

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

**IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 63-32499 IN THE )  
NAME OF MAYFIELD TOWNSITE )  
LLC )  
\_\_\_\_\_ )**

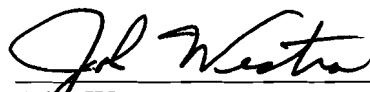
**NOTICE OF PREHEARING  
CONFERENCE**

On July 28, 2006, Mayfield Townsite LLC filed with the Idaho Department of Water Resources (IDWR) and Application for Permit to appropriate the public waters of the State of Idaho. Public notice of the application was published on June 4<sup>th</sup> & 11<sup>th</sup>, 2008 in the Mountain Home News; and on June 5<sup>th</sup> & 12<sup>th</sup>, 2008 in the Idaho Statesman. The application received timely protests from Daniel S VanGrouw and G3 LLC.

IDWR has scheduled a pre-hearing conference for the contested case, to be held at **10:00 a.m., Tuesday, February 24, 2009 at the Idaho Department of Water Resources, Western Region Office, 2735 Airport Way, Boise Idaho 83705.** The conference will be held in accordance with provisions of Procedure of the Department of Water Resources, and Rules 40 and 45 of the Adopted Rules of Water Appropriation of the Department of Water Resources.

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.

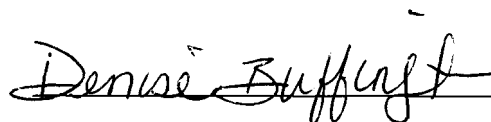
Dated this 9<sup>th</sup> day of December, 2008

  
\_\_\_\_\_

John Westra  
Manager, Western Regional Office

## CERTIFICATE OF SERVICE

I hereby certify that on this 10<sup>th</sup> day of December, 2008, I mailed a true and correct copy, of the foregoing **NOTICE OF PREHEARING CONFERENCE** to the person(s) listed below:



Denise Buffington  
Administrative Assistant

MAYFIELD TOWNSITE LLC  
C/O PERKINS COIE LLP  
ATTN: ROBERT A MAYNARD OR ERIKA MALMEN  
PO BOX 737  
BOISE ID 83701-0737

DANIEL S VAN GROUW  
C/O HOFSTETTER LAW OFFICE  
ATTN: DANA HOFSTETTER  
608 W FRANKLIN ST  
BOISE ID 83702

G3 LLC  
ATTN: TODD HAYNES  
310 S GARDEN ST  
BOISE ID 83705

SPF WATER ENGINEERING  
ATTN: SCOTT KING  
300 E MALLARD DR, STE 350  
BOISE ID 83706

ARK PROPERTIES, JOHN MC CALLUM  
C/O MOORE SMITH BUXTON & TURCKE  
ATTN: BRUCE SMITH  
950 W BANNOCK ST, STE 520  
BOISE ID 83702

PACIFIC WEST LAND LLC ("PacWest")  
C/O GIVENS PURSLEY LLP  
ATTN: JEFFREY C FEREDAY &/OR MICHAEL P LAWRENCE  
PO BOX 2720  
BOISE ID 83701-2720

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## 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) .