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WATER RESOURCES
WESTERN REGION

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*Attorneys for Protestant
Farmers' Co-operative Ditch Company*

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF

APPLICATION FOR PERMIT NO. 63-34963
IN THE NAME OF WEBER FAMILY
FARMS, LLC

NOTICE OF PROTEST

COMES NOW, Protestant Farmers' Co-operative Ditch Company ("Protestant"), by and through its attorneys of record Sawtooth Law Offices, PLLC, hereby files this Notice of Protest ("Protest") to the Application for Permit No. 63-64963 ("Application"), filed in the name of Weber Family Farms, LLC.

The bases for the Protest are as follows:

1. The Application may cause injury to existing water rights, specifically those of the Protestant unless properly conditioned.
2. The Application is contrary to, or may conflict with Idaho Code Section 42-203A(5), subsections (a), (b), (e), and (f).
3. For such other and further reasons as may be set forth at the hearing on this matter.

Received 10/19/2020 @ 4:45pm
\$25.00 W048809 -LE

RELIEF REQUESTED

The Protestant respectfully requests that for the above listed reasons, proposed Application for Permit No. 63-34963 be denied in all respects. In the alternative, the Protestant respectfully requests that any approval of Application for Permit No. 63-34963 be conditioned upon complete protection of the Protestant's existing water rights, including, but not limited to, a condition that Applicant's use for irrigation purposes is supplemental to the existing surface water rights which are delivered by Protestant.

DATED this 19th day of October, 2020.

SAWTOOTH LAW OFFICES, PLLC

By 

S. Bryce Farris
Attorneys for Protestant
Farmers' Co-operative Ditch Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19 day of October, 2020, I caused a true and correct copy of the foregoing **NOTICE OF PROTEST** to be served by the method indicated below, and addressed to the following:

Weber Family Farms, LLC
30680 Shelton Road
Parma, ID 83660
T 208-880-4681
E wffcraig@gmail.com

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Facsimile
- ☐ Email



S. Bryce Farris

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Twin Falls, Idaho 83301
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Monday, October 19, 2020

Weber Family Farms, LLC
Craig Weber
30680 Shelton Road
Parma, ID 83660

Re: Farmers' Co-operative Ditch Company Protests of Applications for Permit Nos.
63-34963 and 63-34964

Dear Mr. Weber:

I represent the Farmers' Co-operative Ditch Company ("FCDC") and enclose FCDC's Protests to the Applications for Permit referenced above.

Both of your applications indicate that they are for supplemental use and acknowledge that your property currently receives surface irrigation water from FCDC and/or Black Canyon. FCDC agrees but is protesting the applications to ensure that the applications contain a condition which provides that the applications are for supplemental irrigation water and the primary source for irrigation use continues to utilize FCDC's surface water rights. In other words, without a condition on the approved applications there is no guarantee that they these new applications will remain supplemental to the existing surface water deliveries of FCDC. The Idaho Department of Water Resources utilizes a standard condition in such situations and thus FCDC is requesting the following conditions be placed on any approved applications:

- a. The primary irrigation water for the place of use authorized under this right is surface water delivered by Farmers Co-Operative Ditch Company. The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert water under this right to irrigate land with appurtenant primary surface water rights when the primary surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for the irrigation district deliveries. The right holder shall not divert water for irrigation purposes under this right if use of the primary surface water rights is intentionally discontinued or reduced by the right

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holder (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval; and

- b. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

If these conditions are acceptable, then please contact me and I will prepare a Stipulation to Resolve FCDC's protests.

Very truly yours,



S. Bryce Farris

Enclosures

cc: Farmers' Co-operative Ditch Company
Idaho Department of Water Resources