



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 15, 2004

WARM SPRINGS DITCH CO
C/O HOFF COMPANIES INC
280 CORPORATE DR STE 200
MERIDIAN ID 83642

Re: Application for Transfer No. 70620

Dear Applicant:

Enclosed please find a copy of the protest(s) filed against the above-referenced application for transfer. You should be aware that the following are the criteria we consider when either approving or denying an application for transfer:

1. Will other water rights be injured by the transfer?
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?

Enclosed is a Notice of Prehearing Conference scheduled for Friday, December 17, 2004 at 9:00 am at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If we may be assistance, please contact us.

Sincerely,

JOHN WESTRA

Western Regional Manager

JW:sk

Enc. Copy of Protest(s)
Notice of Prehearing Conference



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November 15, 2004

DRAINAGE DISTRICT NO. 4
C/O BRYCE FARRIS
RINGERT CLARK
PO BOX 2773
BOISE ID 83701-2773

Re: Application for Transfer No. 70620 in the Name of Warm Springs Ditch Co.

Dear Protestant:

This office acknowledges receipt of your protest opposing the above-referenced application for transfer. The following are the criteria we consider when either approving or denying an application for transfer:

1. Will other water rights be injured by the transfer?
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?

Enclosed is a Notice of Prehearing Conference scheduled for Friday, December 17, 2004 at 9:00 am at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.

The department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest prior to the prehearing conference. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

If we may be of assistance, please contact us.

Sincerely,

John Westra
Western Regional Manager

JW:sk

Encl. Notice of Prehearing Conference
Copy of Application

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 70620 IN) NOTICE OF PREHEARING
THE NAME OF WARM SPRINGS) CONFERENCE
DITCH CO.)
)

On September 20, 2002, Warm Springs Ditch Co. filed with the Department of Water Resources (IDWR) an application for transfer of water rights. The application was protested by Drainage District No. 4.

The Department has set the contested case for a prehearing conference to be held on **Friday, December 17, 2004 at 9:00 a.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 prehearing 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.

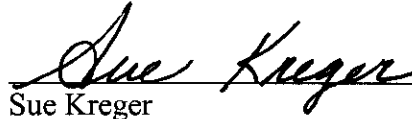
Dated this 16th day of November 2004.



John Westra
Western Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of December 2004 I mailed a true and correct copy, postage prepaid, of this Notice of Prehearing Conference to those listed:

A handwritten signature in cursive script, reading "Sue Kreger", is written over a horizontal line.

Sue Kreger
Administrative Assistant

WARM SPRINGS DITCH CO
C/O HOFF COMPANIES INC
280 CORPORATE DR STE 200
MERIDIAN ID 83642

DRAINAGE DISTRICT NO. 4
C/O BRYCE FARRIS
RINGERT CLARK
PO BOX 2773
BOISE ID 83701-2773

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

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 which 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.