

1 STATE OF IDAHO

2 DEPARTMENT OF WATER RESOURCES

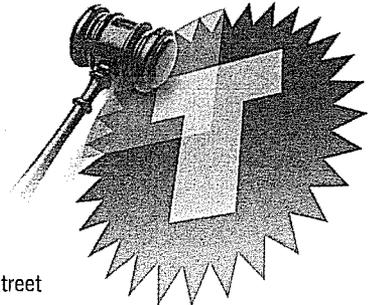
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4 RE: WATER ALLOCATION RULES AND :
 5 REGULATIONS HEARINGS. :
 6 :
 7 ----- X

11 TRANSCRIPT OF PROCEEDINGS REQUESTED BY
 12 ATTORNEY GENERAL LAWRENCE WAsDEN OF AUDIOTAPES HELD AND
 13 MAINTAINED BY THE DEPARTMENT OF WATER RESOURCES

14 July 17, 1986, 8:00 p.m.
 15 before NORMAN YOUNG, HEARING OFFICER
 16
 17 FREMONT COUNTY COURTHOUSE
 18 ST. ANTHONY, IDAHO

23 Transcribed by
 24 Frances J. Morris
 25 CSR No. 696



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TUCKER
 and **ASSOCIATES, LLC**
Court Reporters

When excellence is an obligation

A P P E A R A N C E S

NO WITNESSES

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1 ST. ANTHONY, IDAHO
 2 July 17, 1986, 8:00 p.m.
 3
 4 THE HEARING OFFICER: My name is Norman
 5 Young from the state office of the Department of
 6 Water Resources in Boise. I have been asked by
 7 the director, A. Kenneth Dunn, to serve as the
 8 hearing officer in this rule-making proceeding.
 9 The purpose of this hearing is to
 10 provide an opportunity for formal testimony or
 11 statements, either oral or in writing, relative to
 12 the department's proposed rules and regulations
 13 for water allocation in the state of Idaho.
 14 This hearing is required by the
 15 provisions of the Administrative Procedures Act,
 16 Title 67, Chapter 52, Idaho Code and will be
 17 conducted pursuant to the department's rules of
 18 practice and procedure. Cross examination of
 19 witnesses by the participants or others will not
 20 be allowed except if the hearing officer will
 21 reserve the right to ask clarifying questions on
 22 any of the testimony as needed.
 23 After the hearing is concluded, an
 24 opportunity will be provided to discuss the
 25 questions. These rules implement the provisions

1 APPEARANCES
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 3 NO WITNESSES
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1 of Chapter 2, Title 42 of the Idaho Code with
 2 particular emphasis on Section 42-203 of the Idaho
 3 Code as amended during the 1985 and '86 sessions
 4 of the legislature. The authority and the duty to
 5 adopt these rules and regulations is provided by
 6 Section 42-1805(8) Idaho Code.
 7 A very brief background, a recap of
 8 what we talked about before going on the record.
 9 This is the second round of hearings dealing with
 10 the rules. The first round was conducted in
 11 January of '86. The rules were adopted on April
 12 8th of 1986 to be effective on the 28th of April
 13 1986. Shortly thereafter the Idaho Power Company
 14 alleged that there was a general defect in the
 15 promulgation process and objected specifically to
 16 Rule 5,2 which provides the criteria for
 17 determining which applications and permits to be
 18 processed under Section 42-203D of the Idaho Code
 19 will be reviewed under the new public interest
 20 criteria of Section 42-203C of the Idaho Code.
 21 Idaho Power Company petitioned the
 22 department to amend Rule 5,2 these rules are a
 23 direct response to that petition -- or these
 24 hearings are a direct response to that petition.
 25 The alleged general defect was that the statutes

