

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

IN THE MATTER OF THE WATER  
RIGHTS OF: MICHAEL BEER AND LORI  
BEER AND WATER RIGHT NO. 29-13740

Docket No. CM-DC-2021-001

**REVISED SCHEDULING ORDER AND  
NOTICE VACATING AND RESETTING  
THIRD CONTINUED PREHEARING  
CONFERENCE AND HEARING**

**BACKGROUND**

On February 11, 2021, the Idaho Department of Water Resources (“Department”) received a Petition for Delivery Call (“Petition”) filed by Michael and Lori Beer (“Petitioners”). The Petition requests administration of ground water use by the Lava Ranch Property Owners Association, Inc. (“LRPOA”) to deliver water to the Beers’ water right number 29-13740.

The Department held a continued prehearing conference on January 31, 2022, in the above-referenced matter. During the continued prehearing conference, Petitioners agreed to amend the Petition to describe an “area of common ground water supply” (ACGWS) consistent with IDAPA 37.03.11—Conjunctive Management of Surface and Ground Water Resources, Rule 30.01.d. Petitioners filed their *Amended Petition for Delivery Call* on February 22, 2022.

On April 14, 2022, the Department held a second continued prehearing conference via videoconference in this matter. All parties and their representatives were present and participated via Zoom. During the prehearing conference, the parties requested that the matter be set for hearing and established an agreed upon hearing schedule. On May 2, 2022, in accordance with the parties’ request, the Hearing Officer issued the *Scheduling Order, Third Notice of Continued Prehearing Conference, and Notice of Hearing*, setting a two-day hearing in September of 2022.

In August of 2022, the parties mutually agreed to partially revise the scheduling order and delay the hearing in this matter by approximately four weeks.

**REVISED SCHEDULING ORDER**

IT HEREBY ORDERED that the scheduling order in this matter is partially **REVISED** and **ADOPTED** as follows:

**September 23, 2022** Deadline for parties to submit rebuttal expert reports and file a list of rebuttal expert witnesses they intend to rely upon at the hearing, including names, addresses, phone numbers, and updated curricula vitarum.

**October 4, 2022** Deadline for parties to submit a list of lay witnesses and exhibits they intend to rely upon at the hearing. The list should include lay witnesses’

names, addresses, and phone numbers, and include a brief summary of their scope of testimony. Please provide three copies of the proposed exhibits to the hearing officer. One of these three copies will be placed on the witness stand, so there is no need to bring extra copies of exhibits for witnesses. Please also provide electronic copies of the proposed exhibits to the hearing officer. Proposed exhibits for the hearing officer should be submitted to the Department's State Office in Boise and to [mathew.weaver@idwr.idaho.gov](mailto:mathew.weaver@idwr.idaho.gov).

### **NOTICE VACATING AND RESETTING THIRD CONTINUED PREHEARING CONFERENCE**

NOTICE IS HEREBY GIVEN that the third continued prehearing conference set for this matter on September 13, 2022, at 3 p.m. (MT) has been **VACATED** and **RESET** for **October 7, 2022, at 1:30 p.m. (MT)**. The conference meeting will be held via Microsoft Teams virtual conferencing. All parties must be present at the continued prehearing conference. The parties shall come prepared to discuss any proposed settlement and to identify and discuss issues to be addressed at hearing.

To join the Microsoft Teams conference via computer or smartphone, please click the following link, follow the prompts, and wait to be admitted by the meeting host:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_N2NiYWI4OTktMzNlMS00YThjLTllZGUtZDZkOTgwYjVmNzA0%40thead.v2/0?context=%7b%22Tid%22%3a%22c53b7a63-2d6e-4d96-87c9-9f583f6d1c81%22%2c%22Oid%22%3a%222b1e9468-407d-4914-9bdf-a9d75371ff9d%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_N2NiYWI4OTktMzNlMS00YThjLTllZGUtZDZkOTgwYjVmNzA0%40thead.v2/0?context=%7b%22Tid%22%3a%22c53b7a63-2d6e-4d96-87c9-9f583f6d1c81%22%2c%22Oid%22%3a%222b1e9468-407d-4914-9bdf-a9d75371ff9d%22%7d)

Meeting ID: 285 885 567 578  
Passcode: NaUCrA

To join the Microsoft Teams conference via telephone, please dial the following number and enter the meeting ID and passcode when prompted:

Phone Number: +1 208-985-2810  
Phone Conference ID: 972617544#

The continued prehearing conference will be held in accordance with provisions of Chapters 1, 2, and 6, Title 42, Idaho Code, and the Department's Rules of Procedure (IDAPA 37.01.01). Anyone may obtain a copy of the Rules of Procedure from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The conference will be conducted in a manner that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the conference, please advise the Department no later than five (5) days before the conference. Inquiries for special accommodations should be directed to Sarah

Tschohl, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815.

