

Evans, Lynne

From: Evans, Lynne
Sent: Tuesday, October 22, 2024 2:07 PM
To: water@drycreekutilities.com; Scanlan, Terry; Chris Bromley; cmchugh@mchughbromley.com
Subject: Protest Acknowledgment: Application for Transfer No. 88631
Attachments: 88631 Protest Acknowledgment.pdf; 88631 Calendar.pdf; 88631 Protest.pdf

Dear parties:

Please see the attached letter acknowledging protests received against Application for Transfer No. 88631.

This letter has also been sent by mail to all parties who have not requested service by email. If you would like to receive future correspondence on this matter served via email only, please reply to this message to let me know.

Regards,



Lynne Evans (she/her)
Administrative Assistant I
IDWR – Western Region
2735 W Airport Way, Boise ID 83705
lynne.evans@idwr.idaho.gov | (208) 605-4622



IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

October 22, 2024

See attached Certificate of Service.

RE: Application for Transfer No. 88631

Dear Parties:

This letter acknowledges receipt of protests filed against Application for Transfer No. 88631. The following options are available for the resolution of protested applications:

- Direct contact between the parties to determine the nature of the protest(s) and to attempt to resolve the protest(s). Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).
- Discussions at an informal settlement conference between Department staff, the applicant(s), and the protestant(s). The enclosed document summarizes the informal settlement conference purpose and procedure.
- Formal proceedings administered by the Department after the informal settlement conference. If formal proceedings are necessary, the Department will schedule a prehearing conference to begin the process.

Please consider the best option(s) for resolution of the protested application. Meanwhile, the Department will schedule an informal settlement conference pursuant to the Department's Rules of Procedure (IDAPA 37.01.01). **Please notify the Department within 14 days of any dates you are UNAVAILABLE to participate in an informal settlement conference in the next three months using the enclosed calendar.** You may provide unavailable dates via mail or via email to the email address below. If you do not notify the Department of unavailable dates, the Department will assume you are available for the informal settlement conference on any date selected. The Department may schedule the informal settlement conference as a conference phone call or in-person. The Department will send notice of the informal settlement conference once it is scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information regarding the application, protest(s), water rights, and other matters administered by the Department is available on the Internet at www.idwr.idaho.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Lynne Evans'.

Lynne Evans
Administrative Assistant I
(208) 605-4622
Lynne.Evans@idwr.idaho.gov

Enclosures:

Informal Settlement Conference Procedure
November 2024 – January 2025 Calendar
Certificate of Service
Copies of Protests (by email only)

INFORMAL SETTLEMENT CONFERENCE PROCEDURE
APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues that the Idaho Department of Water Resources (Department) considers in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original water right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. Is the proposed transfer consistent with the requirements for municipal providers, if applicable?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 4 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing 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 notify the Department no later than ten (10) days prior to the conference or hearing.

NAME:

RE: Conference for Contested Application 88631 (Dry Creek Water Co LLC)

Please Note: Only mark the dates that you are unavailable for a conference.

November 2024

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11 IDWR Closed	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28 IDWR Closed	29	30

December 2024

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25 IDWR Closed	26	27	28
29	30	31				

January 2025

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 IDWR Closed	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20 IDWR Closed	21	22	23	24	25
26	27	28	29	30	31	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of October, 2024, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

DRY CREEK WATER CO LLC
923 S BRIDGEWAY PL
EAGLE ID 83616-6098
(208) 577-5501
water@drycreekutilities.com
Applicant

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

ATTN: TERRY SCANLAN
HDR INC
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659
(208) 872-9530
terry.scanlan@hdrinc.com
Technical Representative for Applicant

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

KATHLEEN AND MICHAEL BRADY
LESLIE NONA
MARIAN SHAW
JULIA AND ROBERT WHITING
ECHANOVE RANCH HOMEOWNERS
ASSOCIATION
Protestants

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

Through their attorneys:
CHRIS M. BROMLEY
CANDICE MCHUGH
MCHUGH BROMLEY PLLC
PO BOX 107
BOISE ID 83701-0107
(208) 287-0991
cbromley@mchughbromley.com
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Lynne Evans
Administrative Assistant I