

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 75604 IN THE) NOTICE OF
NAME OF IRENE OR MARVIN HUTCHINGS **) PRE-HEARING CONFERENCE**

Agenda items for this pre-hearing conference will include:

- Although informal resolution of a contested case is encouraged, the prehearing conference is often the first time the parties meet to discuss the contested case. The conference provides a good opportunity for the parties to explain their positions and concerns. The Department's rules provide that a prehearing conference may be held "...for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed),

arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement." It is worthwhile for all parties to give considerable thought to each of these matters before appearing at the conference, and to make the most of the opportunity to resolve the contested case informally.

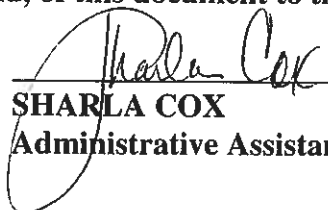
The pre-hearing conference will be conducted in a facility, which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the pre-hearing conference, please advise the Department within ten (10) days prior to the pre-hearing conference.

Dated this 22 day of October 2009.



JAMES CEFALO
Eastern Regional Hearing Officer

I hereby certify that on the 23RD day of October 2009, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed below:



SHARLA COX
Administrative Assistant

U.S. MAIL

Irene and Marvin Hutchings
1141 Hwy 93 S
Salmon ID 83467

Western Watershed Project
Larry Zuckerman
PO Box 1322
Salmon ID 83467

CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR TRANSFER

ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?
2. Will the proposed transfer constitute an enlargement in use of the original right?
3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
4. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2 and 4 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above 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 prehearing 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, identify documents to avoid unnecessary proof, 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.

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 the Idaho Code Sections and the Rules are available upon request or by accessing the Department's website: www.idwr.idaho.gov. The department will record the hearing. Copies of a hearing are available upon request and there may be a charge for reproducing the recording.

The hearing likely will 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 for the Director's consideration. Parties can file exceptions to a recommended order, and a brief in support of the exceptions or may request oral argument, or file a petition for reconsideration to a preliminary order. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

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 advise the department no later than ten (10) days prior to the hearing.