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1 which were to be implemented by the rules and
 2 regulations were amended by legislature part way
 3 through the promulgation process.
 4 In the notice of intent to renew the
 5 rule-making process, the director announced his
 6 intention to repeal the adopted rules and to adopt
 7 anew those same rules. The notice also stayed the
 8 implementation of Rule 5,2 until readopted.
 9 While testimony is requested
 10 specifically on Rule 5,2, testimony will be
 11 accepted on any of the rules or any other water
 12 allocation concern you may have.
 13 The notice of intent of rule-making was
 14 published on June 12th, 19th, and 26th in the
 15 newspapers in Boise, Twin Falls, Idaho Falls, and
 16 Coeur d'Alene. And a notice of correction was
 17 published on the 20th of June in Boise Statesman
 18 as well.
 19 Copies of the notice and rules were
 20 mailed to those asking advanced notice and to all
 21 others who requested them. Two press releases
 22 were issued announcing these hearings.
 23 In order to be assured that the proper
 24 procedure is followed and to seek additional input
 25 relative to Rule 5,2, the department has again

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1 opted to conduct hearings. The general adoption
 2 procedure from this point of these hearings is as
 3 follows: We have held hearings last night in Twin
 4 Falls, this afternoon in Idaho Falls, here in
 5 St. Anthony this evening, and next Monday
 6 afternoon in Boise. The record will then remain
 7 open for ten days following that hearing in Boise
 8 until the 31st of this month.
 9 The hearing officer will then prepare a
 10 report with recommendations as to any changes that
 11 need to be made in the rules as a result of the
 12 public input and the petition. The director will
 13 review those. And in the draft schedule submitted
 14 to the legislative council, he indicated his
 15 intent to adopt the rules again on August 12th.
 16 Now, that's an ambitious time schedule.
 17 They're filed with the central office of the
 18 department to become effective 20 days after that.
 19 The law library will make copies
 20 available throughout the state, and anyone
 21 attending these hearings will also receive a copy
 22 of the adopted rules. The rules as adopted will
 23 then be presented to the legislature for their
 24 review at the next legislative session.
 25 Today is July 17, 1986. The time is

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1 8 o'clock p.m. This hearing is being conducted at
 2 the courthouse in St. Anthony, Idaho. The roster
 3 of attendance has been signed by all present, and
 4 none have indicated that they wish to make a
 5 statement.
 6 Has anyone at this time decided that
 7 they wish to make a statement? Again, if you wish
 8 to think about it and write something down and
 9 submit it by the 31st of July, that will be
 10 perfectly acceptable as well.
 11 Is there anything further that we
 12 should do before terminating the record here at
 13 this hearing?
 14 Hearing nothing, the hearing record is
 15 then closed here at St. Anthony.
 16 (End of proceeding.)
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1 REPORTER'S CERTIFICATE
 2
 3
 4 I, Frances J. Morris, Court Reporter, a
 5 Notary Public, do hereby certify:
 6 That I am the reporter who transcribed
 7 the proceedings in the form of digital recording
 8 in the above-entitled action in machine shorthand
 9 and thereafter the same was reduced into
 10 typewriting under my direct supervision; and
 11 That the foregoing transcript contains a
 12 full, true, and accurate record of the proceedings
 13 to the extent they were audible and intelligible
 14 in the above and foregoing cause, which was heard
 15 in various cities at St. Anthony, Idaho.
 16 IN WITNESS WHEREOF, I have hereunto set
 17 my hand this _____ day of _____ 2008.
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 20
 21
 22 Frances J. Morris, Court Reporter
 23 CSR No. 696
 24
 25

Water Allocation Rules and Regulations Hearings 7/17/1986

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Water Allocation Rules and Regulations Hearings 7/17/1986

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I, Frances J. Morris, Court Reporter, a Notary Public, do hereby certify:

That I am the reporter who transcribed the proceedings in the form of digital recording in the above-entitled action in machine shorthand and thereafter the same was reduced into typewriting under my direct supervision; and

That the foregoing transcript contains a full, true, and accurate record of the proceedings to the extent they were audible and intelligible in the above and foregoing cause, which was heard in various cities at St. Anthony, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of October 2008.

Frances Morris
Frances J. Morris, Court Reporter
CSR No. 696