### NOTICE VACATING AND RESETTING HEARING

NOTICE IS HEREBY GIVEN that the hearing set for this matter on September 20–21, 2022, has been **VACATED**. The Deputy Director of the Department has **RESET** the hearing in this matter for **October 18–19, 2022, beginning each day at 9:00 a.m. (MT), in Pocatello, Idaho**, with the specific location to be provided to the parties closer to the date of hearing. All parties must be physically present at the hearing location to participate. Remote participation will not be supported.

The hearing will be held in accordance with provisions of Chapters 1, 2, and 6, Title 42, Idaho Code, and the Department’s Rules of Procedure (IDAPA 37.01.01). Anyone may obtain a copy of the Rules of Procedure from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The hearing will be conducted in a manner that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the hearing, please advise the Department no later than five (5) days before the hearing. Inquiries for special accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815.

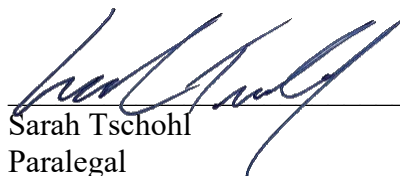
DATED this 8th day of September 2022.

  
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MAT WEAVER  
Deputy Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 8th day of September 2022, I caused to be served a true and correct copy of the foregoing *Revised Scheduling Order and Notice Vacating and Resetting Third Continued Prehearing Conference and Hearing*, by the method indicated below, upon the following:

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|---|---|
| <p>Lance J. Schuster<br/>         BEARD ST. CLAIR GAFFNEY PA<br/>         955 Pier View Dr.<br/>         Idaho Falls, ID 83402<br/> <a href="mailto:lance@beardstclair.com">lance@beardstclair.com</a></p> <p><i>Attorney for Petitioners</i></p>   | <p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid<br/> <input type="checkbox"/> Hand Delivery<br/> <input type="checkbox"/> Overnight Mail<br/> <input type="checkbox"/> Facsimile<br/> <input checked="" type="checkbox"/> Email</p> |
| <p>Michael A. Short<br/>         Travis L. Thompson<br/>         BARKER ROSHOLT &amp; SIMPSON LLP<br/>         P.O. Box 63<br/>         Twin Falls, ID 83303-0063<br/> <a href="mailto:mas@idahowaters.com">mas@idahowaters.com</a><br/> <a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a></p> <p><i>Attorneys for LRPOA</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid<br/> <input type="checkbox"/> Hand Delivery<br/> <input type="checkbox"/> Overnight Mail<br/> <input type="checkbox"/> Facsimile<br/> <input checked="" type="checkbox"/> Email</p> |
| <p>Michael and Lori Beer<br/> <a href="mailto:idbeer@me.com">idbeer@me.com</a></p> <p><i>Petitioners</i></p>  | <p><input type="checkbox"/> U.S. Mail, postage prepaid<br/> <input type="checkbox"/> Hand Delivery<br/> <input type="checkbox"/> Overnight Mail<br/> <input type="checkbox"/> Facsimile<br/> <input checked="" type="checkbox"/> Email</p>            |
| <p>Matt Groll<br/> <a href="mailto:mattgroll@gmail.com">mattgroll@gmail.com</a></p> <p><i>President, LRPOA</i></p>  | <p><input type="checkbox"/> U.S. Mail, postage prepaid<br/> <input type="checkbox"/> Hand Delivery<br/> <input type="checkbox"/> Overnight Mail<br/> <input type="checkbox"/> Facsimile<br/> <input checked="" type="checkbox"/> Email</p>            |
| <p>Thomas Bland<br/> <a href="mailto:tomb1127@outlook.com">tomb1127@outlook.com</a></p> <p><i>Former Board Member, LRPOA</i></p>  | <p><input type="checkbox"/> U.S. Mail, postage prepaid<br/> <input type="checkbox"/> Hand Delivery<br/> <input type="checkbox"/> Overnight Mail<br/> <input type="checkbox"/> Facsimile<br/> <input checked="" type="checkbox"/> Email</p>            |

  
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 Sarah Tschohl  
 Paralegal