



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene ID 83815-7763

Phone: (208) 762-2800 • Fax: (208) 762-2819

Website: idwr.idaho.gov • Email: northerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 24, 2020

GARY ATKINS
2087 PLEASANT VALLEY LOOP
NAPLES, ID 83847

RE: Application for Permit No. 98-8018

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of Permit No(s). 98-8018. As part of the application process, the following options are available for the resolution of contested (protested) applications:

- Direct contact with the applicant(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).

- Formal proceedings administered by the Department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.

- Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached.

Please consider with the applicant the best option(s) for resolution of the contested application and forward your choice to the Department's regional manager. If no response is received within a few weeks, you may be notified that a pre-hearing conference will be 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.

Sincerely,

Douglas Jones
Northern Regional Manager

Enclosure(s)

Pre-Hearing Conference Procedures



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BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 24, 2020

ERIC E MADSON
PO BOX 1539
BONNERS FERRY, ID 83805-1539

RE: Application for Permit No. 98-8018

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of Permit No(s). 98-8018. As part of the application process, the following options are available for the resolution of contested (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).

- Formal proceedings administered by the department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.

- Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached.

Please consider with the protestant the best option(s) for resolution of the contested application and forward your choice to the Department's regional manager. If no response is received within a few weeks, you may be notified that a pre-hearing protest conference will be 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.

Sincerely,

Douglas Jones
Northern Regional Manager

Enclosure(s)
Pre-Hearing Conference Procedures
Copy of Protest

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 this issue.

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.

June 18, 2020

I protest This water Wright
He just got one about 5 years
ago. and I protested it. They
have enough water. They about
dry ~~up~~ ^{the} Creek in the summer time,
now. They have enough water
now. they ^{need to} pump it ~~in~~ ^{from a well}. Between
Him and Morrisfield They want
all the water. You need to keep
water in the Creek. You people
do not keep track of the water
running down the creek.
All you people do is keep
~~is~~ Giving water rights out.
There are a lot of people below
that use the Creek water also.

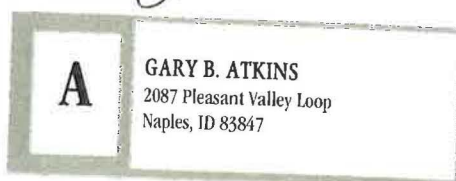
PUBLIC NOTICE
The following application(s)
have been filed to appropriate
the public waters of the State
of Idaho:
98-8018
ERIC E MADSON
PO BOX 1539
BONNERS FERRY, ID
83805-1539
Point of Diversion NENE
S24 T61N R01E
BOUNDARY County
Source UNNAMED STREAM
Tributary COW CREEK
Point of Diversion SESE
S13 T61N R01E
BOUNDARY County
Source UNNAMED STREAM
Tributary COW CREEK
Use: IRRIGATION
04/01 to 10/31
Total Diversion: 1 CFS
Date Filed: 05-18-2020
Place of Use: IRRIGATION
T61N R01E S13
NESW, SWNW, SESW
Total Acres: 76
Permits will be subject to all
prior water rights. For addi-
tional information concerning
the property location, contact
the Northern office at
(208)762-2800; or for a full de-
scription of the right(s), please
see [https://idwr.idaho.gov/apps/](https://idwr.idaho.gov/apps/ExtSearch/WRApplicationRes ults/)
[ExtSearch/WRApplicationRes](https://idwr.idaho.gov/apps/ExtSearch/WRApplicationRes ults/)
[ults/](https://idwr.idaho.gov/apps/ExtSearch/WRApplicationRes ults/). Protests may be submit-
ted based on the criteria of
Idaho Code § 42-203A. Any
protest against the approval of
this application must be filed
with the Director, Dept. of Wa-
ter Resources, Northern Re-
gion, 7600 N MINERAL DR
STE 100, COEUR D'ALENE
ID 83815-7763 together with a
protest fee of \$25.00 for each
application on or before
6/22/2020. The protestant
must also send a copy of the
protest to the applicant.
GARY SPACKMAN, Director
BFH#10414/AD#385466
JUNE 4, 11, 2020

RECEIVED

JUN 22 2020

IDWR / NORTH

Gary Atkins



Receipt # NO36196
Rec'd by *ja*
Date 6/22/2020