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JAN 31 2022

WATER RESOURCES
WESTERN REGION

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested TRANSFER #85517 WATER RIGHT #65-12465-GRAND

2. Name of protestant Paul Gilbert

3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 9825 N. HWY 52 HORSESHOE BEND, ID 83629

5. Service telephone no. 208 781-8255 Email Address: GFHIDAH@GMAIL.COM

6. Basis of protest (including statement of facts and law upon which the protest is based)

SEE ATTACHED LETTER

(Additional pages may be attached to describe nature of the protest)

7. What would resolve your protest?

SEE ATTACHED LETTER

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 31 day of JAN, 20 22
Paul Gilbert
Protestant

Protestant's Representative

Received 1/31/2022 @ 11:35am
\$25.00 W050084 -16

TO: Idaho Department of Water Resources (IDWR)
From: Paul Gilbert
FOR: Protest to Additional Point of Diversion (POD) for Transfer No. 85517 and Water Right No. 65-12465 In the name of Bruno

This protest is based on the following facts as I believe to be true at this time.

The proposed supplemental Point of Diversion in Lot one (1) has not been previously approved to my knowledge as marked "NO" in Para 5 of the Application. However, Ms. Bruno has used this location for two (2) years as the "PRIMARY" POD and did not use the POD on the Payette River during the 2020 and 2021 irrigation seasons per the indication on the water right.

Ms. Bruno's Water Right has a POD in the SW/SE quadrant on the Payette River that to date for the surrounding water users has sufficient water to meet the quantity/volume for the Water Rights.

In addition Ms. Bruno also has an Easement issued by the Bureau of Reclamation in the South East portion of her property extending to the Payette River as a POD and access to the POD, or supplemental if need be.

This request for a supplemental POD gives Ms. Bruno three (3) potential PODS' affecting the water rights and usage surrounding her property.

The Idaho Supreme Court issued this in their published opinion Docket No. 48516, 2 SEP 21:

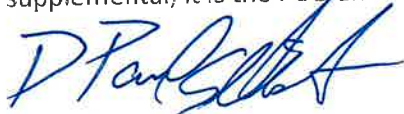
The district court observed that while it would be more convenient for Bruno to walk down her neighbors' driveways, *Bruno had other ways to access her pump: She could clear the brush and build her own road or path down the river as her neighbors have; she could move her pump or install a new one with remote technology; or she can continue to access the pump via Montour Road, as she and her son testified they have in the past.*

Proposed resolution:

Do not add a supplemental; "CHANGE" the POD from its location on the Payette River to the new proposed location as requested and in use already.

If there is to be a supplemental POD then a clear understanding (Clarity) of what supplemental is implied to mean for this water right? IE: What, when, where, why, and how is the supplemental POD to be used?

If this supplemental is intended to be the primary as it has been for the last two (2) years it is not a supplemental, it is the POD and should be identified as so.



Paul Gilbert