



IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

May 12, 2022

IMH BOISE CIMARRON LLC
10650 SCRIPPS RANCH BLVD STE 216
SAN DIEGO, CA 92131-2472

WESTERN FARMS INC
16909 MARSING RD
CALDWELL, ID 83607

BERANNA DAIRY
9166 PERCH RD
CALDWELL, ID 83607-9702

DANIEL V STEENSON
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
PO BOX 7985
BOISE, ID 83707

RE: Application for Transfer No(s). 85639

Dear Parties:

This letter acknowledges receipt of protest(s) against Application for Transfer No(s). 85639. Pursuant to the Department's Rules of Procedure (IDAPA 37.01.01), the Department will schedule an Informal Settlement Conference to discuss the application and protests, explore settlement options, and identify any additional information that may assist in settlement discussions. If, after or during the settlement conference, the parties find that settlement is not possible, the Department will initiate formal proceedings by scheduling a Pre-Hearing Conference and identifying a hearing officer to manage the contested case proceedings from that point forward.

To assist the Department in scheduling the Informal Settlement Conference, **please notify IDWR Western Region within 14 days of the date of this letter of any dates you are unavailable to participate in a settlement conference over the next three months.** Unavailable dates may be provided by letter or email. If you do not notify the Department of unavailable dates, we will assume that you are free to participate in the conference on any date selected. You can send your calendars to file@idwr.idaho.gov or westerninfo@idwr.idaho.gov.

The applicant(s) and protestant(s) are encouraged to discuss the contested case and attempt to resolve the protest prior to the Informal Settlement Conference. The attached document summarizes the procedure use to address a contested application for transfer. Please feel free to contact our office if you have questions about the procedures described in this letter. Additional information about water rights and other Department matters is available on the Department's website: www.idwr.idaho.gov

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure(s) Informal Settlement Conference Procedure

INFORMAL SETTLEMENT CONFERENCE 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.

Name: _____

“X” = UnAvailable

INFORMAL SETTLEMENT CONFERENCE FOR APPLICATION FOR TRANSFER 85639 IN THE NAME OF IMH BOISE CIMARRON LLC

May 2022						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30 IDWR OFFICES CLOSED	31				

Name: _____

"X" = UnAvailable

INFORMAL SETTLEMENT CONFERENCE FOR APPLICATION FOR TRANSFER 85639 IN THE NAME OF IMH BOISE CIMARRON LLC

June 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20 IDWR OFFICES CLOSED	21	22	23	24	25
26	27	28	29	30		

Name: _____

"X" = UnAvailable

INFORMAL SETTLEMENT CONFERENCE FOR APPLICATION FOR TRANSFER 85639 IN THE NAME OF IMH BOISE CIMARRON LLC

July 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 IDWR OFFICES CLOSED	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, May 12, 2022 2:24 PM
To: jrwwesternfarms@gmail.com
Subject: FW: Protest Acknowledgement of Transfer 85639 in the name of IMH Boise Cimarron LLC
Attachments: 4964_001.pdf

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

From: Hersley, Jean
Sent: Thursday, May 12, 2022 2:21 PM
To: Dan Steenson <dan@sawtoothlaw.com>; jrwwesternfarms@gmail.com; bernieteunissen@gmail.com
Subject: Protest Acknowledgement of Transfer 85639 in the name of IMH Boise Cimarron LLC

Please see the attached. Contact the Western Region Office if you have any questions. Thank you.

*Jean Hersley
Technical Records Specialist II
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