

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

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 84986)	NOTICE OF STATUS CONFERENCE
IN THE NAME OF)	NOTICE OF HEARING
GREEN HEAD RANCH LLC)	SCHEDULING ORDER
_____)	

On April 19, 2021, Green Head Ranch LLC (Applicant) filed Application for Transfer No. 84986 with the Idaho Department of Water Resources (Department). The Application proposes to add a point of diversion from the Boise River to water right 63-34334. The Island High Line Ditch Company timely protested the application.

The Department held a pre-hearing conference on October 25, 2021. At the conference, the parties asked to schedule a hearing. The presiding officer tentatively set a hearing date during the conference and agreed to hold a status conference prior to the hearing. Based upon discussion at the prehearing conference, the presiding officer provides notice of the hearing and adopts a schedule as set forth below.

NOTICE OF STATUS CONFERENCE

NOTICE IS HEREBY GIVEN that the Department will hold a telephonic status conference in this matter on December 15, 2021 at 2:00 p.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 Nick Miller, whose mailing address is 2375 Airport Way, Boise, ID 83705 and whose email address is Nick.Miller@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.

NOTICE OF HEARING

The department has scheduled the matter for a hearing beginning at 9:00 a.m. on Wednesday, February 16, 2022, and continuing if necessary, at 9:00 a.m. on Thursday, February 17, 2022 at IDAHO DEPARTMENT OF WATER RESOURCES, STATE OFFICE, 322 E. Front St., 6th Floor, Boise, ID 83720.

The Hearing Officer will be Nick Miller, whose mailing address is 2375 Airport Way, Boise, ID 83705 and whose email address is Nick.Miller@IDWR.Idaho.gov.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the Department's Rules of Procedure requires that a copy be provided to the presiding officer.

The hearing will be held in accordance with provisions of Chapters 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 hearing 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.

SCHEDULING ORDER

1. On or before Monday, January 31, 2022, each party must disclose to all other parties and the hearing officer, in writing, the identity of all witnesses that will or may testify for the party at the hearing.
2. On or before Monday, January 31, 2022, each party seeking to offer exhibits at the hearing must physically serve on all other parties and the hearing officer copies of the exhibits. Service of the proposed exhibits will satisfy Rule 606 of the Rules of Procedure (IDAPA 37.01.01). Applicant's exhibits shall be numbered between 1 and 100. Protestant's exhibits shall be numbered between 101 and 200.

Dated this 4th day of November 2021



Nick Miller
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of November 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, certified mail with return receipt, postage prepaid and properly addressed to the following:

Documents Service:

- Notice of Status Conference, Hearing Notice, and Scheduling Order
- Hearing Procedures for Application for Transfer

Green Head Ranch LLC
2415 San Ramon Valley Blvd Ste 4380
San Ramon CA 94583
510.965.6120
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
Representative for Green Head Ranch LLC
Applicant

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

Givens Pursley LLP
Attn Michael P Lawrence
601 W Bannock St
PO Box 2720
Boise ID 83701-2720
208.388.1294
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
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


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. 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.