

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS	)	
FOR PERMIT NO. 35-14240 THRU	)	ORDER SETTING DEADLINES
35-14244 IN THE NAME OF LANCE	)	FOR LEAGAL BRIEFING
<u>AND/OR LISA FUNK PARTNERSHIP</u>	)	

On March 14, 2012, the Lance and/or Lisa Funk Partnership filed five applications for permit (35-14240 thru 35-14244) with the Idaho Department of Water Resources ("Department"), seeking permits to divert ground water for irrigation use. The applications stated that the consumptive portion of the permits would be mitigated by holding existing water rights 35-14014 and 35-14015 unused. The applicant stated that it would provide a copy of the agreement between Southern Idaho Energy (the owner of water right 35-14014 and 35-14015 at that time) authorizing use of the rights for mitigation purposes.

The applications were advertised and protests were filed by Idaho Power Company, represented by John Simpson of Barker Rosholt & Simpson, Burley Irrigation District, A&B Irrigation District, Milner Irrigation District, North Side Canal Company and Twin Falls Canal Company, represented by Travis Thompson of Barker Rosholt & Simpson, Minidoka Irrigation District, represented by Kent Fletcher of Fletcher Law Office, and by the Idaho Ground Water Appropriators Inc., represented by Randy Budge of Racine Olson Nye Budge & Bailey.

The Department conducted an initial pre-hearing conference for the contested cases on September 17, 2013, and has conducted five additional status conferences since that time. The parties have now determined that the issues in this case are primarily legal in nature and have requested that the hearing officer establish a briefing schedule to address the legal issues. Once the briefing period closes, the Department will conduct another status conference to determine whether an administrative hearing is needed. Parties are not required to participate in the legal briefing.

Rather than stipulate to a common set of facts, the parties have chosen to state the facts they believe are relevant in their respective briefs.

ORDER

IT IS HEREBY ORDERED that the parties to these contested cases are authorized to file legal briefs addressing the following question: **Do the Idaho Code, the Department's Water Appropriation Rules (IDAPA 37.03.08), and other rules and orders of the Department allow for the issuance of permits with mitigation plans which are based on short-term or temporary lease agreements?**

All parties wishing to participate in the legal briefing shall file opening briefs with the Department on or before May 30, 2014. Response briefs shall be filed on or before June 20, 2014. Copies of the briefs shall be served on all other parties to these contested matters.

Dated this 20th day of May, 2014.


James Cefalo
Water Resources Program Manager

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of May, 2014, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER SETTING DEADLINES FOR LEGAL BRIEFING to the person(s) listed below:


Sharla Cox
Administrative Assistant

US MAIL

RE: Order Setting Deadlines for Legal Briefing (Apps. 35-14240 thru 35-14244)

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

Barker Rosholt & Simpson
John Simpson
PO Box 2139
Boise, ID 83701-2139

Fletcher Law Office
W. Kent Fletcher
PO Box 248
Burley ID 83318

Barker Rosholt & Simpson
Paul Arrington
195 River Vista Place, Suite 204
Twin Falls, ID 83301

Racine Olson Nye Budge & Bailey
Randy Budge
PO Box 1391
Pocatello, ID 83204-1391