



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Re: Andy Povey Hearing Scheduled for July 1 and July 12, 2004

RECEIVED
JUN 24 2004
Department of Water Resources
Eastern Region

Ladies and Gentlemen:

On February 19, 2004, I conducted a prehearing conference in Idaho Falls, Idaho for application for transfer no. 70663 in the name of Andrew Povey. At the prehearing conference, the parties agreed to a schedule for hearing preparation. The proposed schedule included a short period for informal negotiations and a time period for discovery, if necessary.

Shortly after the prehearing conference, the Eastern Regional Office of IDWR informed me that Povey had asked staff not to schedule the hearing as discussed at the prehearing conference. About May 1, 2004, Eastern Region again informed me that Povey had requested that we schedule the contested case for hearing. I asked staff at Eastern Region to request available dates from the attorneys.

Responses of some of the attorneys specifically mentioned the previous agreement for hearing preparation and asked for similar preparation time and structure. Unfortunately, I did not see the responses. I had also forgotten about discussions for preparation at the prehearing conference. I selected hearing dates and the notice of hearing was sent without addressing hearing preparation, including discovery.

I understand that discovery has been served on some of the parties. IDWR's Rules of Procedure require that IDWR expressly authorize discovery. Any party that has received a discovery request in this contested case is not required to respond to the discovery request. Because the parties had previously agreed to a timetable for hearing preparation, and a similar timetable was not ordered as part of the hearing notice, I will entertain a motion to continue the

hearing from one of the parties on the basis that a party has had inadequate time to prepare or has not been able to discover facts from the other parties.

If I do not receive a request for continuance, I will assume that all parties have adequate time and information to prepare for the scheduled hearing.

Sincerely,



Gary Spackman

c. Eastern Region
Gail McGarry