

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

IN THE MATTER OF APPLICATION FOR	)	
AMENDMENT FOR WATER RIGHT NO.	)	
75-7052 and 75-7589 IN THE NAME OF	)	ORDER DENYING REQUEST
WILLIAMS LAKE RECREATIONAL	)	FOR AGENCY STAFF WITNESS
WATER & SEWER DISTRICT	)	
_____	)	

On May 7, 2007, the hearing officer received a letter dated April 29, 2007, from Kathleen Gliksman. The letter requests that Gary Spackman, Administrator of the Water Management Division of the Department of Water Resources, testify at the scheduled hearing in this matter. The request is made pursuant to Rule 201 of the Rules of Procedure of the Department. The hearing officer is treating the letter request as a prehearing motion.

IDAPA 37.01.01.201 (Rule 201 of the Rules of Procedure) states:

201.TAKING OF APPEARANCES -- PARTICIPATION BY AGENCY STAFF (RULE 201). The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and be made available for cross-examination and otherwise participate in the hearing, at the discretion of the presiding officer, in the same manner as a party. (7-1-93)

The hearing officer has reviewed the application files for amendment of permits 75-7052 and 75-7589 and does not find a report, staff memorandum or recommendation authored by Gary Spackman regarding the amendment of permits 75-7052 or 75-7589 that the hearing officer will rely on in making a decision. Furthermore, the hearing officer is unaware of any facts of which Spackman has any knowledge that would be admissible evidence. Spackman was a hearing officer for the contested case when Williams Lake Recreational Water and Sewer District filed applications nos. 75-7052 and 75-7589. Spackman wrote the order approving permit nos. 75-7052 and 75-7589. It would be inappropriate to require Spackman to testify about his

interpretation of the language of the order or to attempt to restate the testimony of others presented at the hearing. There is no basis for requiring Spackman to appear at the hearing for cross-examination or to otherwise participate in the hearing.

IT IS HEREBY ORDERED, that the prehearing motion requesting Gary Spackman testify at the hearing pursuant to Rule 201 is DENIED.

Dated this 9th day of May, 2007.



Allen Merritt
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 2007, a true and correct copy of the above and foregoing 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: Order Denying Request for Agency Staff Witness

WILLIAMS LAKE REC. W&S DIST
C/O MILTON SLAVIN
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Mary Baldwin
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