

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

IN THE MATTER OF LICENSE  
NO. 37-07842 IN THE NAME OF THE  
IDAHO WATER RESOURCE BOARD

Docket No. P-DR-2017-002

**ORDER AMENDING  
DEADLINES; ORDER  
ESTABLISHING BURDENS OF  
PROOF; NOTICE OF STATUS  
CONFERENCE; AMENDED  
NOTICE OF HEARING**

**BACKGROUND**

On January 30, 2018, William Arkoosh, the Estate of Vernon Ravenscroft, Koyle Hydro, Inc., Koosh, Inc., and Shorock Hydro (“Petitioners”), filed a motion requesting the Director (“Director”) of the Idaho Department of Water Resources (“Department”) issue an order authorizing discovery in the above-captioned matter pursuant to the Department’s Rule of Procedure 521 (IDAPA 37.01.01.521).

The Director held a prehearing conference on January 31, 2018. The Director and the parties discussed the issues in the contested case and the respective burdens of the parties in presenting evidence at a hearing about the extent of beneficial use that occurred pursuant to Permit No. 37-7842 during the development period of the permit. Based on these discussions, the Director issued a *Notice of Continued Prehearing Conference* on January 31, 2018, scheduling a continued prehearing conference for February 23, 2018.

On February 22, 2018, the parties filed a *Joint Stipulation Regarding Discovery Schedule and Motion to Vacate Status Conference* (“Joint Stipulation”). On February 23, 2018, the Director held a continued prehearing conference. All parties were present, either in person or by telephone. Based upon discussions at the continued prehearing conference and the Joint Stipulation, on March 7, 2018, the Director issued an *Order Authorizing Discovery and Adopting Deadlines; Notice of Hearing* (“Scheduling Order”) authorizing discovery, scheduling deadlines, and notifying the parties of hearing dates.

On July 2, 2018, the parties filed a *Joint Stipulation Requesting Amendment of Discovery Schedule and Hearing Date* (“Second Joint Stipulation”). The parties request that the Director amend the deadlines established in the Scheduling Order and schedule new dates for a hearing. *Second Joint Stipulation* at 1-2. The Director will grant the parties’ requests. In addition, and consistent with discussions at the January 31, 2018, prehearing conference regarding the parties’

respective burdens in presenting evidence at the hearing, the Director will also establish an order for presentation of evidence at the hearing. The Director will also schedule a status conference.

### ORDER

IT IS HEREBY ORDERED that the deadlines established in the Scheduling Order are AMENDED as follows:

- Aug. 10, 2018**            Deadline for parties to submit expert reports.
- Aug. 31, 2018**            Deadline for parties to submit rebuttal expert reports.
- Sept. 28, 2018**            Deadline for completion of discovery, including the taking of depositions.  
Deadline for filing pre-hearing motions.
- Oct. 12, 2018**            Deadline to file Exhibit and Witness Lists. Three copies of each exhibit must be physically received by the Director by this deadline.

IT IS FURTHER ORDERED that, at the hearing in this matter, the Department will first present evidence regarding the licensing process and the Department's determination of beneficial use that occurred pursuant to Permit No. 37-7842 during the development period of the permit. The Idaho Water Resource Board will then bear the burden of proving the extent of beneficial use that occurred pursuant to Permit No. 37-7842 during the development period. The Petitioners will bear the burden to rebut evidence regarding proof of beneficial use that occurred pursuant to Permit No. 37-7842.

### NOTICE OF STATUS CONFERENCE

NOTICE IS HEREBY GIVEN that the Director will hold a status conference in this matter on **October 22, 2018, at 10:30 a.m. (MDT)**, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Director's Conference Room, Boise, Idaho 83702.

The parties must be represented at the status conference in person or by telephone. If participating by telephone, **please dial 1-720-279-0026 and enter the following guest code when prompted: 544840#.**

The status conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the Department, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department or at <https://adminrules.idaho.gov/rules/current/37/index.html>.

The status conference 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 conference, please contact Kimi White at (208) 287-4815, no later than five (5) days prior to the conference.

**AMENDED NOTICE OF HEARING**

**NOTICE IS HEREBY GIVEN that the Director will hold a hearing in this matter on November 1, 2018, beginning at 10:30 a.m., and continuing through November 2, 2018, as necessary, at the Lincoln County Community Center located at 201 South Beverly Street, Shoshone, Idaho 83352.**

The hearing will be held in accordance with provisions of Chapter 2 and 17, Title 42 and 52, Title 67, Idaho Code, and the adopted Rules of Procedure of the Department, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/index.html>.

The 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 prehearing conference, please contact Kimi White at (208) 287-4815, no later than five (5) days prior to the conference.

DATED this 5<sup>th</sup> day of July 2018.

  
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GARY SPACKMAN  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of July 2018, I served a true and correct copy of the foregoing document on the following by the method(s) indicated.

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Kimi White