



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 7, 2016

GOLD EMBLEM FARMS
PO BOX 51780
IDAHO FALLS, ID 83405-1780

RE: Application for Permit No(s). 35-14467

Dear Applicant(s):

Enclosed is a copy of a protest(s) filed against the issuance of Permit No(s). 35-14467. As part of the application process, the following options are available for the resolution of contested (protested) applications:

- Direct contact with the protestant(s) to determine the nature of the protest(s) and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).

- Formal proceedings administered by the department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.

- Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached. If you are interested in this option, please contact our office for details.

We need to schedule a pre-hearing conference on the above matters. I am requesting you to let me know your **UNAVAILABLE** dates for July and August, 2016. **Please list your unavailable dates during July and August, 2016 on the calendars that are enclosed, Please return your calendars no later than June 17, 2016 (note, you may scan and email the calendars to: sharla.cox@idwr.idaho.gov .**

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters

administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,



James Cefalo
Water Resources Program Manager

Enclosure(s) Pre-Hearing Conference Procedures
Copy of Protest(s)
Calendar

cc: Robert L. Harris
Holden Kidwell Hahn & Crapo
PO Box 50130
Idaho Falls ID 83405-0130

JC:sc

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.



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C.L. "BUTCH" OTTER
Governor

June 7, 2016

GARY SPACKMAN
Director

IDAHO POWER COMPANY
BARKER ROSHOLT & SIMPSON LLP
163 2ND AVE W
PO BOX 63
TWIN FALLS, ID 83303-0063

A & B IRRIGATION DISTRICT
TWIN FALLS CANAL CO
BURLEY IRRIGATION DISTRICT
MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL CO
BARKER ROSHOLT & SIMPSON LLP
163 2ND AVE W
PO BOX 63
TWIN FALLS, ID 83303-0063

AMERICAN FALLS RESERVOIR DISTRICT #2
MINIDOKA IRRIGATION DISTRICT
FLETCHER LAW OFFICE
PO BOX 248
BURLEY, ID 83318

IDAHO GROUND WATER APPROPRIATORS INC
PO BOX 1391
POCATELLO, ID 83204-1391

RE: Application for Permit No(s). 35-14467

Dear Protestant(s):

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James Cefalo
Water Resources Program Manager

Enclosure(s) Pre-Hearing Conference Procedures
Calendars

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