

From: [Kara Egan](#)
To: [Jones, Doug](#)
Cc: [Alleman, Tammy](#)
Subject: RE: Pre-Hearing Conference Availability
Date: Thursday, March 14, 2019 1:26:31 PM

Mr. Jones,

The Latah County Commissioners have discuss this and the Board as a whole will be participating in the pre-hearing conference. Can we schedule this for Monday, April 15 at 1:00 p.m. at the Latah County Courthouse, Room 2B?

Kara N. Egan

Administrative Assistant and
Deputy Clerk to the Board of
Latah County Commissioners
208-883-7208
208-883-2280 fax.

From: Jones, Doug [mailto:Doug.Jones@idwr.idaho.gov]
Sent: Tuesday, February 26, 2019 7:41 AM
To: Kara Egan <kegan@latah.id.us>
Cc: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Subject: RE: Pre-Hearing Conference Availability

Kara,

Please find the attached letter response to your email of February 21. Tammy and I look forward to working with you to schedule a suitable date as soon as possible. For your convenience I include a link to the IDAPA rules referenced in the body of the letter.

<https://adminrules.idaho.gov/rules/current/37/370101.pdf>

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[Thank you.](#)

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[Douglas Jones](#)

[Northern Regional Manager](#)

From: Kara Egan [<mailto:kegan@latah.id.us>]
Sent: Thursday, February 21, 2019 1:35 PM
To: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Subject: RE: Pre-Hearing Conference Availability

Tammy,

We have a bit of an unusual situation with this particular water right protest. In the past when the Commissioners' have filed a protest the property owners have contacted our office to set up a meeting once they received a copy of the Commissioners protest that was filed with IDWR. When

they do, I schedule a meeting, on the Board's agenda (as an open, public meeting) to do just exactly what it is that you described that the pre-hearing conference is intended to do. In this particular situation, that didn't happen. Since the Board of Commissioners are the ones that filed the protest, then any meetings about it have to be held before the Board. So we will need to schedule this pre-hearing conference on the Commissioners' agenda, just like the meetings the Board has had with property owners in the past. It is not a formal 'hearing', but it is an open public meeting with an agenda. It would be a part of the Commissioners' regular meeting agenda but would be listed a specific topic at a specific time. Due to open meeting law requirements the Board cannot participate in a meeting to discuss something that they as a Board will be making a decision on without it being on their agenda. So, while IDWR doesn't need to keep a record of this informal meeting, the Commissioners' (being an elected governing body) do. It would still be an informal meeting for discussion, and no decision would be made at that meeting, but I just don't see a way around having it as a meeting on their agenda.

Since a Wednesday sounds like it would work better for IDWR, how about Wednesday, April 10 at 1:15 p.m.?

Kara N. Egan

Administrative Assistant and
Deputy Clerk to the Board of
Latah County Commissioners
208-883-7208
208-883-2280 fax.

From: Alleman, Tammy [<mailto:Tammy.Alleman@idwr.idaho.gov>]

Sent: Thursday, February 21, 2019 12:01 PM

To: Kara Egan <kegan@latah.id.us>

Subject: RE: Pre-Hearing Conference Availability

Hi Kara,

The Pre-hearing conferences are an informal gathering to see if the issues with the protestant(s)/applicant(s) can be resolved prior to holding a formal hearing. No record is kept, just an attendance roster and if an agreement can be reached, then it is up to the parties involved to come up with a settlement agreement signed by the parties and the protestant(s) would withdraw the protest(s) with IDWR. If we do not receive these things, the Hearing is scheduled.

I'm not sure how you want to proceed. Perhaps talk it over with the Commissioners and let us know. Wednesdays are probably better for us and the times are fine but it cannot be part of a different meeting. It must be held separately and not part of a committee or group. I have attached the sheet that I send out with the Notice of Pre-Hearing Conference. I hope this helps, you can always give me a call to discuss further.

Please let me know when your Board would be available to hold this Conference.

Thank you,

Tammy

Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, ID 83815
Tammy.Alleman@idwr.idaho.gov
208-762-2800 Phone
208-762-2819 Fax

From: Kara Egan [<mailto:kegan@latah.id.us>]
Sent: Thursday, February 21, 2019 11:13 AM
To: Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>
Subject: RE: Pre-Hearing Conference Availability

Hi Tammy!

I did talk with the chairman yesterday about scheduling for this. They are hoping that we can schedule this for a Monday or Wednesday between 9a and 2p when they typically have their commissioner meetings each week, in either April or early-May. They do typically take up to an hour break at noon, but that too can be fairly flexible. It actually might be the most efficient if you could send me a few dates/times that would work for you all within those parameters and I'll work it into their calendar. I hope that helps.

Thank you!

Kara N. Egan

Administrative Assistant and
Deputy Clerk to the Board of
Latah County Commissioners
208-883-7208
208-883-2280 fax.

From: Alleman, Tammy [<mailto:Tammy.Alleman@idwr.idaho.gov>]
Sent: Thursday, February 21, 2019 10:49 AM
To: Kara Egan <kegan@latah.id.us>
Subject: Pre-Hearing Conference Availability

Good morning Kara,

I was wondering if the availability for a Pre-hearing Conference on WR#87-10100 for Thomas & Joan Cass was agreed upon by the Latah County Board of Commissioners?

Thank you,

Tammy

Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
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Coeur d'Alene, ID 83815
Tammy.Alleman@idwr.idaho.gov
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State of Idaho

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

February 25, 2019

Kara Egan
Administrative Assistant and Deputy Clerk
Board of Latah County Commissioners
Via Email

Dear Ms. Egan,

Thank you for your well-presented response to Tammy about scheduling the conference. IDWR can appreciate the complexity of the Commissioners' responsibilities and obligations with respect to open meeting laws and protocols. In this circumstance, however, the protested water right application is a contested case that IDWR presides over in accordance with IDWR's Rules of Procedure (IDAPA 37.01.01). See <https://adminrules.idaho.gov/rules/current/37/370101.pdf> for IDWR's Rules of Procedure. The purpose of the prehearing conference is to address "matters that may expedite orderly conduct and disposition of the proceeding or its settlement" (IDAPA 37.01.01.510). Prior to scheduling a prehearing conference, IDWR encourages, as suggested in our protest acknowledgement letter, the parties in a contested case to meet in a suitable forum to discuss the issues and possible settlement. When discussion between the parties does not lead to resolution of the protest, IDWR holds a prehearing conference. In IDWR's experience, prehearing conferences are most successful in neutral settings conducive to frank discussions regarding the issues of the case, the applicable law, and settlement possibilities.

Consistent with Rule of Procedure 202.01.d, local governments are usually represented at prehearing conferences and hearings "by an officer, duly authorized employee, or attorney." For example, the Commissioners could appoint one of their members, a County attorney, or a staff person closely familiar with the Commissioners' concerns to represent the County at a prehearing conference held at a separate venue and at a convenient day and time agreed upon by all participants. If a settlement in principal can be reached at the conference then a report can be communicated back to the Commissioners who can then set an agenda item for discussion and vote. There may be other options, and we are open to considering them. You are welcome to contact me for further dialogue of alternatives.

Meanwhile, the Applicants in this case indicated their availability at the following times for a prehearing conference.

March 26, 27; April 1-3, 8-10, 15-17

These times would also work for IDWR. Please reply by **Tuesday March 5, 2019** to let IDWR know whether any or all of these times would work for the County. In the absence of an agreement, IDWR may assign a day and time of its own choosing for the prehearing conference.

Thank you for your attention to this matter and look forward to hearing from you.

Respectfully,

Douglas Jones
Northern Regional Manager