Evans, Lynne

From: Evans, Lynne
Sent: Friday, May 5, 2023 10:53 AM
To: resortcabins@gmail.com; bryce@sawtoothlaw.com; dlargent@terracelakeswater.com; Murray Feldman
Cc: Miller, Nick
Subject: Informal Settlement Conference: Application for Permit No. 65-24195
Attachments: ISC 65-24195 5-25-23.pdf

Dear parties:

Please see the attached Notice of Informal Settlement Conference regarding Application for Permit No. 65-24195. This notice has also been sent by mail to all parties who have not requested service by email.

If you have any questions, please reach out to me or Nick Miller.

Regards,

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

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-24195 IN THE NAME OF TERRACE LAKES RECREATION RANCH INC	)	**NOTICE OF INFORMAL SETTLEMENT CONFERENCE**

On 11/29/2022, TERRACE LAKES RECREATION RANCH INC filed Application for Water Right Permit No. 65-24195 with the Idaho Department of Water Resources ("Department"). Protest(s) were filed by TERRACE LAKES WATER CO.

The Department has scheduled this case for informal settlement conference on Thursday, May 25, 2023 beginning at 10:00 AM at IDAHO DEPT OF WATER RESOURCES, WESTERN REGION, 2735 AIRPORT WAY BOISE, ID 83705. The applicant and protestant(s) must attend. If the parties wish to participate via telephone or video conference, requests should be directed to Lynne Evans at 208-605-4620.

Agenda items for the informal settlement conference will include:

1. Review of the application and protest(s),

2. Additional informational needs,

3. Settlement options,

4. Need for additional informal proceedings or alternative dispute resolution options, and

5. Commencement of formal proceedings.

The Department encourages the applicant and protestant(s) to discuss and resolve the protest(s) before the informal settlement conference. If private discussions are not possible or do not resolve the protest(s), the informal settlement conference provides another opportunity for the applicant and protestant(s) to meet before commencing a formal hearing. Parties often settle their differences at the informal settlement conference.

If informal proceedings are unlikely to resolve this protested case, the Department will initiate formal proceedings by issuing a notice of prehearing conference and identifying a presiding officer. It is important for all parties to make the most of the opportunity to resolve the dispute informally.

The informal settlement 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 prehearing conference,

please notify the Department at least ten (10) days prior to the conference. Inquiries about scheduling, hearing facilities, etc., should be directed to Lynne Evans at 208-605-4622.

Dated this 5 day of May, 2023.

Lynne Evans
Administrative Assistant I

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5 day of May, 2023, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

TERRACE LAKES RECREATION RANCH INC
101 HOLIDAY DR
GARDEN VALLEY, ID 83622-5031
(208) 462-3250
resortcabins@gmail.com
Applicant

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

S. BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE, ID 83702-7067
(208) 629-7447
bryce@sawtoothlaw.com
Attorney for Applicant

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

TERRACE LAKES WATER CO
ATTN: DENNIS LARGENT
PO BOX 141
GARDEN VALLEY, ID 83622-0141
(208) 957-3937
dlargent@terracelakeswater.com
Protestant

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

MURRAY D. FELDMAN
HOLLAND & HART LLP
PO BOX 2527
BOISE, ID 83701-2527
(208) 383-3921
mfeldman@hollandhart.com
Attorney for Terrace Lakes Water Co

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

Lynne Evans
Administrative Assistant I

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.