

Henman, Christina

RECEIVED

DEC 05 2019

Department of Water Resources
Eastern Region

From: Jeff Buckwalter <klbmasonry@gmail.com>
Sent: Thursday, December 05, 2019 9:07 AM
To: Henman, Christina
Subject: Re: Transfer 83687 Pre-Hearing Conference Scheduling

Anything works in January

Sent from my iPad

On Dec 3, 2019, at 4:13 PM, Henman, Christina <Christina.Henman@idwr.idaho.gov> wrote:

Jeffrey,

Please let me know what dates you (or your brother, if he would like to attend in-person) will be unavailable in January so we can schedule this prehearing conference.

Thank You,

Christina Henman

From: Henman, Christina
Sent: Tuesday, November 26, 2019 11:13 AM
To: 'klbmasonry@gmail.com' <klbmasonry@gmail.com>; 'lmarchant@holdenlegal.com' <lmarchant@holdenlegal.com>; 'rons@swaffordlaw.com' <rons@swaffordlaw.com>
Subject: FW: Transfer 83687 Pre-Hearing Conference Scheduling

Hello,

Please remember to send me your unavailability for the month of January so I can schedule a prehearing conference for the referenced transfer.

Thank You,

Christina Henman

From: Henman, Christina
Sent: Friday, November 22, 2019 10:02 AM
To: 'klbmasonry@gmail.com' <klbmasonry@gmail.com>; 'lmarchant@holdenlegal.com' <lmarchant@holdenlegal.com>; 'rons@swaffordlaw.com' <rons@swaffordlaw.com>
Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Transfer 83687 Pre-Hearing Conference Scheduling

Hello,

Please see attached document regarding the scheduling of a pre-hearing conference in regards to contested application for transfer no. 83687 in the name of Jeffrey L. Buckwalter. A copy has also been sent via postal mail. Please respond with any dates during which you are unavailable in January at your earliest possible convenience.

RECEIVED
DEC 03 2019

Department of Water Resources
Eastern Region

SWAFFORD LAW, P.C.

675 S. WOODRUFF AVENUE

IDAHO FALLS, IDAHO 83401

TELEPHONE: (208) 524-4002

FAX: (208) 524-4131

RONALD L. SWAFFORD – ATTORNEY-AT-LAW
TREVOR L. CASTLETON – ATTORNEY-AT-LAW

TWINKIE SWAFFORD – LEGAL ASSISTANT
SIOBHAN GIFFORD – LEGAL ASSISTANT
RAMONA ANDERSON – LEGAL ASSISTANT

December 3, 2019

Ms. Christina Henman
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

VIA EMAIL
Christina.Henman@idwr.idaho.gov

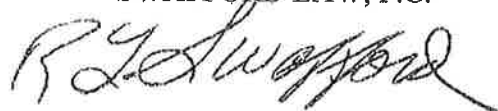
RE: Application for Transfer 83687
Water Right No.: 34-14355, 34-14357, 34-14359, 34-14361, 34-14363 and
34-14365

Dear Ms. Henman:

We are in receipt of your letter dated November 22, 2019. I am available for the conference, in person, in this matter the morning of January 7, 2020. I am unavailable on January 9 through January 12 and January 25 and 26, 2020. If January 7, 2020 in the morning is not available for all parties I am available on other dates, not listed herein, to participate by telephone.

Sincerely,

SWAFFORD LAW, P.C.



RONALD L. SWAFFORD, ESQ.

Henman, Christina

RECEIVED

NOV 26 2019

Department of Water Resources
Eastern Region

From: Luke Marchant <lmarchant@holdenlegal.com>
Sent: Tuesday, November 26, 2019 3:02 PM
To: Henman, Christina
Subject: RE: Transfer 83687 Pre-Hearing Conference Scheduling

Christina,

I am unavailable on the following days in January:

7, 9, 14, 21, 22, 23, and the 28th.

Thank you.



Luke H. Marchant

Holden, Kidwell, Hahn & Crapo, P.L.L.C.
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Phone: (208) 523-0620
Fax: (208) 523-9518
Email: lmarchant@holdenlegal.com

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From: Henman, Christina <Christina.Henman@idwr.idaho.gov>
Sent: Tuesday, November 26, 2019 11:13 AM
To: klbmasonry@gmail.com; Luke Marchant <lmarchant@holdenlegal.com>; rons@swaffordlaw.com
Subject: FW: Transfer 83687 Pre-Hearing Conference Scheduling

Hello,

Please remember to send me your unavailability for the month of January so I can schedule a prehearing conference for the referenced transfer.

Thank You,

Christina Henman

From: Henman, Christina
Sent: Friday, November 22, 2019 10:02 AM
To: 'klbmasonry@gmail.com' <klbmasonry@gmail.com>; 'lmarchant@holdenlegal.com' <lmarchant@holdenlegal.com>; 'rons@swaffordlaw.com' <rons@swaffordlaw.com>
Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Transfer 83687 Pre-Hearing Conference Scheduling

Henman, Christina

From: Henman, Christina
Sent: Friday, November 22, 2019 10:02 AM
To: 'klbmasonry@gmail.com'; 'lmarchant@holdenlegal.com'; 'rons@swaffordlaw.com'
Cc: Cefalo, James
Subject: Transfer 83687 Pre-Hearing Conference Scheduling
Attachments: 83687 Pre-Hearing Conference Schedule.pdf

Hello,

Please see attached document regarding the scheduling of a pre-hearing conference in regards to contested application for transfer no. 83687 in the name of Jeffrey L. Buckwalter. A copy has also been sent via postal mail. Please respond with any dates during which you are unavailable in January at your earliest possible convenience.

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

November 22, 2019

Jeffrey L Buckwalter
3724 Antelope Rd
Moore, ID 83255

Ronald L. Swafford
Jeffrey E and Angela Keller
675 S Woodruff Ave.
Idaho Falls, ID 83401

Luke H. Marchant
Kevin and Julee Wing
PO Box 50130
Idaho Falls, ID 83405

RE: Application for Transfer 83687
Water Right No.: 34-14355, 34-14357, 34-14359, 34-14361, 34-14363, and
34-14365

Dear Parties:

On November 8, 2019 a notice was sent to acknowledge the receipt of protests against the above referenced application and gather availability dates from all parties in order to schedule a pre-hearing conference in the first half of December. Unfortunately, there were no dates available that would accommodate everyone's schedule, so we are going to aim for January instead. We will hold the pre-hearing conference at the Idaho Falls, ID office, where participation via conference call will be available to those who may need it.

Please let me know any dates during which you will be UNAVAILABLE during the month of January as soon as possible. My contact information is below.

Thank you,

A handwritten signature in black ink, appearing to read 'Christina Henman', is written over a horizontal line.

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Christina.Henman@idwr.idaho.gov
Phone: (208) 497-3793

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.