

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 13 2020

WATER RESOURCES
WESTERN 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 number 63-34957 in the name of GO Investment Idaho, LLC

2. Name of protestant City of Boise

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

Abigail Germaine, Deputy City Attorney

4. Service mailing address 150 N. Capitol Blvd.; PO Box 500, Boise, Idaho 83701

Service telephone no. (208) 608-7956

Email Address: agermaine@cityofboise.org

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

The Protestant (the City of Boise) holds water permits 63-33467 and 63-34318, which authorize the City to divert 200 cfs from the Dixie Slough for water quality improvement at the City of Boise's Dixie Phosphorus Removal Facility. Both permits have conditions which require the City to demonstrate on a case-by-case basis that the City's permits should not be subordinate to new permit applications.

Mr. Obendorf currently holds Water Right Permit No. 63-21616, which provides a diversion rate of 2.19 cfs. Mr. Obendorf has historically been out of compliance with the conditions and requirements of his existing Water Right Permit No. 63-21616. It is still unclear as to whether Mr. Obendorf is diverting over his allowable 2.19 cfs. under No. 63-21616.

Furthermore, Mr. Obendorf was required in 2018 to install a headgate regulating his diversion and a weir to measure his diversions under Water Right Permit No. 63-21616. It is our understanding that these controlling works have been installed but are not functioning properly. Mr. Obendorf may still not fully be in compliance with the Watermaster's 2018 requirement and may be in violation of the Department's conditions related to No. 63-21616.

In addition, it appears this Application, 63-34957, attempts to remedy illegal diversions due to unauthorized gravel pit extractions within the place of use. These gravel pit extractions were not authorized, and no water right was ever obtained. The water impacts were supposed to be remediated by Mr. Obendorf.

Protestant reserves the right to identify additional questions/concerns as further information becomes available.

6. What would resolve your protest? The City of Boise respectfully requests that Application for Permit No. 63-34957 be denied. The City reserves the right to identify additional requests to resolve its protest.

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 13 day of October, 2020.

City of Boise
Protestant


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

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.
-

FOR DEPARTMENT USE ONLY

Received by LE Date 10/13/2020 Time 3:30 PM
\$25.00 fee Receipted by LE # W048776 Date 10/13/2020