

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 67-15333 IN THE)
NAME OF DOUBLE C & J LAND CO.)
_____)

**ORDER VACATING HEARING and
NOTICE OF HEARING**

BACKGROUND

On October 23, 2019, Double C & J Land Co., Inc. ("Double C & J") filed Application for Permit No. 67-15333 ("Application") with the Idaho Department of Water Resources ("Department"). Double C & J seeks authorization to store 345 acre-feet of water from Jenkins Creek in Monroe Reservoir for irrigation and stockwater purposes. Eckhardt Family LLLP ("Eckhardt") and the Bureau of Land Management ("BLM") protested the Application. On June 15, 2020, the Department received a *Settlement Agreement* ("Agreement") resolving BLM's protest of the Application.

On May 19, 2020 the Department issued an *Amended Notice of Hearing and Amended Scheduling Order* ("Amended Notice") rescheduling the hearing in this matter to be held on June 29-30, 2020, in Boise, Idaho. On June 22, 2020, and June 24, 2020, the Department held status conferences to discuss whether to hold the hearing as scheduled. Having consulted with the parties to this matter, the Department finds that holding a hearing in Boise at the scheduled date and time would be inadvisable. The Department should vacate the June 29-30, 2020, hearing and reschedule the hearing for August 13-14, 2020.

ORDER

IT IS HERBY ORDERED that the June 29-30, 2020, hearing for this matter is **VACATED**.

NOTICE OF HEARING

The Department has scheduled a prehearing conference on August 3, 2020, at 3:00 p.m. to be held via telephone. The purpose of the prehearing conference is to determine whether the hearing for this matter shall occur "in-person" or by electronic means at the time and location described below. IDAPA 37.02.01.552 authorizes the Department to conduct hearings "in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place."

The Department has scheduled this matter for a hearing beginning at 9:00 a.m. on August 13, 2020, and continuing on August 14, 2020, if needed. If held in-person, the hearing will be held at the Idaho Department of Water Resources offices at 322 E. Front St., 6th Floor, Boise, ID 83720. If the hearing will be held by electronic means, the Department will notify the parties of the mode of participation at the prehearing conference on August 3, 2020.

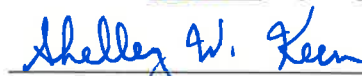
The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure (IDAPA 37.01.01) and the Water Appropriation Rules (IDAPA 37.03.08). Copies of the code and rules are available from the Department's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

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

All parties appearing in the matter will have the opportunity to present evidence and testimony, examine witnesses, and provide legal argument on issues related to the contested application.

The hearing will be conducted in a facility (in-person) or manner (electronic) that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodation in order to attend, participate in, or understand the hearing, please notify the Department at least ten (10) days prior to the hearing. Direct inquiries about scheduling, hearing facilities, etc., to Jean Hersley at (208) 287-4942.

Dated this 25th day of June 2020,



Shelley W. Keen
Presiding Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of June, 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, certified mail with return receipt requested, postage prepaid and properly addressed to the following:

Document Served: Order Vacating Hearing & Notice of Hearing
Hearing Procedure for Application for Permit

MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE, ID 83702-7687
cmchugh@mchughbromley.com
cbromley@mchughbromley.com

AARON M WORTHEN
PARSONS BEHLE & LATIMER
350 MEMORIAL DR STE 300
IDAHO FALLS, ID 83402
aworthen@parsonsbehle.com

NORMAN M SEMANKO
PARSONS BEHLE & LATIMER PLC
800 W MAIN ST STE 1300
BOISE, ID 83702
nsemanko@parsonsbehle.com



Jean Hersley
Technical Records Specialist II

PRE-HEARING CONFERENCE AND/OR HEARING 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 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, 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 pre-hearing 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.