

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

**IN THE MATTER OF PERMIT )  
NO. 37-23100 IN THE NAME OF )  
HEATH-MARSHALL, INC. )**

**NOTICE OF HEARING AND  
DISCLOSURE ORDER**

**NOTICE OF HEARING**

On March 6, 2018, the Idaho Department of Water Resources ("Department") issued a *Preliminary Order Voiding Permit [37-23100]*. On March 21, 2018, Jerry R. Rigby of Rigby, Andrus & Rigby Law, PLLC filed a *Request for Hearing* pursuant to Idaho Code § 42-1701A(3) on behalf of David Z. Walters and Charlene B. Walters ("Walters").

The Department has scheduled this matter for hearing on **June 7, 2018, beginning at 1:00 PM, at the Idaho Department of Water Resources, 900 N Skyline Dr., Suite A, Idaho Falls, Idaho.**

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

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), the Department's Water Appropriation Rules (IDAPA 37.03.08), and the Department's Beneficial Use Examination Rules (IDAPA 37.03.02). A copy of the code and rules may be obtained from the department's website, [www.idwr.idaho.gov](http://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.

**DISCLOSURE ORDER**

1. On or before June 1, 2018, Walters shall disclose the identity of all witnesses that may testify for them at the hearing.
2. On or before June 1, 2018, Walters shall provide copies of all exhibits which may be offered at the hearing.

3. The witness list and exhibits may be sent to the hearing officer by email.
4. The department has identified certain documents from its water right files as proposed exhibits for the hearing. The hearing officer will bring a copy of these proposed exhibits to the hearing. Walters need not include these documents as part of their proposed exhibits.

|          |                                                                                       |
|----------|---------------------------------------------------------------------------------------|
| IDWR #1: | Application for Permit 37-8856 with Addendum (6/20/1996)                              |
| IDWR #2: | Amended Permit to Appropriate Water 37-8856 (1/9/1997)                                |
| IDWR #3: | Proof of Beneficial Use for Permit 37-8856 (10/22/1999)                               |
| IDWR #4: | Notice of Intent to Void (7/26/2017)                                                  |
| IDWR #5: | Memo prepared by Daniel Nelson: "Licensing Review of Water Right 37-8856" (2/15/2018) |
| IDWR #6: | Preliminary Order Voiding Permit (3/6/2018)                                           |

Dated this 24<sup>th</sup> day of May, 2018.



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James Cefalo  
Hearing Officer

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24<sup>th</sup> day of May, 2018, true and correct copies of the documents described below were served by email and 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 Disclosure Order

**CERTIFIED MAIL** Permit 37-23100

Jerry Rigby  
Rigby Andrus & Rigby  
PO Box 250  
Rexburg ID 83440

Roger Warner  
Rocky Mountain Environmental  
482 Constitution Way #303  
Idaho Falls ID 83402



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Sharla Cox  
Administrative Assistant