

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR) TRANSFER NO. 81039 IN THE NAME OF) MICHAEL AND/OR EULLA WALLACE) AND APPLICATIONS FOR PERMIT NOS.) 78-12439 IN THE NAME OF EDWARD) KALINOWSKI, 78-12445 IN THE NAME OF) MICHAEL AND/OR EULLA WALLACE,) AND 78-12447 IN THE NAME OF JAMES) <u>AND SANDRA HENLEY</u>)	ORDER CONSOLIDATING PROCEEDINGS AND NOTICE OF HEARING
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On July 12, 2016, Michael and/or Eulla Wallace (“Wallace”) filed Application for Permit 78-12445 with the Idaho Department of Water Resources (“Department”), seeking a permit to divert water from Seawell Creek and Threemile Creek for irrigation purposes. Wallace amended Application 78-12445 on August 31, 2016. The Department published notice of the amended application on December 7 and 14, 2016. Protests were filed by James L. and Sandra J. Henley (“Henley”) and by Edward Kalinowski.

The following contested cases are also currently pending before the Department:

- 1) Application for Transfer 81039, filed by Wallace, protested by Henley and Kalinowski;
- 2) Application for Permit 78-12439, filed by Kalinowski, protested by Wallace; and
- 3) Application for Permit 78-12447, filed by Henley, protested by Wallace

These three matters have already been consolidated for hearing through an order from the Department, dated December 29, 2016. The consolidated hearing is scheduled for June 14, 2017. On March 20, 2017, Henley and Kalinowski, through their attorney Shelley Davis, filed a *Motion to Consolidate*, asking the hearing officer to include Application 78-12445 in the consolidated hearing. No response was filed by Wallace.

Rule 556 of the Department’s Rules of Procedure (IDAPA 37.01.01) authorizes the Department to consolidate two or more proceedings upon a finding that they “present issues that are related and that the rights of the parties will not be prejudiced.”

The parties to all of the contested cases identified above are identical (with the exception that Henley and Kalinowski did not protest each other’s applications). There are many overlapping issues between the contested cases, including historical use of water and access to points of diversion. It does not appear that any of the parties will be prejudiced by the consolidation of the proceedings. This order is issued more than one month prior to any disclosure deadlines associated with the scheduled hearing. Further, the parties are able to fully participate in written discovery related to this application, if they so desire.

ORDER

IT IS HEREBY ORDERED that Application 78-12445 (Wallace) is consolidated with Applications 81039 (Wallace), 78-12439 (Kalinowski) and 78-14227 (Henley) for purposes of conducting an administrative hearing.

IT IS FURTHER ORDERED that the *Order Consolidating Cases, Authorizing Discovery and Setting Disclosure Deadlines*, issued by the Department on December 29, 2016 (in the consolidated case for Applications 81039, 78-12439 and 78-12447) now applies to Application 78-12445. The deadlines set forth in that order apply to this new group of consolidated cases.

NOTICE OF HEARING

The department has scheduled these consolidated matters for hearing on **Wednesday, June 14, 2017, beginning at 9:30 am at the Idaho Department of Water Resources, Western Region Office, 2735 Airport Way, Boise, ID 83705.**

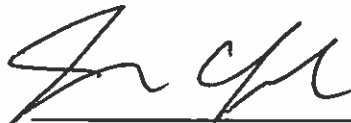
The presiding officer at the hearing will be James Cefalo, whose mailing address is 900 N. Skyline Dr., Ste A, Idaho Falls, ID 83402-1718.

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.

Dated this 13th day of April 2017.



James Cefalo
Water Resource Program Manager

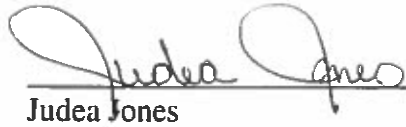
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of April 2017, 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 with return receipt requested, postage prepaid and properly addressed, to the following:

Document Served: Order Consolidating Proceedings and Notice of Hearing

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Judea Jones