

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

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 63-34079 AND 63-
34080 IN THE NAME OF CHRIS EMMERT

**ORDER AUTHORIZING
DISCOVERY; SCHEDULING ORDER;
NOTICE OF HEARING**

BACKGROUND

On May 8, 2015, Chris Emmert (“Emmert”) filed Applications for Permit Nos. 63-34079 and 63-34080 (“Applications”) with the Idaho Department of Water Resources (“Department”). The Applications seek supplemental supplies of ground water to irrigate farmland in Canyon County approximately five miles southeast of Lake Lowell. The Boise Project Board of Control (“Boise Project”) protested the Applications.

After holding a hearing on the matter, the Department’s Hearing Officer (“Hearing Officer”) issued a *Preliminary Order Approving Applications for Permit*. Upon reconsideration, the Hearing Officer issued an *Order Granting Petition for Reconsideration; Amended Preliminary Order Rejecting Applications for Permit* (“Amended Order”). In the Amended Order, the Hearing Officer found that Emmert’s proposed appropriation of ground water would have a “maximum likely impact on Lake Lowell of 1.3% of 235 AF (3.1 AF).” *Amended Order* at 11. The Hearing Officer rejected the Applications because Emmert did not submit a mitigation plan sufficient to prevent injury to the Boise Project’s water rights stored in Lake Lowell.

Emmert filed exceptions to the Amended Order. On October 27, 2017, the Director of the Department (“Director”) issued an order affirming the Amended Order rejecting the Applications.

On November 13, 2017, Emmert filed the *Applicant’s Petition for Reconsideration*. On December 1, 2017, the Director issued his *Order on Reconsideration Remanding Matter to Hearing Officer* (“Order on Reconsideration”). The Order on Reconsideration states that this matter is remanded to the Hearing Officer “for an evidentiary hearing and further factual development of the record only as to the issue of Emmert’s proposal or proposals to mitigate injury to the Boise Project’s senior water rights.” *Order on Reconsideration* at 4.

On December 12, 2017, the Hearing Officer held a status conference with counsel for Emmert and the Boise Project. Based upon discussion at the status conference, the Hearing Officer orders as follows:

ORDER AUTHORIZING DISCOVERY

IT IS HEREBY ORDERED that the Parties may engage in discovery according the Scheduling Order set forth below:

SCHEDULING ORDER

IT IS HEREBY ORDERED that the following schedule is ADOPTED:

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| January 12, 2018 | Deadline for Emmert to submit to the Department and the Boise Project a mitigation proposal or proposals. |
| January 26, 2018 | Deadline for discovery requests, including requests for depositions and requests for production. |
| Feb. 12, 2018 | Deadline for answering discovery requests. |
| Feb. 23, 2018 | Deadline for completing depositions. |
| March 1, 2018 | Deadline for parties to submit exhibits they intend to rely upon at hearing. Three copies of each exhibit must be physically received by the Hearing Officer by this deadline. |
| | Deadline for parties to submit witness lists, including a list of expert witnesses (with summaries of expert qualifications) and a list of all other expected witnesses (including a summary of the scope of testimony). |
| | Deadline for prehearing motions. |

NOTICE OF HEARING

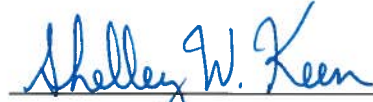
The Hearing Officer hereby notifies the parties that a hearing will be held in this matter beginning at **8:30 a.m. on March 8, 2017, in Conference Rooms C & D at the offices of the Idaho Department of Water Resources, 322 E. Front Street, Boise, Idaho.**

The hearing will be conducted in accordance with 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 inform the Department no later than five (5) days prior to the conference. Inquiries for special accommodations should be directed to Jean Hersley, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4942.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure. IDAPA

37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/0101.pdf>.

DATED this 13th day of December 2017.



Shelley W. Keen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December 2017, I caused to be served a true and correct copy of the foregoing document on the following by the method(s) indicated:

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Jean Hersley