

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

IN THE MATTER OF APPLICATION)	
FOR PERMIT NO 77-14283 IN THE)	NOTICE OF PREHEARING
NAME OF CARL SMID)	CONFERENCE
_____)	

On May 30, 2006, Carl Smid filed with the Idaho Department of Water Resources (IDWR) application for permit #77-14283 for hydro-power beneficial use. The application was protested by the US Department of Interior, Bureau of Land Management. There has not been a settlement of the protest.

IDWR has scheduled a pre-hearing conference for the protest to be held **10:00 AM, Friday, January 30, 2009, at the Idaho Department of Water Resources Western Regional Office, 2735 Airport Way, 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 30th day of December, 2008



John Westra, Manager Western Region.

*Given distance and winter travel conditions for the applicant, the Department would certainly entertain the conference phone participation option.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January 2009, I mailed a true and correct copy, of the foregoing **NOTICE OF PREHEARING CONFERENCE** to the person(s) listed below:



Denise Buffington
Administrative Assistant

CARL SMID
HC 69 BOX 950
RIGGINS ID 83549

NORMAN M SEMANKO, ATTY
ROSE LAW GROUP BARTON
6223 DISCOVERY WAY, STE 200
BOISE ID 83713

US DEPT OF INTERIOR, BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
ATTN: FRED PRICE
1387 VINNELL WAY
BOISE ID 83709

NOTICE OF PREHEARING CONFERENCE

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 .

NOTICE OF PREHEARING CONFERENCE