

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
NOV 02 2020
Department of Water Resources
Eastern Region

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 Application for Permit #29-14342 in the name of Travis Krebs
2. Name of protestant RST Properties, LLC
3. Protestant's Representative for service (If different than protestant)
Sherril Tillotson
4. Service mailing address P O Box 261 Lava Hot Springs, Idaho 83246
5. Service telephone no. 208-251-8267 Email Address: talk2shertill@yahoo.com
6. Basis of protest (including statement of facts and law upon which the protest is based)

RST Properties is a shareholder of record in Fish Creek Irrigating Co. which has a water right on Fish Creek and uses water from that source. (1). The proposed water right application #29-14342 indicates it would be an additional water right on Fish Creek and there is no historical data provided by the applicant to indicate there is any water available that has not already been adjudicated to earlier water rights. (2) The use proposed by the applicant appears to be a use that could not sustain curtailment of any kind if water is not available from Fish Creek to fill the proposed new right and the applicant has not proposed an alternate source of water supply from April 1st to October 31st each year to supplement water requirements for the proposed fish operation when all previously established water rights on Fish Creek are being used. (3) The applicant has not indicated there will be measuring devices installed to assure release from the storage ponds will be equal to the intake of water into the storage ponds. (4) The applicant has not indicated how – if necessary – any pollutants from the fish ponds will be kept from being released into the stream flow. (additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Please see the additional attached page.

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 21st day of OCTOBER, 2020

RST Properties LLC
Protestant
Sherril Tillotson
Protestant's Representative

RST Properties LLC

Attachment to Notice of Protest

Item 7. What would resolve your protest?

- a. Applicant should be required to do at least a 1-year water study at the proposed point of diversion for the new water right on Fish Creek to determine the available water supply in Fish Creek at that location at any given time from April 1st to October 31st. If there is not water available to meet the request of the applicant on a daily basis in addition to the existing water rights then the water right should be denied during the irrigation season April 1st to October 31st of each year.
- b. If the water right is granted, the applicant should be required to provide an alternate water source which could be used to supply or supplement the fish propagation operation at any time and be able to restore water back to the stream bed that is equal to whatever water is being diverted from Fish Creek into the fish propagation operation.
- c. The applicant should be required to install measuring devices on Fish Creek at the input to the fish propagation operation and at the point where the water is released back into the stream bed in order to effectively protect the existing water rights on Fish Creek.
- d. The applicant must be able to demonstrate at all times that no pollutants from the fish propagation operation that are injurious to livestock, crops or pastures are being released into the Fish Creek streambed.

ADDITIONAL COMMENT: It is my understanding that during the adjudication process of the Fish Creek water rights, it was determined that during the irrigation season there is no water from Fish Creek that reaches the Portneuf River and therefore, Fish Creek water users are not subject to curtailment by a call from water users with earlier rights who have rights on the Portneuf River. If that is correct, then water is not available during the irrigation season for another water right to be issued and existing water rights need to be protected.

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

1. 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 _____."
 2. 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.
 3. 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.
 4. 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.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
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FOR DEPARTMENT USE ONLY

Received by JB Date Nov. 2, 2020 Time 11:31 a.m.
\$25.00 fee Received by JB # E046406 Date Nov. 2, 2020