

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

|                                         |   |                               |
|-----------------------------------------|---|-------------------------------|
| <b>IN THE MATTER OF TRANSFER NO(S).</b> | ) |                               |
| <b>79357, 79380, 79384</b>              | ) |                               |
| <b>IN THE NAME OF:</b>                  | ) | <b>NOTICE OF JOINT</b>        |
| <b>THOMAS LENO</b>                      | ) | <b>PRE-HEARING CONFERENCE</b> |
| <b>AND TRANSFER NO. 79466</b>           | ) |                               |
| <b>IN THE NAME OF:</b>                  | ) |                               |
| <b>FOUR SISTERS DAIRY LLC</b>           | ) |                               |
| <hr style="width:40%; margin-left:0"/>  | ) |                               |

On May 20, 2014, THOMAS LENO, filed three (3) Applications for Transfer No(s). 79357, 79380 & 79384 with the Idaho Department of Water Resources (department). Protest(s) were filed by: VICTORIA B HENSON; JEANIE MC CREARY; ED SMITH; MIKE HUMPHRIES; JIMMIE L CONDER; DELEA C MILLER; LYNN & BARBARA STEPHENS; ELIZABETH (BETTY) SLIFER; MARGARET WINSRYG & LEROY ELLIOTT; MARTIN F HACKARD; SCOTT R HOUTZ; ERIC PARROTT; PAM RITTER; LOIS M RICE; WILLIAM D HAMBY; LESLIE ELLSWORTH; & RICHARD PARROTT.

On July 9, 2014, FOUR SISTERS DAIRY LLC, filed an Application for Transfer No. 79466 with the Idaho Department of Water Resources (department). Protest(s) were filed by: JEANIE MC CREARY; ED SMITH; MIKE & JANA HUMPHRIES; JIMMIE L CONDER; SHADOW & BONNIE SEAMAN; LYNN & BARBARA STEPHENS; ELIZABETH BETTY SLIFER; MARGARET WINSRYG & LEROY ELLIOTT; MARTIN F HACKARD; ERIC PARROTT; PAM RITTER; LOIS M RICE; WILLIAM D HAMBY; LESLIE ELLSWORTH; & RICHARD PARROTT.

**The department has scheduled these matters for a joint pre-hearing conference on Wednesday, November 19, 2014, beginning at 2:00 PM, at IDAHO DEPT OF WATER RESOURCES, SOUTHERN REGION, 650 ADDISON AVE W STE 500, TWIN FALLS, ID, 83301-5858.**

Agenda items for the pre-hearing conference will include:

1. Identify spokesman and/or counsel representing the protestant
2. Review of the application
3. Identify issues of protest
4. Designate date for identifying witnesses
5. Designate target date for conducting administrative hearing if resolution is not possible during the pre-hearing conference.

The department encourages the applicant and protestants to discuss and resolve the protests before the pre-hearing conference. If private discussions are not possible or do not resolve the protests, the department's Rules of Procedure provide for a pre-hearing conference to be held before scheduling a formal hearing.

The pre-hearing conference provides another informal opportunity for the applicant and protestants to meet. The parties often settle their differences at the pre-hearing conference. If a formal hearing is needed to resolve the protests, the pre-hearing conference serves as an opportunity to formulate or simplify the issues, obtain concessions of fact or identification of documents to avoid unnecessary proof, schedule discovery (when discovery is allowed), arrange for the exchange of proposed exhibits or prepared testimony, limit witnesses, schedule hearings, establish procedure at hearings, and address other matters that may expedite orderly conduct and disposition of the proceeding.

It is important for all parties to give considerable thought to each of these matters before appearing at the pre-hearing conference and to make the most of the opportunity to resolve the dispute informally.

The pre-hearing conference 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 pre-hearing conference, please notify the department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Denise Maline, #(208) 736-3033.

Dated this 8<sup>th</sup> day of October, 2014.

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is fluid and cursive, with a large initial "A" and "M".

Allen Merritt  
Southern Regional Manager

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8<sup>th</sup> day of October, 2014, 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:

**Document Served:    Notice Of Joint Pre-Hearing Conference  
Hearing Procedure for Application for Transfer**

THOMAS LENO  
4236 N 1900 E  
BUHL, ID 83316

SCOTT R HOUTZ  
2231 E 3300 N  
TWIN FALLS, ID 83301

FOUR SISTERS DAIRY LLC  
PO BOX 105  
TWIN FALLS, ID 83303

ERIC PARROTT  
PARROTT'S ORGANIC FARM &  
LIVESTOCK  
2152 E 3300 N  
TWIN FALLS, ID 83301

BROCKWAY ENGINEERING PLLC  
C/O GREG SULLIVAN  
2016 N WASHINGTON ST STE 4  
TWIN FALLS, ID 83301

PAM RITTER  
3283 N 2300 E  
TWIN FALLS, ID 83301

BARKER ROSHOLT & SIMPSON LLP  
ATTN TRAVIS L THOMPSON  
195 RIVER VISTA PL STE 204  
TWIN FALLS, ID 83301-3029

LOIS M RICE  
PO BOX 200  
FILER, ID 83328

ELIZABETH BETTY SLIFER  
3779 N 2250 E  
FILER, ID 83328

VICTORIA B HENSON  
3295 N 2300 E  
TWIN FALLS, ID 83301

MARGARET WINSRYG  
LEROY ELLIOTT  
3290 N 2200 E  
TWIN FALLS, ID 83301

JEANIE MC CREARY  
2217 E 3300 N  
TWIN FALLS, ID 83301

DAVID COLEMAN, ATTORNEY FOR  
WINSRYG & ELLIOTT  
PO BOX 525  
TWIN FALLS, ID 83303-0525

WILLIAM D HAMBY  
2399 E 3300 N  
TWIN FALLS, ID 83301

MARTIN F HACKARD  
3289 N 2300 E  
TWIN FALLS, ID 83301

LYNN STEPHENS  
BARBARA STEPHENS  
PO BOX 2118  
TWIN FALLS, ID 83303-2118

LESLIE ELLSWORTH  
PO BOX 5023  
TWIN FALLS, ID 83303

ED SMITH  
PO BOX 6015  
TWIN FALLS, ID 83303

MIKE HUMPHRIES  
JANA HUMPHRIES  
2382 E 3300 N  
TWIN FALLS, ID 83301

JIMMIE L CONDER  
3623 N 2000 E  
FILER, ID 83328

DELEA C MILLER  
2239 E 3300 N  
TWIN FALLS, ID 83301

RICHARD M PARROTT  
1389 E 4400 N  
BUHL, ID 83316

SHADOW SEAMAN  
BONNIE SEAMAN  
1940 E 3700 N  
FILER, ID 83328

A handwritten signature in cursive script, reading "Denise Maline", is positioned above a solid horizontal line.

**Denise Maline**  
**Administrative Assistant**

## **PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR TRANSFER**

### **ISSUES**

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues for the department to consider in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer 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 and its potential effects on the public water source?
5. Will the proposed transfer 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?
6. If the proposed transfer is for a municipal use, is it necessary to provide reasonably anticipated future needs for a municipal service area and is the planning horizon consistent with Sections 42-222 and 42-202B, Idaho Code?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

### **BURDEN OF PROOF**

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 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 this issue.

### **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 prehearing 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](http://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.