

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

RECEIVED
DEC 20 2021
DEPARTMENT OF
WATER RESOURCES

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.

37. Matter being protested: Application for Transfer No. 85397 in the name of Perpetua Resources Idaho, Inc.

38. Name of protestant: Idaho Conservation League

39. Protestant's Representative for service (if different than protestant):

Marie Callaway Kellner
ICL Conservation Programs Director
ISB #8470

40. Service mailing address: P.O. Box 844; Boise, ID; 83701

41. Service telephone no.: 208-369-4885
Email Address: mkellner@idahoconservation.org

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

Pursuant to Idaho Code § 42-203A and Idaho Code § 42-222, the Idaho Conservation League (ICL) respectfully protests this application. Please find ICL's basis of protest attached to this Notice of Protest styled as "Attachment A."

7. What would resolve your protest?

Please find ICL's resolution suggestions and relief requested in Attachment A.

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 20th day of December, 2021.

Idaho Conservation League _____ Protestant

Marie Callaway Kellner

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

43 The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."

44 Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.

45 If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

46 Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.

47 Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

48 Specifically describe the nature of the protest.

49 Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY Received by KU Date 12.20.21
Time 2:45 \$25.00 fee Receipted by C111561 #
Date 12.20.21

Attachment A: Basis of Protest & Resolution of Protest: Transfer 85397

Basis of Protest

In accordance with Idaho Code §§ 42-221 and 42-203A(4), the Idaho Conservation League ("ICL") respectfully submits this protest to Application for Transfer No. **85397** (affiliated with Permit No. 77-7285), in the name of Perpetua Resources Idaho, Inc. ("Perpetua").

Founded in 1973, ICL is Idaho's oldest non-profit natural resources conservation organization. ICL has approximately 30,000 supporters, including members in all 44 of Idaho's counties. ICL advocates for conservation values in projects, proposals and protections all across Idaho via education, written comments and testimony, litigation and a variety of other methods. ICL has been in consistent communication with Perpetua (formerly Midas Gold Inc.) about its proposed Stibnite project for more than a decade.

ICL asserts concerns about factors articulated in I.C. § 42-222 and numerous subsections of I.C. § 42-203A(5). Specifically, ICL asserts the application conflicts with both code sections because it will cause injury to existing water rights, including injury to minimum stream flow water rights held by the Idaho Water Resource Board and Wild & Scenic water rights held by the United States.

Additionally, and as articulated in both code sections, ICL asserts that it is not clear from the materials provided: that there is sufficient water supply for the purposes for which it is sought to be appropriated; it may conflict with the local public interest; it may be contrary to the conservation of water resources in Idaho; and as/if this application integrates with the proposed mitigation plan, that it could adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates if the place of use is outside the watershed or local area within which the source of water originates.

ICL also asserts that it is not clear from the application whether there is an enlargement of use as described in I.C. § 42-222(1) or that the right to use this water has not been forfeited as described in I.C. § 42-222(2).

ICL reserves the right to amend this protest for reasons that may be discovered or set forth as this application moves through the administrative and permitting process.

Relief Requested

ICL asks that this application be amended to address and/or correct the concerns shared above or, in the absence of such amendment, that the application be denied.