



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](mailto:westerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

April 18, 2022

DRY CREEK WATER COMPANY LLC  
923 S BRIDGEWAY PL  
EAGLE IDAHO 83616

RE: Application for Amendment of Permit No(s). 63-32423

Dear Applicant(s):

Enclosed is a copy of a protest(s) filed against the issuance of Amendment of Permit No(s). 63-32423. As part of the application process, the following options are available for the resolution of protested applications:

- Direct contact with the protestant(s) to determine the nature of the protest(s) and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).
- Discussions at an informal settlement conference between Department staff, the applicant(s), and the protestant(s). During those discussions the parties will discuss the application and protest(s), 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.
- Formal proceedings administered by the Department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01) after the informal settlement conference. If necessary, a prehearing conference identifies a hearing officer, reviews the protestant's concerns, and begins the process of setting up and scheduling a formal hearing.

Please consider with the protestant the best option(s) for resolution of the contested application. Meanwhile, the Department will schedule an informal settlement conference. **Please list your UNAVAILABLE dates on the enclosed calendar(s) and return your calendar(s) within thirty (30) days.**

You may return the calendars via mail or via email to [file@idwr.idaho.gov](mailto:file@idwr.idaho.gov). The Department may schedule the informal settlement conference as a conference phone call or in-person. The Department will send notice of the informal settlement conference once it is scheduled.

You may contact the Western Region office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters administered by this agency is available on the Internet at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

Sincerely,



Jean Hersley  
Technical Records Specialist II

C: SPF Water Engineering LLC

Enclosure(s) Informal Settlement Conference Procedure  
Informal Settlement Conference Unavailability Calendar(s)  
Copy of Protest(s)

## **INFORMAL SETTLEMENT CONFERENCE PROCEDURE APPLICATION FOR PERMIT**

### **ISSUES**

Applications to appropriate the water of the state of Idaho are referred to as applications for permit and are for the development of new water rights. Section 42-203A, Idaho Code, requires the Idaho Department of Water Resources (Department) to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use 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 have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use 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?

### **BURDEN OF PROOF**

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 5 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](http://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.



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Governor Brad Little

Director Gary Spackman

April 18, 2022

SEE ATTACHED LIST OF PROTESTANTS

RE: Application for Amendment of Permit No(s). 63-32423

Dear Protestant(s):

This office acknowledges receipt of your protest to the issuance of Amendment of Permit No(s). 63-32423. As part of the application process, the following options are available for the resolution of protested applications:

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Please consider with the applicant the best option(s) for resolution of the contested application. Meanwhile, the Department will schedule an informal settlement conference. **Please list your UNAVAILABLE dates on the enclosed calendar(s) and return your calendar(s) within thirty (30) days.** You may return the calendars via mail or via email to [file@idwr.idaho.gov](mailto:file@idwr.idaho.gov). The Department may schedule the informal settlement conference as a conference phone call or in-person. The Department will send notice of the informal settlement conference once it is scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters administered by this agency is available on the Internet at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

Sincerely,

Jean Hersley

Technical Records Specialist II

Enclosure(s) Informal Settlement Conference Procedure  
Informal Settlement Conference Unavailability Calendar(s)

JOAN JOHNSTON  
10770 JANIE RD  
BOISE, ID 83714-9760

GREG BAISCH  
11020 JANIE RD  
BOISE, ID 83714-9657

JIM EVERETT  
10945 JANIE RD  
BOISE, ID 83714-9765

DEAN E BARTON  
10300 JANIE PL  
BOISE, ID 83714-9752

GAYLE YVONNE CHAPIN  
10505 JANIE PL  
BOISE, ID 83714-9757

BRAYDEN SLELAFF  
7935 W STACK ROCK DR  
BOISE, ID 83714-9618

SHANNON HULL  
7999 W STACK ROCK DR  
BOISE, ID 83714-9618

SHARON GERSHULTZ  
6074 W ECHANOVE DR  
BOISE, ID 83714-9516

RANDY HURST  
16089 N BASIN WAY  
BOISE, ID 83714-9686

MICHAEL G BRADY  
13660 N MCFARLAND CREEK RD  
BOISE, ID 83714-9600

STEVEN MARCOTTE  
14886 N BROKEN HORN RD  
BOISE, ID 83714-9644

ALLISON GILBREATH  
14874 N BROKEN HORN RD  
BOISE, ID 83714-9644

MARIAN E SHAW  
13975 N BROKEN HORN RD  
BOISE, ID 83714-9703

ECHANOVE RANCH HOMEOWNERS'  
ASSOCIATION  
C/O JULIA WHITING, PRESIDENT  
6122 W DRY CREEK RD  
BOISE, ID 83714-9740

LESLIE L NONA  
6411 W DRY CREEK RD  
BOISE, ID 83714-9740

CURTIS OSBORNE  
10502 JAY RD  
BOISE, ID 83714-9776

MICHAEL L RISHEL  
10235 JAY RD  
BOISE, ID 83714-9771

KERRI RUNDE  
10325 JAY RD  
BOISE, ID 83714-9773

ROSS RESNICK  
10816 JAY RD  
BOISE, ID 83714-9782

STEVEN L KELLY SR  
10690 JAY RD  
BOISE, ID 83714-9778

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