

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 81352 AND APPLICATION) **NOTICE OF HEARING AND**
FOR PERMIT NO. 21-13254 IN THE) **DISCOVERY/DISCLOSURE ORDER**
NAME OF BUNTS & SINGLES, LLC)

NOTICE OF HEARING

On September 6, 2016, Bunts & Singles, LLC filed Application for Transfer No. 81352 with the Idaho Department of Water Resources (department). Protests were filed by James Hagenbarth, represented by attorney John M. Marshall, Fremont-Madison Irrigation District, represented by attorney Jerry Rigby, and Idaho Department of Lands, represented by deputy attorney general Ann Vonde. Idaho Department of Lands withdrew its protest on August 3, 2017.

On April 11, 2018, Bunts & Singles LLC filed Application for Permit No. 21-13254 with the department. Protests were filed by James Hagenbarth, represented by attorney John M. Marshall and Fremont-Madison Irrigation District, represented by attorney Jerry Rigby.

The parties were unable to resolve the issues of protest informally and have now requested that the Department conduct an administrative hearing to decide the contested matters.

Applications 81352 and 21-13254 pertain to the same subject property and are intended to address different elements of a proposed recreation storage pond. The parties in both contested cases are identical. Conducting a single hearing will save time and expense for all parties involved. Pursuant to Rule 556 of the department's Rules of Procedure (IDAPA 37.01.01), the hearing officer has decided to consolidate the matters for hearing. The contested applications present issues that are related and the rights of the parties will not be prejudiced if the matters are consolidated.

The department has scheduled these matters for a joint hearing to be held on **December 4 and 5, 2018, beginning at 9:00 AM, in Conference Room A at the Idaho Department of Environmental Quality, 900 N. Skyline Dr., Suite B, Idaho Falls, 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.

DISCOVERY/DISCLOSURE ORDER

1. General discovery commenced on July 13, 2018.
2. Written discovery may be interrogatories and/or requests for production. Parties shall not propound more than twenty-five interrogatories on another party. Interrogatories shall not be divided into sub-parts or sub-questions. Discovery requests shall be served on or before September 28, 2018.
3. Answers to written discovery must be served on the requesting party within thirty days of service of the request. Discovery shall close on October 31, 2018.
4. On or before November 2, 2018, each party must disclose to all other parties and the hearing officer a copy of any expert report which will be offered for admission into the evidentiary record at hearing.
5. On or before November 16, 2018, each party must disclose to all other parties and the hearing officer in writing the identity of all witnesses that will or may testify for the party at the hearing.
6. On or before November 16, 2018, each party seeking to offer exhibits at the hearing, including any rebuttal expert reports, shall serve on all parties and the hearing officer copies of all 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.
7. In an attempt to reduce the number of duplicate exhibits offered by the parties at hearing, the department has assigned exhibit numbers to the following documents from the application files:

IDWR #1: Application for Transfer 81352 with attachments (23 pages).

IDWR #2: FMID protest to Application 81352

IDWR #3: James Hagenbarth protest to Application 81352

IDWR #4: IDL protest to Application 81352 and withdrawal of protest

IDWR #5: January 5, 2017 letter from Liz Davy (USFS) to Bunts & Singles

IDWR #6: Recommendation of Watermaster – Application 81352
IDWR #7: Amended Application for Permit 22-13254 with attachments
(9 pages)
IDWR #8: FMID protest to Application 22-13254
IDWR #9: James Hagenbarth protest to Application 22-13254
IDWR #10: May 7, 2018 letter from Liz Davy (USFS) to Bunts & Singles
IDWR #11: Recommendation of Watermaster - Application 21-13254
IDWR #12: Water Right Report 21-4071
IDWR #13: Water Right Report 21-4071A
IDWR #14: Water Right Report 21-11478

Dated this 24th day of July, 2018.

A handwritten signature in black ink, appearing to read 'J. Cefalo', written over a horizontal line.

James Cefalo
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 2018, 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 Discovery/Disclosure Order

CERTIFIED MAIL Application for Transfer No. 81352
Application for Permit 21-13254

Bunts & Singles LLC
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Salt Lake City UT 84111

Fremont-Madison Irrigation District
PO Box 15
St. Anthony ID 83445

Rocky Mountain Environmental
Kristin Moore
482 Constitution Way Ste 303
Idaho Falls ID 83402

Jerry Rigby
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Rexburg ID 83440

John M Marshall
John Marshall Law PLLC
575 W. Bannock St Ste B
Boise ID 83702

U.S. Mail – Regular

Steve Spencer
US Forest Service
1805 Hwy 16 Room 5
Emmett ID 83617-9076

Elizabeth Davy
District Ranger
PO Box 858
Ashton ID 83420

Louis Wasaniewski
US Forest Service
1405 Hollipark Dr
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Sharla Cox
Administrative Assistant