

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

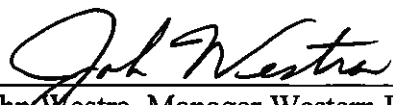
|                                             |   |                             |
|---------------------------------------------|---|-----------------------------|
| <b>IN THE MATTER OF APPLICATION FOR</b>     | ) |                             |
| <b>EXCHANGE OF WATER #75007 IN THE</b>      | ) |                             |
| <b>NAME OF IDAHO WATER RESOURCE</b>         | ) | <b>NOTICE OF PREHEARING</b> |
| <b>BOARD &amp; US BUREAU OF RECLAMATION</b> | ) | <b>CONFERENCE</b>           |
| <hr/>                                       | ) |                             |

On August 12, 2008, the Idaho Water Resource Board and U S Bureau of Reclamation filed with the Idaho Department of Water Resources (IDWR) application for exchange of water #75007. The application was protested by Tammarack Resort LLC, Minidoka Irrigation District, American Falls Reservoir District #2, Milner Irrigation District, A & B Irrigation District, Burley Irrigation District, Twin Falls Canal Company, and North Side Canal Company

IDWR has scheduled a pre-hearing conference for the protests to be held at **9:30 AM, Thursday, March 5, 2009 at the Idaho Department of Water Resources State Office, Idaho Water Center, 322 E. Front Street, Boise, Idaho.** The conference will be held in accordance with provisions of the IDWR Rules of Procedure and Water Appropriation Rules 40 and 45.

The conference 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 advise IDWR at least ten (10) days prior to the conference.

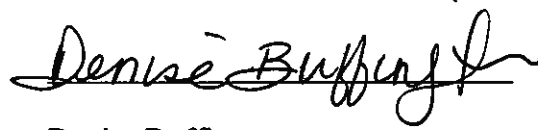
Dated this 18<sup>th</sup> day of November, 2008

  
\_\_\_\_\_  
John Westra, Manager Western Region.

**NOTICE OF PREHEARING CONFERENCE**

## CERTIFICATE OF SERVICE

I hereby certify that on this 19<sup>th</sup> day of November, 2008, I mailed a true and correct copy, postage prepaid, of the foregoing **NOTICE OF PREHEARING CONFERENCE** to the person(s) listed below:



Denise Buffington  
Administrative Assistant

### **Application for Exchange of Water #75007 Prehearing Conference Notice**

#### **Mailing List**

Idaho Water Resource Board  
Attn: Brian Patton State Office  
322 E Front St  
PO Box 83720  
Boise ID 83720-0098

American Falls Reservoir District #2  
c/o Capital Law Group PLLC  
Attn: C Thomas Arkoosh  
PO Box 32  
Gooding ID 83330

Bureau of Reclamation  
Regional Director PN Region  
Attn: Gail McGarry  
1150 N Curtis RD  
Boise ID 83706

Minidoka Irrigation District  
c/o Fletcher Law Office  
Attn: W Kent Fletcher  
PO Box 248  
Burley ID 83318

US Dept of Interior  
Office of Solicitor  
Attn: Kathleen M Carr  
960 Broadway Ave. Ste 400  
Boise ID 83706

A&B, Burley, & Milner Irrigation Districts  
Twin Falls & North Side Canal Companies  
c/o Barker Rosholt & Simpson LLP  
Attn: Travis Thompson  
PO Box 485  
113 Main Ave W, Suite 303  
Twin Falls ID 83303-0485

Tamarack Resort LLC  
c/o Millemann Pittenger McMahan & Pemberton  
Attn: Brian L Mc Mahan  
PO Box 1066  
706 N 1<sup>st</sup> ST  
McCall ID 83638

Lyle Swank, Watermaster, District 01, *sent via e-mail*

Ron Shurtleff, Watermaster, District 65, *sent via e-mail*

## **CONFERENCE AND HEARING PROCEDURE**

### **APPLICATION FOR PERMIT**

Section 42-203A, Idaho Code, requires the Department to consider the following issues in connection with an Application for Permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is thought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the interests that the people in the area directly affected by the proposed use have in the effects of such use on the public water resource.
- 6) Is the proposed use contrary to conservation of water resources within the State of Idaho?

### **BURDEN OF PROOF**

The applicant has the initial burden of proof on issues 1, 2, 3, 4 & 6 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors 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.

### **WATER STATUTES (Title 42): PROCEDURE/APPROPRIATION RULES (IDAPA 37)**

See -- Access Idaho Website: [www.accessidaho.org](http://www.accessidaho.org) .