

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

|                                         |                             |
|-----------------------------------------|-----------------------------|
| <b>IN THE MATTER OF APPLICATION )</b>   |                             |
| <b>FOR PERMIT NO. 78-12245 IN THE )</b> | <b>NOTICE OF PREHEARING</b> |
| <b>NAME OF RAYMOND K. STOLTEY )</b>     | <b>CONFERENCE</b>           |
| _____ )                                 |                             |

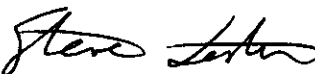
On May 2, 2005 Raymond Stoltey filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Joel Chambliss.

IDWR has scheduled a prehearing conference for the protest to be held on **Thursday, January 26, 2006 at 11:00 am at the New Meadows Library, 400 Virginia, New Meadows, Idaho 83654.** At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

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.

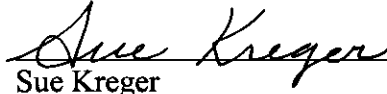
The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise IDWR at least ten (10) days prior to the conference.

Dated this 22 day of November 2005.

  
\_\_\_\_\_  
STEVE LESTER  
Water Right Supervisor

## CERTIFICATE OF MAILING

I hereby certify that on the 22<sup>nd</sup> day of November 2005, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:

  
Sue Kreger  
Administrative Assistant

RAYMOND K STOLTEY  
HC 75 BOX 3556  
NEW MEADOWS ID 83654

JOEL CHAMBLISS  
HC 75 BOX 3548  
NEW MEADOWS ID 83654

## **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 sought 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.

## **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.