

Agenda for Prehearing Conference
Re Protested David Dean Application 65-23244

10:30 a.m. - noon, October 13, 2009, at David Dean site, Sweet, ID

1. Attendance sign in
2. Participant introductions
3. Opening Statements by IDWR (5 minutes)
 - (a) Brief description of application, applicants and protestants
 - (b) Purpose of prehearing conference
 - (c) Review conference conduct & agenda
4. Applicant presentation (5 minutes) – David Dean
5. Protestant presentation (5 minutes each) – Chris Bryson, Clarence Link Estate represented by Joanne Lakey
- IDWR role – (5-10 minutes) – Vicky Music
 - (a) Department's application criteria
 - (b) Contested application and hearing process
 - (c) What the Department can and cannot do
6. Open Discussion
 - (a) Narrow & identify the issues
 - (b) What will the applicant agree to
 - (c) What will the protestants agree to
7. Settlement
 - (a) Yes –
 - (i) Can IDWR administer settlement
 - (ii) Protestant to submit protest withdrawal – set date
 - (b) No – Hearing is next step
 - (i) IDWR appoints Hearing Officer
 - (ii) applicant and protestant prepare a case to be heard
 - (iii) The hearing officer issues a written decision
9. Summarize pre-hearing conference

Prehearing Conference – Information Handout
Application for Permit No. 65-23244 by David Dean

Purpose of Prehearing Conference

- ☐ Formulate and simply the issues
- ☐ Discuss and propose settlement
- ☐ Address other matters that may expedite settlement
- ☐ Schedule deadlines, hearings, discovery

Conference Conduct

- ☐ Do not interrupt someone who is speaking
- ☐ Direct your wish to speak to the Department representative for acknowledgement
- ☐ If you have exceeded your time allotted or have drifted away from the subject, the Department representative may stop you.
- ☐ Be respectful of the process and other participants

IDWR Evaluation Criteria for Application of Permit

- ➔ Will the proposed use reduce the quantity of water under existing water rights?
 - ☐ Is the proposed water supply sufficient for the purposes intended?
 - ☐ Is the Application made in good faith or delay/speculation?
 - ☐ Does the applicant have sufficient financial resources?
 - ☐ Will the proposed use conflict with the local public interest?
 - ☐ Will the proposed use be contrary to the conservation of water resources?

What the Department can do

- ☐ Place conditions on permits to appropriate water
- ☐ Acknowledge agreements between parties
- ☐ Enforce statutes re illegal diversions, issue NOV's, initiate actions seeking injunctive relief & obtain cease and desist orders

What the Department cannot do

- ☐ Place irrelevant conditions on permits
- ☐ Deny an application if the statutory evaluation criteria are met
- ☐ Decide trespass/ right-of-way issues

The applicant has the burden of proof and must provide IDWR with information sufficient to evaluate these criteria.

NOTES:

10/13/2009

Prehearing conference

Old homestead purchased from Lu Ann's mom.
area is rocky.

no free flowing water

3 main draws on property

several springs flow into pond. Takes 4 weeks to fill

if anything Dean's spring has added water to creek

Dave will put pipe to Coon Creek
basically a "dry creek" may run through June.
dries in summer 2009

GPS pts for the pond

Dave will get pond measurement

Chris

750% ↓ no water in 2008 when the 3
SW ponds filled complaints in 2007 & when
ponds filled in. Some water since then but
not as much. Hardly any water since then.
She runs out of water anywhere from
June 1 - July 1

Dave/Huain says it flowed all summer

Issue ① disagreement between parties as to whether SW pond & available water.

Chris { 1- to Q of water for the Link & Bryson rights
2- consult neighbors

Dean 1- have a flow to creek
2-

What Deans agree to:
1- dimensions of pond
2- pipe to creek
3- trench (straight) by old pond } by end of 2009

Spring

By June 1, parties to meet on Link property & report back re flow, and pictures & letter

Chris - June 1 - make decision. If protest not withdrawn

<u>B</u>	<u>Seq</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate (cfs)</u>	<u>Volume (af)</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>	<u>Comments</u>
65	432	decreed	4/1/1909	0.04		gw	DOMESTIC & STOCKWATER	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	not affected
65	2095	Decreed	5/29/1927	0.2		COON CREEK SOUTH FORK	<u>IRRIGATION</u>	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD - 8N 1E S26 NWSE, limited to .2 cfs with 65- 22438 5 acres irr
65	22438	Decreed	5/29/1927	0.02		COON CREEK SOUTH FORK	STOCKWATER	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- T8N R1E S26 NWSE, limited to .2 cfs w/ 65-2095
65	11359	decreed	7/1/1948		2	UNNAMED STREAM trib to Brownlee Reservoir	STOCKWATER FROM STORAGE	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD --T08N R02E S32 SENE - storage - . not affected by Dean app -southeast of Dean
65	3563	Decreed	5/1/1949	0.01	1.4	UNNAMED STREAM trib to Coon Cr	STOCKWATER - 300 range cattle	LINK, CLARENCE D (Current)	wr	POD -- SWNW Sec. 32, Twp 08N, Rge 02E Not affected by Dean - southeast and upstream
65	11358	Decreed	7/1/1949		1	UNNAMED STREAM	STOCKWATER FROM STORAGE	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- SWNW Sec. 32, Twp 08N, Rge 02E Not affected by Dean - southeast and upstream
65	11357	Decreed	7/1/1950		4	UNNAMED STREAM trib to Brownlee Reservoir	STOCKWATER FROM STORAGE	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- T08N R02E S32 SWSW storage - 2 ponds. not affected by Dean app - southeast of Dean

65	433	Decreed	<u>4/1/1953</u>		5.4	COON CREEK SOUTH FORK	IRRIGATION FROM STORAGE, STOCKWATER FROM STORAGE	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD - 8N 1E S26 NWSE, NESW <u>20 acres irr</u> , 100 range cattle
65	11360	Decreed	7/1/1957	0.03	1.4	SPRING trib to Coon Cr	STOCKWATER	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- T8N R1E S26 SENW. Spring - Not affected ?
65	11126	Decreed	4/1/1971	0.03	1.4	SPRING trib to S Fk Coon Cr	STOCKWATER	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- SWNW Sec. 26, Twp 08N, Rge 01E. Spring - Not affected ?
65	12049	Decreed	<u>10/26/1977</u>	0.55	131	COON CREEK SOUTH FORK	IRRIGATION	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- T8N R1E S26 NWSE <u>29 acres irr</u>
65	22439	Decreed	10/26/1977	0.02		COON CREEK SOUTH FORK	STOCKWATER	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wr	POD -- T8N R1E S26 NWSE
65	22378		4/17/2001		3.7	UNNAMED STREAM trib to Coon Cr	STOCKWATER STORAGE	LINK, CLARENCE D (Current); LINK, LORNA R (Current)	wrPer mit	POD --SWNW Sec. 32, Twp 08N, Rge 02E, 300 range cattle. Not affected by Dean - southeast and <u>upstream</u>



trench by old pond

B65 --- Coon Creek
0 N 1 E

4
N

