

NOTES: Prehearing Conference
CONTESTED EXCHANGE APP. #75007- Water Board/USBR

To: Gary Spackman
From: J. Westra, Western Reg.
Date: 3/9/09

RE: REQUEST FOR HEARING & DISCOVERY

On March 5th, I held a prehearing conference for the above contested application for exchange. The following was noteworthy:

-Brian McMahan attorney for the Tamarack protest contacted me on March 4th, stating they would not be attending the conference due to other matters concerning Tamarack; a fax follow up letter was received on 3/5. I will acknowledge the letter and request the attorney provide parties written details and specific issues for the Tamarack protest within 30 days.

-Brian Patton presented the application purpose to parties. The exchange is for 2800 ac-ft to test the feasibility of a large exchange possibility in the near future. The exchange is 1 to 1 storage for Black Canyon Irrigation District in Payette Basin and storage in the Upper Snake River. Memorandum of agreement is in place for holders—see file.

-John Simpson, Attorney represented jointly the protestants from southern/eastern Idaho—see Notice of Joint Protest. Mr. Simpson expressed the following concerns:

Does this concept follow the Nez Pierce agreement- authority?

What preference level is this in the rental pool?

Last to fill—power head issues

Where is water going to be put to use—recharge, augmentation, conservation, mitigation?

Do users have option to have the water back? Delivery calls?

Who is the water right holder?

-Exchange flow windows for augmentation releases are late June-early July —Cascade Res.-Payette.

-As there was no settlement, parties agreed to schedule a hearing to resolve issues and still possibly implement the exchange during 2009.

Hearing schedule: **June 9-11, 9:30 AM @ IDWR State Office.**

Discovery: Start immediately to May 26, 2009