

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER 67055 AND)
APPLICATION FOR AMENDMENT)
OF PERMIT NO. 63-12296 IN THE)
NAME OF THE STATE OF IDAHO,)
DEPARTMENT OF CORRECTION)

**NOTICE OF THIRD
PREHEARING CONFERENCE**

On November 19, 1999 the State of Idaho, Department of Correction filed with the Department of Water Resources (IDWR) application for transfer no. 67055 and application for amendment of permit no. 63-12296. The applications were protested by United Water Idaho. The prehearing conference held on July 10, 2002 and February 18, 2003 did not resolve the matter of protest.

IDWR has scheduled a third prehearing conference for the protest to be held on **Monday, June 30, 2003 at 2:00 p.m. at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules 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.

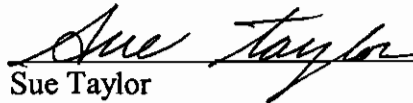
Dated this 7th day of April 2003.



Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on the 8th day of April 2003 I mailed a true and correct copy, postage prepaid, of the Notice of Third Prehearing Conference to those listed:


Sue Taylor
Senior Secretary

STATE OF IDAHO
DEPT OF CORRECTION
1299 N ORCHARD STE 110
BOISE ID 83706

DAVID J BARBER
DEPUTY ATTY GENERAL
PO BOX 83720
BOISE ID 83720-0010

UNITED WATER IDAHO
C/O ROGER DITTUS
8248 W VICTORY RD
BOISE ID 83709

JOHN MARSHALL
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR AMENDMENT

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for amendment:

1. Will other water rights be injured by the transfer or the amendment?
2. Will the change constitute an enlargement in the use of the original right?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant bears the initial burden of proof for issues 1, 2 and 4 above and must provide evidence for the department to evaluate these criteria. The applicant must also establish that the water right is valid. Forfeiture must be established by clear and convincing evidence.

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.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written 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 the Director himself. If so, the hearing officer will prepare a preliminary order for the Director's consideration. Parties can file exceptions to a preliminary 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 their right to a preliminary 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 of the Director 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 prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled 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 hearing please advise the department within ten (10) days prior to the hearing.

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER

Section 42-222, Idaho Code, requires the department to consider the following issues in connection with an application for transfer:

- 1) Will the proposed transfer injure other water rights?
- 2) Will the proposed transfer constitute an enlargement in use of the original right?
- 3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
- 4) 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 of issues 1, 2 and 4 above 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 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.

CONFERENCE

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