

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS)
FOR TRANSFER NO. 75738 AND TRANSFER)
NO. 75739)

Matt and Jacqueline Machado,)
Applicants)

DuWayne Kimball,)
Protestant)

NOTICE OF JOINT HEARING
AND
PRE-HEARING ORDER

SOURCE: Ground water

COUNTY: Twin Falls

On June 22, 2009 and June 30, 2009 respectively, Matt and Jacqueline Machado, (applicants), filed with the Department of Water Resources two applications to transfer the public waters of the State of Idaho. The Department has received a protest against the approval of said applications from the above captioned protestant. The Joint Pre-Hearing Conference held on May 17, 2011 did not resolve the matter of protest,

THEREFORE, The Department has set the matter for hearing on **Wednesday, July 20, 2011 commencing at 9:00 a.m. in the Conference Room, Idaho Department of Water Resources Southern Regional Office, 1341 Fillmore Street-Suite #200; Twin Falls, Idaho**

The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in a facility that meets 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 the department within (10) days prior to the conference.

PRE-HEARING ORDER

IT IS HEREBY ORDERED, pursuant to Rule of Procedure 37.01.01510 (Rule of Procedure 510) that each party will mail to the **hearing officer, Shelley Keen, whose address is IDAHO WATER RESOURCES, PO BOX 83720; BOISE ID 83720-0098** and to the other parties of record the following information as prescribed below:

IT IS THEREFORE, HEREBY ORDERED as follows:

The parties are authorized to engage in discovery commencing with the date of this order. The parties shall **complete discovery by June 15, 2011.**

Discovery shall be conducted pursuant to IDAPA Rules 37.01.01520-532 (Rules of Procedure 520 through 532). The parties are directed to answer or otherwise respond to discovery in accordance with the department's Rules of Procedure and the Idaho Rules of Civil Procedure, as appropriate.

In accordance with Rule 520, the scope of discovery shall be governed by Rule 26(b) of the Idaho Rules of Civil Procedure, unless otherwise provided by statute, rule or order of the Director.

On or before July 1, 2011 a list of witnesses, including expert witnesses the party will call or rely on shall be exchanged.

On or before July 1, 2011 copies of documents and proposed exhibits the parties may offer at hearing shall be exchanged. Exhibits must be pre-labeled or marked and clearly identified for both applicant and protestant prior to the hearing. The **applicant** shall label or mark each exhibit using numbers starting with the number "1" and incrementing accordingly. The **protestant** shall label or mark each exhibit using letters starting with the letter "A" and incrementing accordingly. Pre-labeling will facilitate the hearing and save time during the proceeding.

Failure to comply with this Pre-Hearing Order is cause for the hearing officer to issue a Notice of Proposed Default to dismiss a party's pleading as provided in IDAPA 37.01.01700 (Rule of Procedure 700).

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved. **Only witnesses or exhibits properly disclosed will be considered at the hearing.**

Dated this 18th day of May, 2011.



Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of May, 2011 a true and correct copy of the above and foregoing Notice of Joint Hearing and Pre-Hearing Order was forwarded with all required charges prepared, by U.S. Mail to the parties as listed:

MATTHEW M MACHADO
JACQUELINE C MACHADO
3340 N 1100 E
BUHL ID 83316

Hand delivered _____
U.S. Mail-Regular _____
U.S. Mail-Certified x
Fax _____

GARY D. SLETTE
ROBERTSON & SLETTE
PO BOX 1906
TWIN FALLS ID 83303-1906

Hand delivered _____
U.S. Mail-Regular _____
U.S. Mail-Certified x
Fax _____

GREG SULLIVAN
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

DU WAYNE KIMBALL
1333 E 3500 N
BUHL ID 83316

Hand delivered _____
U.S. Mail-Regular _____
U.S. Mail-Certified x
Fax _____

ATTN Debbie Gibson
ID DEPT OF WATER RESOURCES
PO BOX 83720
BOISE ID 83720-0098

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

STAN HAYE
SNAKE RIVER MANAGEMENT
3539 E 3000 N
KIMBERLY ID 83341

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____



Mary A. Baldwin
Administrative Assistant