

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 37-22252 and TRANSFER NO. 74449

Dry Lot LLC,

Applicant

Indian Creek Ranch Owners Assn.,

Protestant

NOTICE OF **JOINT HEARING**
and
PRE-HEARING ORDER

SOURCE: Big Wood River and
Groundwater

County: Blaine

Application for Permit 37-22252 was filed by Dry Lot LLC on August 8, 2007, Amended on April 7, 2008 and subsequently protested by the above named entity.

Application for Transfer No. 74449 was filed by Dry Lot LLC on August 8, 2007, Amended on May 6, 2008 and subsequently protested by the above named entity.

The Pre-Hearing Conferences held on July 17th and October 2nd, 2008 failed to resolve the matter of protest.

THEREFORE, The Department has set the matter for hearing to commence on **Tuesday-February 10, 2009 at 10:00 a.m. in the Community Room, Obenchain Insurance Building, 264 Main Avenue South; Twin Falls, ID.** Participants are cordially requested to use the **WEST entrance** to the building which faces the one-way Second Avenue South Street.

The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request.

The hearing will be conducted in a facility that meets 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 the department within (10) days prior to the conference.

IT IS HEREBY ORDERED, pursuant to Rule of Procedure 37.01.01510 (Rule of Procedure 510) that each party will mail to the **hearing officer, Gary Spackman, whose address is IDAHO WATER RESOURCES, PO BOX 83720; BOISE ID 83720-0098** and to the other parties of record the following information as prescribed below:

PRE-HEARING ORDER

IT IS THEREFORE, HEREBY ORDERED as follows:

By November 10, 2008 the applicant shall make available the Brockway Report based on the model being created. By that same date the applicant will modify the transfer application (likely decrease the amount of acres being dried up (currently 60 but likely end up slightly less).

The parties are authorized to engage in discovery commencing with the date of this order and complete by January 19, 2009. Discovery shall be conducted pursuant to IDAPA Rules 37.01.01520-532 (Rules of Procedure 520 through 532).

Per agreement between parties, all discovery requests shall be responded to within fifteen (15) days. The parties are directed to answer or otherwise respond to discovery in accordance with the department's Rules of Procedure and the Idaho Rules of Civil Procedure, as appropriate.

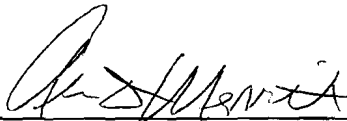
In accordance with Rule 520, the scope of discovery shall be governed by Rule 26(b) of the Idaho Rules of Civil Procedure, unless otherwise provided by statute, rule or order of the Director.

On or before February 3, 2009 the parties will exchange a list of proposed exhibits and witnesses, including expert witnesses the party will call or rely on.

Failure to comply with this Pre-Hearing Order is cause for the hearing officer to issue a Notice of Proposed Default to dismiss a party's pleading as provided in IDAPA 37.01.01700 (Rule of Procedure 700).

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved. **Only witnesses or exhibits properly disclosed will be considered at the hearing.**

Dated this 16th day of October, 2008.

A handwritten signature in black ink, appearing to read "A. D. Merritt", is written over a horizontal line.

Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of October, 2008 a true and correct copy of the above and foregoing Notice of Joint Hearing and Pre-Hearing Order was forwarded with all required charges prepared, by U.S. Certified Mail to the parties listed below:

DRY LOT LLC
116 VALLEY CLUB DR
HAILEY ID 83333

INDIAN CREEK RANCH OWNERS ASSN INC

C/O DANA L. HOFSTETTER
HOFSTETTER LAW OFFICE
608 WEST FRANKLIN ST
BOISE ID 83702

TRAVIS L. THOMPSON
BARKER ROSHOLT & SIMPSON LLP
PO BOX 485
TWIN FALLS ID 83303-485

Courtesy Copy via Regular U.S. Mail:

C E BROCKWAY P E
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301



Mary Baldwin, Administrative Assistant I

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature ☐ Agent ☐ Addressee X
1. Article Addressed to: <u>AM</u> DRY LOT LLC 116 VALLEY CLUB DR HAILEY ID 83333	B. Received by (<i>Printed Name</i>) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
2. Article Number (<i>Transfer from service label</i>)	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (<i>Extra Fee</i>) ☐ Yes
7004 2890 0001 7072 3833	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540	

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1. Article Addressed to: <u>AM</u> TRAVIS L. THOMPSON BARKER ROSHOLT & SIMPSON LLP PO BOX 485 TWIN FALLS ID 83303-485	B. Received by (<i>Printed Name</i>) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
2. Article Number (<i>Transfer from service label</i>)	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (<i>Extra Fee</i>) ☐ Yes
7004 2890 0001 7072 3840	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540	

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■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature ☐ Agent ☐ Addressee X
1. Article Addressed to: <u>AM</u> DANA L. HOFSTETTER HOFSTETTER LAW OFFICE 608 WEST FRANKLIN ST BOISE ID 83702	B. Received by (<i>Printed Name</i>) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
2. Article Number (<i>Transfer from service label</i>)	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (<i>Extra Fee</i>) ☐ Yes
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PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540	

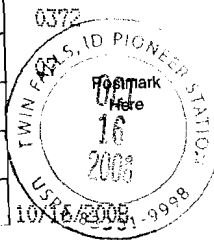
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Certified Fee		\$2.70
Return Receipt Fee (Endorsement Required)		\$2.20
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$5.32



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 DRY LOT LLC
 116 VALLEY CLUB DR
 HAILEY ID 83333

PS Form 3833

Instructions

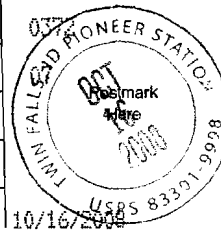
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Return Receipt Fee (Endorsement Required)		\$2.20
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$5.32



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 TRAVIS L. THOMPSON
 BARKER RSHOLT & SIMPSON
 LLP
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 TWIN FALLS ID 83303-485

PS Form 3840

Instructions

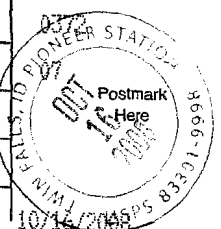
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BOISE ID 83702

Postage	\$	\$0.42
Certified Fee		\$2.70
Return Receipt Fee (Endorsement Required)		\$2.20
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$5.32



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 HOFSTETTER LAW OFFICE
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 BOISE ID 83702

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