

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

|                                |                             |
|--------------------------------|-----------------------------|
| IN THE MATTER OF APPLICATION ) |                             |
| FOR TRANSFER NO. 84986 )       | NOTICE OF SUBSTITUTION      |
| IN THE NAME OF )               | OF HEARING OFFICER          |
| GREEN HEAD RANCH LLC )         | NOTICE OF STATUS CONFERENCE |
| _____ )                        |                             |

**NOTICE OF SUBSTITUTION OF HEARING OFFICER**

PLEASE TAKE NOTICE that the Idaho Department of Water Resources ("Department") has substituted Shelley Keen as the appointed hearing officer in this proceeding in place of Nick Miller. Please direct all future filings in this matter to Mr. Keen at the Department's State Office at 322 E Front St, PO Box 83720, Boise, ID 82720-0098.

**NOTICE OF STATUS CONFERENCE**

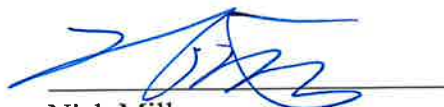
NOTICE IS HEREBY GIVEN that the Department will hold a telephonic status conference in this matter on February 9, 2022 at 10:00 a.m. All parties must be present at the telephonic status conference. To participate in the conference, please dial 1-720-279-0026 at the appropriate time and enter the assigned participation code number: 126664, followed by the '#' key.

The presiding officer at the conference will be Shelley Keen, whose mailing address is 322 E Front St, PO Box 83720, Boise, ID 82720-0098 and whose email address is [Shelley.Keen@idwr.idaho.gov](mailto:Shelley.Keen@idwr.idaho.gov)

The status conference will be held in accordance with provisions of Chapter 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the Department, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/index.html>.

The status conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the status conference, please contact Denise Lauerman, at (208) 334-2190, no later than five (5) days prior to the conference.

Dated this 30<sup>th</sup> day of December 2021



Nick Miller  
Manager, IDWR Western Region

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30<sup>th</sup> day of December 2021, true and correct copies of the document described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

### Documents Served:

- Notice of Substitution of Hearing Officer, Notice of Status Conference

Givens Pursley LLP  
Attn Michael P Lawrence  
601 W Bannock St  
PO Box 2720  
Boise ID 83701-2720  
208.388.1294  
[michaellawrence@givenspursley.com](mailto:michaellawrence@givenspursley.com)  
*Attorney for Green Head Ranch LLC*  
*Applicant*

- ☐ U.S. Mail, Certified, postage prepaid  
☒ U.S. Mail, postage prepaid  
☐ Overnight Mail  
☐ Facsimile  
☒ Email

Parsons Behle & Latimer  
Attn Norman M Semanko  
800 W Main St Ste 1300  
Boise ID 83702  
208.562.4900  
[nsemanko@parsonsbehle.com](mailto:nsemanko@parsonsbehle.com)  
[ecf@parsonsbehle.com](mailto:ecf@parsonsbehle.com)  
*Attorney for Island High Line Ditch Company*  
*Protestant*

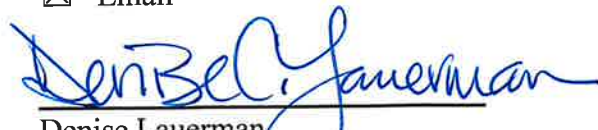
- ☐ U.S. Mail, Certified, postage prepaid  
☒ U.S. Mail, postage prepaid  
☐ Overnight Mail  
☐ Facsimile  
☒ Email

Green Head Ranch LLC  
2415 San Ramon Valley Blvd Ste 4380  
San Ramon CA 94583  
510.965.6120  
[tj@bayareabev.com](mailto:tj@bayareabev.com)  
*Applicant*

- ☐ U.S. Mail, Certified, postage prepaid  
☒ U.S. Mail, postage prepaid  
☐ Overnight Mail  
☐ Facsimile  
☒ Email

SPF Water Engineering  
C/O Terry Scanlan  
300 E Mallard Dr Ste 350  
Boise ID 83706-6660  
208.383.4140  
[tscanlan@spfwater.com](mailto:tscanlan@spfwater.com)  
*Representative for Green Head Ranch LLC*  
*Applicant*

- ☐ U.S. Mail, Certified, postage prepaid  
☒ U.S. Mail, postage prepaid  
☐ Overnight Mail  
☐ Facsimile  
☒ Email

  
Denise Lauerman  
Administrative Assistant

# **PRE-HEARING CONFERENCE AND/OR HEARING 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 department can consider 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 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. If the proposed transfer is for a municipal use, is it necessary to provide reasonably anticipated future needs for a municipal service area and is the planning horizon consistent with Sections 42-222 and 42-202B, Idaho Code?
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, 7, 8, and 9 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 4, if applicable, 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 these issues.

## **PROCEDURE**

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

## **CONFERENCE**

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the prehearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

## **HEARING**

A hearing may be conducted 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.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

## **EXHIBITS**

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

## **AMERICANS WITH DISABILITIES ACT**

Any hearing scheduled 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 hearing.