

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

**IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 61-12090 IN THE NAME OF)
NEVID LLC)
_____)** **NOTICE OF PREHEARING
CONFERENCE**

On September 28, 2006, Boise Highland Development Co Rose filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. Public notice for the application was published April 16 & 23, 2008 in the Mountain Home News. The application received a timely protest signed by Daniel S VanGrouw. On October 17, 2007, the application for permit was assigned to Nevid LLC.

IDWR has scheduled a pre-hearing conference for the contested case to be held at **9:30 AM, Tuesday, December 9, 2008 at the Idaho Department of Water Resources Western Regional Office, 2735 Airport Way Boise Idaho.** The conference will be held in accordance with provisions of the Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the Adopted Rules of Water Appropriation.

The 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 conference, please advise IDWR at least ten (10) days prior to the conference.

Dated this 7th day of November 2008



John Westra, Manager Western Region.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of November, 2008, I mailed a true and correct copy, ~~certified~~, postage prepaid, of the foregoing **NOTICE OF PREHEARING CONFERENCE** to the person(s) listed below:



Norman M Semanko, Atty
Rose Law Group Borton
6223 N Discovery Way Suite 200
Boise ID 83713

Dana Hofstetter, Atty
Hofstetter Law Office
608 W Franklin ST
Boise ID 83702

SPF Water Engineering
Attn: Roxanne Brown
300 E Mallard DR Ste 350
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CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the Department to consider the following issues in connection with an Application for Permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is thought 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) Is the proposed appropriation in the local public interest, which is defined as the interests that the people in the area directly affected by the proposed use have in the effects of such use on the public water resource.
- 6) Is the proposed use contrary to conservation of water resources within the State of Idaho?

BURDEN OF PROOF

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

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The Department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the Department will issue a written decision based on the hearing record.

WATER STATUTES (Title 42): PROCEDURE/APPROPRIATION RULES (IDAPA 37)

See -- Access Idaho Website: www.accessidaho.org .

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