

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NOS. 63-34079 AND 63-34080) ORDER CONSOLIDATING CONTESTED
IN THE NAME OF CHRIS EMMERT) CASES, AUTHORIZING DISCOVERY, AND
_____) SETTING DISCLOSURE DEADLINES

On May 8, 2015, Chris Emmert filed Applications for Permit 63-34079 and 63-34080 with the Idaho Department of Water Resources (department). Both applications were protested by The Boise Project Board of Control 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.

ORDER CONSOLIDATING MATTERS

Pursuant to Rule 556 of the Department's Rules of Procedure (IDAPA 37.01.01), "[t]he agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced." In this case, both applications propose diversion of ground water for irrigation of lands within approximately one mile of one another. The applicant and protestant for both applications are identical and the issues raised by the protestant against each application are identical. Consolidating these matters for hearing will promote administrative efficiency and limit the expenditure of resources by the parties.

IT IS HEREBY ORDERED that the contested cases for applications 63-34079 and 63-34080 are consolidated for hearing.

ORDER AUTHORIZING DISCOVERY

IT IS HEREBY ORDERED that the parties may engage in discovery as follows:

1. General discovery can begin immediately and shall end thirty (30) days prior to the hearing.
2. Written requests for discovery shall be either interrogatories or requests for documents. Requests for admission are not allowed.
3. Answers to written discovery must be served on the requesting party within fourteen (14) days of service of the request. All responses to discovery shall be served on or before the end of the discovery period.

DISCLOSURE ORDER

1. At least fourteen (14) days prior to the hearing date, 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.
2. Expert witness reports must be submitted to all parties at least fourteen (14) days prior to the close of discovery.
3. Any party desiring to file prepared testimony pursuant to Rule 605 of the Department's Rule of Procedure must submit the written testimony to the hearing officer and the other parties, in narrative form, at least seven (7) days prior to the hearing. Service of the prepared testimony is timely only if the hearing officer and the parties upon whom the documents are served have physical possession of the prepared testimony at least seven (7) days prior to the hearing. All witnesses whose testimony is pre-filed must appear at the hearing to verify that the prepared testimony is their own and will be subject to cross examination about the written testimony. Failure to appear is cause for the hearing officer to reject the prepared testimony.
4. At least fourteen (14) days prior to the hearing, each party seeking to offer exhibits at the hearing must physically serve on all other parties and the hearing officer copies of the exhibits. Service of the proposed exhibits will satisfy Rule 606 of the Department's Rules of Procedure. Applicant's exhibits shall be numbered between 1 and 100. Protestant's exhibits shall be numbered between 101 and 200.

The hearing for this contested case shall be held late January to mid February 2017. Formal notice of the hearing will be served on the parties at a later date.

Dated this 4th day of October, 2016



Nick Miller

Manager, IDWR Western Region

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of October, 2016, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

Documents Served:

- Order Consolidating Contested Cases, Authorizing Discovery, and Setting Disclosure Deadlines
- Scheduling Request

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