

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

**IN THE MATTER OF APPLICATION FOR
PERMIT NO. 37-8859 IN THE NAME OF
SMOKEY DOME LLC**

**NOTICE OF SECOND
PREHEARING CONFERENCE**

On October 18, 1996, SMR LLC filed with the Department of Water Resources (IDWR) an Application for Permit #37-8859 to appropriate the public waters of the State of Idaho. Public Notice for the application was published on November 20 & 27, 1996 in the Camas Courier newspaper. The application received protests from Stephen & Pamela Smith (now known as Pamela Tucker); and VM Diamond Ranch. The application was assigned to Smokey Dome LLC on May 18, 2005. The protest filed by VM Diamond Ranch was dismissed by Default Order on September 24, 2012.

IDWR has scheduled a **second** pre-hearing conference for the protests to be held on **Tuesday, November 6, 2012 at 10:00 a.m., at the Blaine County Annex Building, 219 South 1st Ave, Suite #108, Hailey, Idaho 83333.**

The conference will be held in accordance with provisions of the IDWR Rules of Procedure, Water Appropriation Rules 40 and 45, and 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 conference, please advise IDWR at least ten (10) days prior to the conference.

Dated this 12th day of October, 2012



Allen Merritt
Southern Region Manager

CERTIFICATE OF SERVICE

I hereby certify that on this of 15th day of October 2012, I mailed a true and correct copy, postage prepaid of the foregoing **NOTICE OF SECOND PREHEARING CONFERENCE** to the person(s) listed below:

SMOKEY DOME LLC
C/O CHUCK HILL
PISTOL CREEK FINANCIAL
PO BOX 1607
BELLEVUE, WA 98009

SPECK & AANESTAD
ATTN: JAMES SPECK
PO BOX 987
KETCHUM, ID 83340

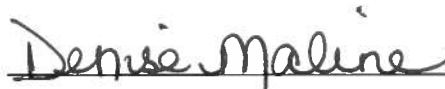
PAMELA TUCKER
PO BOX 713
HAILEY, ID 83333

HAEMMERLE & HAEMMERLE
ATTN: FRITZ HAEMMERLE
PO BOX 1800
HAILEY, ID 83333

BIG WOOD CANAL COMPANY
C/O LYNN HARMON
409 N APPLE ST
SHOSHONE, ID 83352

HOBDEY LAW OFFICE
ATTN: CRAIG HOBDEY
PO BOX 176
GOODING, ID 83330

WOOD RIVER LAND TRUST
119 E BULLION ST
HAILEY, ID 83333

A handwritten signature in cursive script, reading "Denise Maline", written over a horizontal line.

Denise Maline
Administrative Assistant

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 issue 5, 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 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.