BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER 83543 IN THE NAME OF JARRED AND JESSICA HOLZ	**NOTICE OF HEARING**

BACKGROUND

On May 20, 2019, Jarred and Jessica Holz filed Application for Transfer No. 83543 ("Application") with the Idaho Department of Water Resources ("IDWR"). A protest was filed by Jim and Nancy Miller. Dave Renberg filed a late Protest that was rejected, but then requested to continue as an Intervenor. An order Granting the Petition to Intervene was granted on February 24, 2020.

IDWR conducted a pre-hearing conference on April 9, 2020. Two subsequent telephonic Status Conferences were held without resolution of the protests. The parties agreed to an administrative hearing to decide the contested case.

NOTICE OF HEARING

IDWR has scheduled this matter for hearing on **Thursday, October 1st, 2020, beginning at 9:00 am PT.** The presiding officer will hold the hearing from Boise, Idaho via video conference. The parties may participate in person at the Clearwater County DMV Office, 2200 Michigan Ave, Orofino, ID 83544. A representative from IDWR's Northern Regional Office will provide and operate the necessary video conferencing equipment at the Clearwater County DMV Office.

The presiding officer at the hearing will be Cynthia Bridge Clark, whose mailing address is P.O. Box 83720, Boise, ID, 83720-0098 and email address is Cynthia.Clark@idwr.idaho.gov.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the IDWR's Rules of Procedure (IDAPA 37.01.01), and the IDWR's Water Appropriation Rules (IDAPA 37.03.08). A copy of the code and rules may be obtained from the IDWR's website, www.idwr.idaho.gov, or upon request.

All Parties appearing in the matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the contested application.

The hearing 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 conference, please notify the department at least (10) days prior to the hearing. Inquiries about scheduling or hearing facilities should be directed to Tammy Alleman at (208) 762-2800.

Dated this 8 day of September, 2020.

Cynthia Bridge Clark
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of September, 2020, true and correct copies of the documents 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:

Document Served: *Notice of Hearing*

JARRED AND JESSICA HOLZ
501 S WICKHAM WAY
BOISE ID 83709
(jarred.holz@gmail.com)

JIM AND NANCY MILLER
40880 LITTLE CANYON RD
PECK ID 83745
(millertime2152@gmail.com)

DAVE RENBERG
40826 LITTLE CANYON RD
PECK ID 83745
(beckyj@nezperce.org)

Tammy Alleman
Administrative Assistant 1

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.