

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LICENSING WATER) RIGHT PERMIT NO. 01-7011 (in the name of) Twin Falls Canal Company and North Side Canal) Company)) _____)	ORDER GRANTING MOTION FOR CLARIFICATION AND STAYING CERTAIN PROCEEDINGS IN PROTEST OF LICENSE NO. 01-7011 AND SETTING HEARING SCHEDULE
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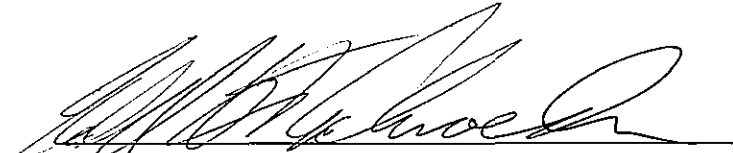
On May 10, 2010, a hearing and status conference was held at the request of Petitioners, North Side and Twin Falls Canal Companies on their Motion for Clarification Regarding Procedural Standing of Protest and Request for Status Conference. At the hearing and status conference the Petitioners were represented by Shelly M. Davis of the law firm Barker Rosholt & Simpson, LLP, the Intervenors, Idaho Water Resource Board, were represented by Michal Gilmore of the Attorney General's office for the State of Idaho, the Upper Snake Ground Water Users and Ground Water Districts were represented by Rob Harris of Holden Kidwell Hahn & Crapo, PLLC, and Candace McHugh of Racine Olson Nye Budge & Bailey, Chtd., respectively, and the Idaho Department of Water Resources was represented by Garrick Baxter.

Counsel for the Petitioners requested that the Hearing Officer amend its Opinion and Order Granting Motions for Summary Judgment and Recommendation, to clarify that the Recommended Order is interlocutory in nature in conformance with IDAPA Rule 37.01.01.710. The Hearing Officer hereby GRANTS this Motion. There are additional matters still pending before the Hearing Officer in this matter and therefore, the proceedings relating to the Recommended Order issued April 29, 2010, including the filing of Petitions for Reconsideration of the Hearing Officer's Recommended Order granting the motions for summary judgment are stayed until this matter has been fully resolved after hearing, submission of post-hearing briefing, and after the Hearing Officer has entered his Recommended Order on all proceedings in the License Protest action.

Further, the Petitioners represent that the additional issues to be resolved in this matter include the Petitioners protest of the term limit condition, and volumetric limitation included in the License issued in October, 2008. Petitioners will not attempt to re-open or re-argue the subordination issue disposed of by the Hearing Officer pursuant to the Recommended Order issued April 29, 2010, during the hearing. Therefore, a hearing on the remaining protested license terms and conditions will be held June 2-3, 2010, beginning at 9:00 a.m., at the Idaho Department of Water Resources located at 322 E. Front Street, Boise, Idaho. All Intervenors to this action have agreed that they will not participate in the hearing to be held on the remaining protested issues, as their intervention was limited to the issue of the subordination condition already ruled upon by the Hearing Officer. Intervenors shall have the right to challenge matters relating to the subordination condition as those issues may be subject to reconsideration or appeal after final determination on all matters.

The Petitioners will produce any exhibits, witness lists, and pre-hearing memoranda to the Hearing Officer on or before May 26, 2010. The Idaho Department of Water Resources will submit pre-filed testimony of Shelley Keen on or before May 26, 2010. The Hearing Officer will set a deadline for submission of post-hearing briefing at the conclusion of the Hearing.

DATED this 26 day of May, 2010.


GERALD F. SCHROEDER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of May, 2010, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

JOHN ROSHOLT
TRAVIS THOMPSON
BARKER ROSHOLT
113 MAIN AVE WEST STE 303
TWIN FALLS ID 83301-6167
jar@idahowaters.com
tlt@idahowaters.com

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

JOHN SIMPSON
BARKER ROSHOLT
PO BOX 2139
BOISE ID 83701-2139
jks@idahowaters.com

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

RANDY BUDGE
CANDICE MCHUGH
RACINE OLSON
PO BOX 1391
POCATELLO ID 83204-1391
rcb@racinelaw.net
cmm@racinelaw.net

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

ROBERT L. HARRIS
P.O. Box 50130
IDAHO FALLS, ID 83405
rharris@holdenlegal.com

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

MICHAEL GILMORE
ATTORNEY GENERAL'S OFFICE
PO BOX 83720
BOISE ID 83720-0010
(208) 334-2830
mike.gilmore@ag.idaho.gov

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

CRAIG B. EVANS, CHAIRMAN
BINGHAM GROUND WATER DISTRICT
P.O. Box 1268
BLACKFOOT, ID 83221
binghamgroundwtr@cableone.net

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

LYLE SWANK
IDWR
900 N SKYLINE DR
IDAHO FALLS ID 83402-6105
lyle.swank@idwr.idaho.gov

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail

ALLEN MERRITT
CINDY YENTER
IDWR
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3033
allen.merritt@idwr.idaho.gov
cindy.yenter@idwr.idaho.gov

U.S. Mail, Postage Prepaid
 Facsimile
 E-mail



Victoria Wigle
Administrative Assistant to the Director
Idaho Department of Water Resources