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

**IN THE MATTER OF APPLICATION)
FOR WATER RIGHT TRANSFER NO.)
85695 IN THE NAME OF)
PACIFICORP.)**

**NOTICE OF INFORMAL
SETTLEMENT CONFERENCE**

On November 22, 2021, Pacificorp . filed Application for Water Right Transfer No. 85695 with the Idaho Department of Water Resources ("Department"). Protest(s) were filed by USDI Fish & Wildlife Service; Bear Lake Watch; Bear River Water Users' Association; Michael Robison Dingle Irrigation, Black Otter, Ream Crockett, Preston Montpelier Irrigation; and USDI Bureau of Land Management.

The Department has scheduled this case for an online video informal settlement conference on July 13, 2022, beginning at 9:00. The applicant and protestant(s) must attend.

Please use the following information to participate: Via Webex

**Meeting number (access code): 2461 116 0122
Meeting password: IDWR2022**

Agenda items for the informal settlement conference will include:

1. Review of the application and protest(s),
2. Additional informational needs,
3. Settlement options,
4. Need for additional informal proceedings or alternative dispute resolution options, and
5. Commencement of formal proceedings.

The Department encourages the applicant and protestant(s) to discuss and resolve the protest(s) before the informal settlement conference. If private discussions are not possible or do not resolve the protest(s), the informal settlement conference provides another opportunity for the applicant and protestant(s) to meet before commencing a formal hearing. Parties often settle their differences at the informal settlement conference.

If informal proceedings are unlikely to resolve this contested case, the Department will initiate formal proceedings by issuing a notice of prehearing conference and identifying a presiding officer. It is important for all parties to make the most of the opportunity to resolve the dispute informally.

The informal settlement conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the pre-hearing conference, please notify the Department at least ten (10) days prior to the conference. Inquiries about scheduling, hearing facilities, etc., should be directed to Christina Henman, 208-525-7161

Dated this 16th day of May, 2022



James Cefalo
Regional Manager

CERTIFICATE OF SERVICE

I certify that on the 16th day of May 2022, I served or caused to be served the Notice of Informal Settlement Conference to the parties by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

PACIFICORP
1407 W NORTH TEMPLE, STE 110
SALT LAKE CITY, UT 84116

CHRISTOPHER H MEYER
GIVENS PURSLEY LLP
601 W BANNOCK ST
BOISE, ID 83702

US FISH & WILDLIFE SERVICE
C/O RACHEL ESRALEW
911 NE 11TH AVE
PORTLAND, OR 97232

BEAR LAKE WATCH INC
C/O DAVID AND CLAUDIA COTTLE
4544 HIGHWAY 89
FISH HAVEN, ID 83287

THOMAS J BUDGE
RACINE OLSON PLLP
201 E CENTER
PO BOX 1391
POCATELLO, ID 83204

EMILY E. LEWIS
CLYDE SNOW & SESSIONS PC
ONE UTAH CENTER, THIRTEENTH FLOOR
201 S MAIN ST
SALT LAKE CITY, UT 84111

MICHAEL ROBISON DINGLE IRRIGATION, BLACK
OTTER, REAM CROCKETT, PRESTON
MONTPELIER IRRIGATION
PO BOX 54
DINGLE, ID 83233

USDI BLM IDAHO STATE OFFICE
C/O FREDRICK W PRICE
1387 S VINNELL WAY
BOISE, ID 83709

UTAH DIVISION OF WATER RIGHTS
C/O WILL ATKIN
1780 NORTH RESEARCH PKWY, STE 104
NORTH LOGAN, UT 84341



Christina Henman
Administrative Assistant

INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues that the Idaho Department of Water Resources (Department) considers in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original water right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. Is the proposed transfer consistent with the requirements for municipal providers, if applicable?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 4 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the Department no later than ten (10) days prior to the conference or hearing.

TO USE WEBEX

Meeting number (access code): 2461 116 0122

Meeting password: IDWR2022

Using Your Computer:

- Calendar invitations were sent to email addresses provided. Simply click the link included to join the meeting, and follow on-screen instructions.

Using the Mobile app:

- Download WebEx Meetings to your mobile device. (App is free.)
- Click Join Meeting.
- Enter Meeting Number, name, and email address.
- Click 'join'.
 - If you intend to share documents, maps, images, etc. please ensure that you have granted the WebEx app the appropriate permissions to access those documents before the meeting.

Using Your Telephone: (No video or internet required)

- Call 1-415-655-0001
- Follow Prompts

More options are included in the emailed link. If you have any questions, need a copy of the invitation sent to another email address, or otherwise need the link, feel free to contact Christina Henman at (208) 525-7161 or christina.henman@idwr.idaho.gov.