Evans, Lynne

From: Evans, Lynne
Sent: Wednesday, September 27, 2023 12:14 PM
To: jmcnamar@boisestate.edu; carl@blackcanyonirrigation.com; Andy Waldera
Subject: Protest Acknowledgment: Application for Permit No. 65-24051
Attachments: Protest Letter 65-24051.pdf; 65-24051 Calendar.pdf

Dear parties:

Please see the attached letter acknowledging protests received against Application for Permit No. 65-24051.

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 | Administrative Assistant I
IDWR - Western Region
2735 W Airport Way, Boise ID 83705
(208) 334-2190 | lynne.evans@idwr.idaho.gov

IDAHO DEPARTMENT OF
WATER RESOURCES

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Governor Brad Little **Director Mathew Weaver**

September 27, 2023

JAMES MCNAMARA
3134 N TREASURE DR
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BLACK CANYON IRRIGATION DISTRICT
PO BOX 226
NOTUS ID 83656-0226
Email: carl@blackcanyonirrigation.com

RE: Application for Permit No(s). 65-24051

Dear Parties:

This letter acknowledges receipt of a protest(s) filed against Application for Permit No(s). 65-24051. 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. 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,

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

Enclosure(s): Informal Settlement Conference Procedure, Oct-Dec 2023 Calendar

INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit and are for the development of new water rights. Section 42-203A, Idaho Code, requires the Idaho Department of Water Resources (Department) to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the 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. Will the proposed use 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 have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use 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?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 5 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 65-24051 (James McNamara)

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

October 2023

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

November 2023

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

December 2023

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						