

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

**IN THE MATTER OF TRANSFER
NO. 75705 IN THE NAME OF PRESTON
WHITNEY IRRIGATION CO**

**NOTICE OF HEARING
AND ORDER EXTENDING
DISCOVERY**

On June 15, 2009, Preston Whitney Irrigation Co. ("applicant") filed Application for Transfer No. 75705 ("application") with the Idaho Department of Water Resources ("Department" or "IDWR"). Protests were filed by USDI Bureau of Reclamation, Grant Chadwick, Eldon Golightly, and Bert Wheatley.

On June 28, 2010, IDWR conducted a pre-hearing conference and the parties requested that a formal hearing be held to resolve the protested matter. The hearing was initially scheduled for January 19, 20 and 21, 2011.

On August 16, 2010, the Department issued an *Order Granting Motion For Disqualification Of Officers Hearing Contested Cases And Order Authorizing Discovery*. The order set forth dates for completion of discovery and submittal of proposed exhibits.

On August 17, 2010, the applicant filed an amended application. Notice of the amended application was published and the protest period ended on November 15, 2010. No additional protests were filed. USDI Bureau of Reclamation withdrew their protest to the original application on September 29, 2010.

The hearing dates should be rescheduled due to the amendment of the application to provide the parties additional time to prepare for the hearing.

NOTICE OF HEARING

The department has **scheduled the matter for hearing on March 23, 24 and 25, 2011, beginning at 9:00 a.m., at the Franklin County Commissioners' office, 49 W. Oneida, Preston, Idaho.**

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the department's Rules of Procedure requires that a copy be provided to the presiding officer.

The presiding officer at the hearing will be Gary Spackman, whose mailing address is Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department, IDAPA 37.01.01. A copy of the code/rules may be obtained from the department's website, www.idwr.idaho.gov, or upon request.

All parties appearing in the matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the contested application.

The hearing 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 conference, please notify the department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Deborah Gibson at 208-287-4942.

ORDER EXTENDING DISCOVERY

The *Order Granting Motion For Disqualification Of Officers Hearing Contested Cases And Order Authorizing Discovery* issued on August 16, 2010 set forth discovery deadlines that ended prior to the dates when notice of the amended application was published. Amendment of the application may raise additional issues for discovery. The parties should be provided additional time for discovery.

IT IS HEREBY ORDERED that authorization for discovery shall be modified as follows:

1. The identity of all expert witnesses that will or may testify at the hearing must be disclosed to all other parties, in writing, by **January 7, 2011**.
2. Additional written discovery requests shall be limited to issues arising from the amendments to the application and shall be served on or before **January 7, 2011**.
3. Answers to written discovery requests shall be served on or before **February 16, 2011**.
4. Additional written requests for discovery shall either be interrogatories or requests for documents (requests for admission are not allowed). No more than 10 interrogatories may be served by any party (or the attorney for several parties) on another party, and no more than 10 unanswered interrogatories served by any party (or the attorney for several parties) may be pending. Division of a single interrogatory into more than two sub-questions is not permissible.
5. All depositions shall be completed on or before **March 4, 2010**.

IT IS FURTHERED ORDERED that the deadline for parties to exchange exhibits and witness lists, and provide a copy of proposed exhibits to the hearing officer is extended to **March 16, 2011**.

Dated this 30th day of December, 2010.

A handwritten signature in cursive script, reading "Gary Spackman", written over a horizontal line.

Gary Spackman
Interim Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of December, 2010, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, certified mail with return receipt requested, postage prepaid and properly addressed to the following:

Document Served: Notice of Hearing and Order Extending Discovery

HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS, ID 83405

PRESTON WHITNEY IRRIGATION CO
PO BOX 311
PRESTON, ID 83263

MOFFATT THOMAS BARRETT ROCK & FIELD CHTD
C/O SCOTT L CAMPBELL AND ANDREW WALDERA
PO BOX 829
BOISE, ID 83701-0829

A handwritten signature in cursive script, reading "Deborah Gibson", written over a horizontal line.

Deborah Gibson
Administrative Assistant