

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

IN THE MATTER OF APPLICATION TO)
AMEND WATER PERMIT NO. 95-9045)
IN THE NAME OF THE BLACK ROCK)
UTILITIES)
_____)

**NOTICE OF HEARING, ORDER
AUTHORIZING DISCOVERY AND
PREHEARING ORDER**

NOTICE OF HEARING

PLEASE TAKE NOTICE that a formal hearing will be held on **December 2 & 3, 2008, beginning at 8:00 a.m. on December 2, 2008, in Coeur d'Alene, Idaho** at the offices of the Idaho Department of Water Resources ("Department"), 7600 N Mineral Drive, Suite 100, Coeur d'Alene, ID 83814. Parking is available in the parking lot of the facility. There is no charge for parking in this location.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the Department's Rules of Procedure requires that a copy be provided to each party and to the presiding officer.

The presiding officer at the hearing will be Gary Spackman.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the department. IDAPA 37.01.01. A copy of the rules may be obtained from the Department upon request.

The hearing will be conducted in accordance with the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the Department within 10 days prior to the hearing. Inquires about scheduling, hearing facilities, etc., should be directed to Deborah Gibson, Administrative Assistant, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4942, fax: (208) 287-6700.

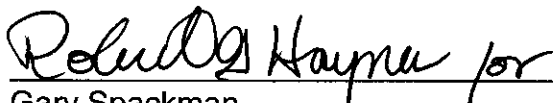
ORDER AUTHORIZING DISCOVERY AND PREHEARING ORDER

IT IS HEREBY ORDERED that the parties may engage in discovery as follows:

1. General discovery can begin immediately.
2. On or before **September 17, 2008**, each party must disclose to all other parties in writing, the identity of all expert witnesses
3. All written discovery requests shall be served on or before **September 22, 2008**.
4. Written requests for discovery must be either interrogatories or requests for documents. (Requests for admission are not allowed). No more than 10 interrogatories may be served by any party (or the attorney for several parties) on another party, and no more than 10 unanswered interrogatories served by any party (or the attorney for several parties) may be pending
5. Answers to written discovery must be served on the requesting party on or before **October 6, 2008**.
6. All depositions shall be complete on or before **October 6, 2008**.

IT IS FURTHER ORDERED that, on or before **October 13, 2008**, each party must serve on all other parties, and the IDWR, copies of exhibits that may be offered at the hearing.

Dated this 3rd day of September, 2008.



Gary Spackman
Hearing Officer

HEARING PROCEDURE APPLICATION FOR AMENDMENT

ISSUES

Section 42-211, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for amendment:

1. Will the proposed amendment injure other water rights?
2. Will the proposed amendment enlarge the use over that originally permitted?
3. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?

BURDEN OF PROOF

The applicant has the initial and ultimate burden of proof for issues 1 and 2 and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

HEARING

The department will tape record the hearing. Copies of a hearing are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director, rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration.

Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility, which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

I HEREBY CERTIFY that on this 3rd day of September, 2008, a true and correct copy of the document described below was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Notice of Hearing, Order Authorizing Discovery and Prehearing Order, and Hearing Procedure for Application for Amendment.

CERTIFIED MAIL:

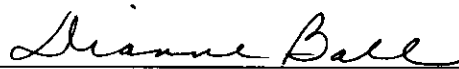
KYLE CAPPS
BLACK ROCK UTILITIES
PO BOX 3070
COEUR D ALENE ID 83816

JOHN R LAYMAN
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