

**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)
_____)

NOTICE OF HEARING

PROCEDURAL HISTORY

On May 8, 2015, Chris Emmert (“Applicant”) filed Applications for Permit Nos. 63-34079 and 63-34080 (“Applications”) with the Idaho Department of Water Resources (“Department”). The Applications seek a supplemental supply of ground water to irrigate land in Canyon County approximately four to five miles southeast of Lake Lowell.

The Boise Project Board of Control (“Boise Project”) protested both Applications on October 22, 2015. The Department held a pre-hearing conference on the matter on September 29, 2016. At the conference, the parties asked to schedule a hearing and to initiate discovery. On October 4, 2016, the Department issued an order consolidating the contested cases, authorizing discovery, and setting disclosure deadlines.

On October 20, 2016, the Department issued an order setting February 15, 2017, as the hearing date for the Applications.

On January 4, 2017, the Department issued its *Order Granting Motion for Continuance of Hearing* (“Order”). On January 9, 2017, the Department issued an *Order Denying Motion for Reconsideration of Order Granting Motion for Continuance of Hearing*.

NOTICE OF HEARING

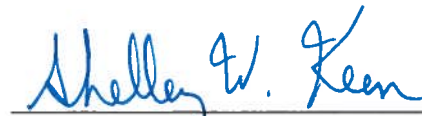
The Department will conduct a hearing in this matter on Thursday, April 6, 2017, beginning at 9:00 AM, at the State Office of the Department of Water Resources, 322 E. Front Street, Boise, Idaho.

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 Water Appropriation Rules (IDAPA 37.03.08). Copies of the rules may be obtained from the following website, <https://adminrules.idaho.gov/rules/current/37/>, or by request to any Department office.

The hearing will be conducted in in accordance with the accessibility requirements of the Americans with Disabilities Act. Anyone requiring special accommodations in order to attend, participate in, or understand the hearing should advise the Department at least (10) days prior to the

hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Jean Hersley at (208) 287-4942.

Dated this 20th day of January, 2017.



Shelley W. Keen
Hearing Officer

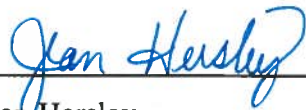
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of January, 2017, true and correct copies of the *Notice of Hearing* were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

**CHRIS EMMERT
7180 BOWMONT RD
NAMPA ID 83686**

**BOISE PROJECT BOARD OF CONTROL
C/O SHELLEY DAVIS
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE ID 83701-2139**

**JOHN MARSHALL
JOHN MARSHALL LAW PLLC
575 W BANNOCK ST STE B
BOISE ID 83702**



Jean Hersley
Technical Records Specialist II

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issues 4, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets 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 notify the department no later than ten (10) days prior to the hearing.