

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

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 82640 IN THE	)	
<u>NAME OF CLINTON ASTON</u>	)	NOTICE OF HEARING AND SCHEDULING ORDER

NOTICE OF HEARING

On August 15, 2018, Clinton Aston ("Aston") filed Application for Transfer No. 82640 with the Idaho Department of Water Resources ("department"). Protests were filed by Jay Norman Fannesbeck ("Fannesbeck"), Kevin L. Olson, Bob White, Shelly and William Spradlin ("Spradlin") and J & F King Farm Inc. The protests filed by Kevin L. Olson and Bob White have been withdrawn.

The department conducted an initial hearing on February 26 and 27, 2019. On April 1, 2019, the hearing officer issued a *Preliminary Order Approving Transfer*. Fannesbeck, Spradlin and Aston filed petitions for reconsideration. Aston also requested an additional hearing to address questions of non-use and defenses to forfeiture. On May 6, 2019, the hearing officer issued an *Order Denying Petitions for Reconsideration, Withdrawing Preliminary Order, and Granting Request for Additional Hearing*.

The department has scheduled this matter for an additional hearing on **July 16 and 17, 2019 beginning at 10:00 AM on July 16 in the Council Room at Preston City Hall, 70 W Oneida, Preston, Idaho.**

The presiding officer at the hearing will be James Cefalo, whose mailing address is 900 N. Skyline Dr., Ste A, Idaho Falls, ID 83402-1718.

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 department's Rules of Procedure (IDAPA 37.01.01), and the department's Water Appropriation Rules (IDAPA 37.03.08). A copy of the code and rules may be obtained from the department'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 Sharla Cox at (208) 525-7161.

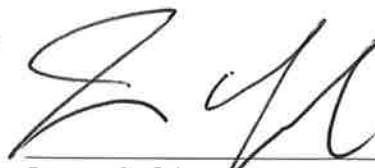
The additional hearing will be conducted for the limited purpose of accepting evidence addressing the following questions:

1. Have any of the acres in the NWNW of Section 9 been irrigated since 1964?
2. Are there defenses to forfeiture for any period of non-irrigation, from 1964 to the present day, for the acres in the NWNW of Section 9?
3. Have the four acres associated with the Shaun Schvaneveldt property been irrigated since 1999?
4. Are there defenses to forfeiture for any period of non-irrigation, from 1999 to the present day, for the Shaun Schvaneveldt property?
5. Are there surface water rights associated with the sixteen acres described in water right 13-4120 in Section 5, T16S, R38E?
6. Have any of the sixteen acres in Section 5, as described in water right 13-4120, been irrigated with ground water or surface water since 1964?
7. Are there defenses to forfeiture for any period of non-irrigation, from 1964 to the present day, for the acres in Section 5?

SCHEDULING ORDER

1. On or before June 21, 2019, Aston shall disclose to all other parties and the hearing officer all defenses to forfeiture Aston intends to raise or present evidence about at hearing.
2. On or before July 2, 2019, each party must disclose to all other parties and the hearing officer, in writing, the identity of all witnesses that may testify for the party at the hearing.
3. On or before July 2, 2019, each party seeking to offer additional exhibits at the hearing shall serve on all parties and the hearing officer copies of all additional exhibits which may be offered at the hearing. Service of the proposed exhibits will be the method of providing copies to the parties as required by Rule 606 of the department's Rules of Procedure (IDAPA 37.01.01). The parties should continue the exhibit numbering established at hearing (Aston = 132-199, Spradlin = 201-299, Fonnesbeck = 347-399).

Dated this 21st day of May, 2019.



James Cefalo
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of May, 2019, 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: Notice of Hearing and Scheduling Order

CERTIFIED MAIL Application for Transfer No. 82640

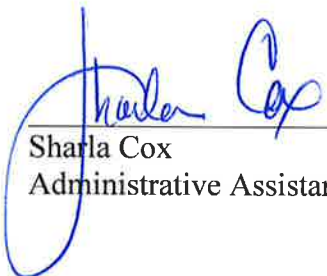
Clinton K. Aston
PO Box 35
Weston ID 83286-0034

Holden Kidwell Hahn & Crapo
c/o Robert Harris
PO Box 50130
Idaho Falls ID 83405-0130

J & F King Farms Inc
Geraldine K Gunnell
8169 W Hwy 36
Weston ID 83286

Shelly and William Spradlin
6995 W 2200 S
Weston ID 83286

Jay Norman Fannesbeck
6022 W Hwy 36
Weston ID 83286



Sharla Cox
Administrative Assistant