



State of Idaho

DEPARTMENT OF WATER RESOURCES

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FAX TRANSMITTAL COVER SHEET

DIRK KEMPTHORNE
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KARL J. DREHER
DIRECTOR

DATE: 6.24.04

TO:

Gail McHenry
378-5305

FROM:

Gary Spackman

DOCUMENT

DESCRIPTION:

Order Vacating Hearing - Andrew Poney
Transfer 70663

COMMENTS:

COVER SHEET + 3 PAGES

PLEASE CONTACT
ENTIRE DOCUMENT

Kari Lynne I.
327-7941

IF YOU DON'T RECEIVE THIS

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

IN THE MATTER OF APPLICATION)	ORDER VACATING HEARING,
FOR TRANSFER NO. 70663 IN)	GRANTING INTERVENTION,
THE NAME OF ANDREW E POVEY)	AND AUTHORIZING DISCOVERY
_____)	

On June 26, 2003, Andrew E. Povey filed application for transfer no. 70663 with the Idaho Department of Water Resources (IDWR). The application was protested by Barker Rosholt & Simpson LLP. A&B Irrigation District and the U.S. Department of Interior petitioned to intervene in the contested case.

On February 19, 2004, IDWR conducted a prehearing conference in Idaho Falls, Idaho for the application for transfer. The petitions to intervene were discussed. Povey objected to the petitions to intervene, but the hearing officer stated that he would grant intervention.

At the prehearing conference, the parties agreed to a schedule for hearing preparation. The proposed schedule included a four-week period for informal negotiations and a time period for discovery, if necessary.

Shortly after the prehearing conference, there was uncertainty about whether Povey wanted to press forward with the hearing. About May 1, 2004, Eastern Region was informed that Povey wanted to schedule the contested case for hearing. The hearing was scheduled without granting the agreed upon time periods for hearing preparation, including discovery.

John Simpson, an attorney representing one of the protestants, requested a continuance, asserting inadequate time to prepare for the hearing.

ORDER

IT IS HEREBY ORDERED that the hearing scheduled for July 1 and July 12, 2004 is **VACATED**, and is continued until a later date.

IT IS FURTHER ORDERED that petitions to intervene filed by A&B Irrigation District and the U.S. Department of the Interior are **GRANTED** and A&B Irrigation District and Interior may participate fully as parties to this contested case.

IT IS FURTHER ORDERED that the parties may immediately commence discovery.

IT IS FURTHER ORDERED that the parties shall disclose expert witnesses to all other parties on or before August 20, 2004.

IT IS FURTHER ORDERED that discovery shall be complete on or before October 1, 2004.

IT IS FURTHER ORDERED that the parties shall submit unavailable dates during October 2004 to the hearing officer by July 9, 2004. If a party does not submit unavailable dates, IDWR will presume that all dates are open for scheduling.

IT IS FURTHER ORDERED that the date for exchange of exhibits will be set in the hearing notice.

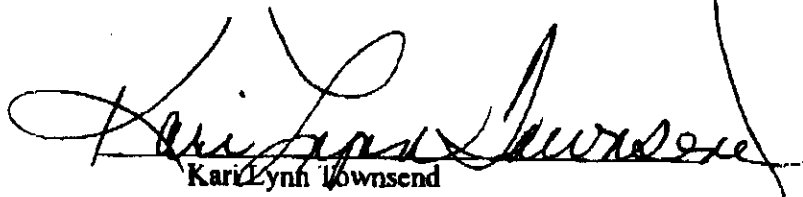
Dated this 24th day of June, 2004.

A handwritten signature in cursive script, reading "Gary Spackman", written over a horizontal line.

Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of June, 2004, I mailed a true and correct copy of the foregoing Order Vacating Hearing, Granting Intervention, and Authorizing Discovery, postage prepaid, to the parties listed below:


Kari Lynn Townsend
Secretary

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