

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


<b>IN THE MATTER OF APPLICATION ) FOR PERMIT NO. 63-32423 IN THE ) NAME OF JMM DRY CREEK LLC ) _____ )</b>	<b>NOTICE OF PREHEARING CONFERENCE</b>
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On August 22, 2006 JMM Dry Creek LLC, filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application received a single protest signed by Dry Creek Rural Neighborhood Association.

IDWR has scheduled a pre-hearing conference for the protest, to be held on **Thursday March 6, 2008 at 10:00 a.m. at IDWR Western Region, 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.

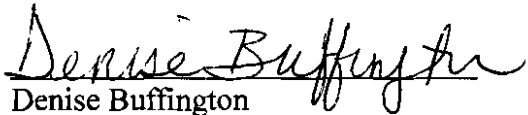
The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise IDWR at least ten (10) days prior to the conference.

Dated this 22<sup>nd</sup> day of January, 2008

  
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John Westra  
Manager, Western Regional Office

## CERTIFICATE OF SERVICE

I hereby certify that on this 22<sup>nd</sup> day of January, 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

JMM Dry Creek LLC  
c/o Ringert Clark Chtd  
Attn: Charles Honsinger  
PO Box 2773  
Boise ID 83701-2773

SPF Water Engineering  
Attn: Kristin Brastrup  
600 E River Park Ln, Ste 105  
Boise ID 83706

Dry Creek Rural Neighborhood Association  
Marian E Shaw, Representative  
13975 Broken Horn Rd  
Boise ID 83714

## **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 affairs of the people in the area directly affected by the proposed use?
- 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.