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JUL 17 2020

WATER RESOURCES
WESTERN REGION

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: APPLICATION FOR PERMIT – City of Boise, Department of Parks & Recreation
Application number 63-34926.

2. Name of protestant: Farmers Union Ditch Company, Ltd.

3. Protestant's Representative for service (If different than protestant): Jerry A. Kiser, Attorney for
Farmers Union

4. Service mailing address: P.O. Box 8389, Boise, Idaho 83707.

5. Service telephone no.: 208-861-4657. Email Address: jkiser@cablone.net

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

See attached.

7. What would resolve your protest? See attached.

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 17 day of July, 2020.

Paul Lloyd Atkins Vice Pres
Protestant

[Signature] attorney at law
Protestant's Representative

Received 07/17/2020

\$25.00 W046523

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ATTACHMENT TO FARMERS UNION NOTICE OF PROTEST OF APPLICATION FOR
PERMIT, IDENTIFICATION NO. 63-34926 BY CITY OF BOISE, DEPARTMENT OF
PARKS AND RECREATION.

6. Basis of Protest.

Protestant protests the above referenced application for permit to appropriate waters of the State of Idaho as requested by applicant in its application No. 63-34926. Applicant in its application states, "Water will be diverted through park ponds [Ester Simplot and Bernadine Quinn Riverside Parks] and returned to the Boise river." This statement made by Applicant, although correct is misleading in that the water returned to the Boise river must first flow into the Farmers Union canal just upstream of Farmers Union's measuring headgate. As a result, all water from the park ponds is discharged from the ponds into Farmers Union's canal. The water in Farmers Union's canal is controlled by its measuring headgate where Farmers Union diverts its water rights into the Farmers Union canal. Water not diverted into Farmers Union's canal is spilled into side channels which flow back to the Boise river. Water from the park ponds cannot be returned to the Boise river without entering the Farmers Union canal and comingling with Farmers Unions water unless it passes under or over the Farmers Union canal.

Farmers Union diverts its water from the Boise river into a box culvert to a canal which travels North to a second point of diversion (re-diversion structure) which is its measuring headgate. As above stated, the ponds discharge into the Farmers Union canal just above Farmers Union's re-diversion structure. The river diversion and re-diversion locations are show on the attached map. The ponds discharge location into the Farmers Union canal is also shown on the attached map. A water right may not be granted if granting the right would result in injury to another prior water right.

Protestant will be injured if the application is granted without a requirement that any water that is diverted under the requested permit be required to bypass the Farmers Union canal without any commingling with Farmers Unions water. Discharge of water under the proposed water right will make it difficult to maintain proper flow from the river diversion to the re-diversion structure and adversely affect head pressure at Farmers Union's re-diversion headgate. The proposed diversion of 35 cfs by Applicant represents a discharge of water into the Farmers Union canal of roughly 1/3 of the total diversion into the canal. Any change to flow made at Applicants proposed point of diversion will require adjustments to be made by Farmers Union at its river diversion and at its measuring headgate. This essentially removes Farmers Union's ability to control water delivery into the Farmers Union canal.

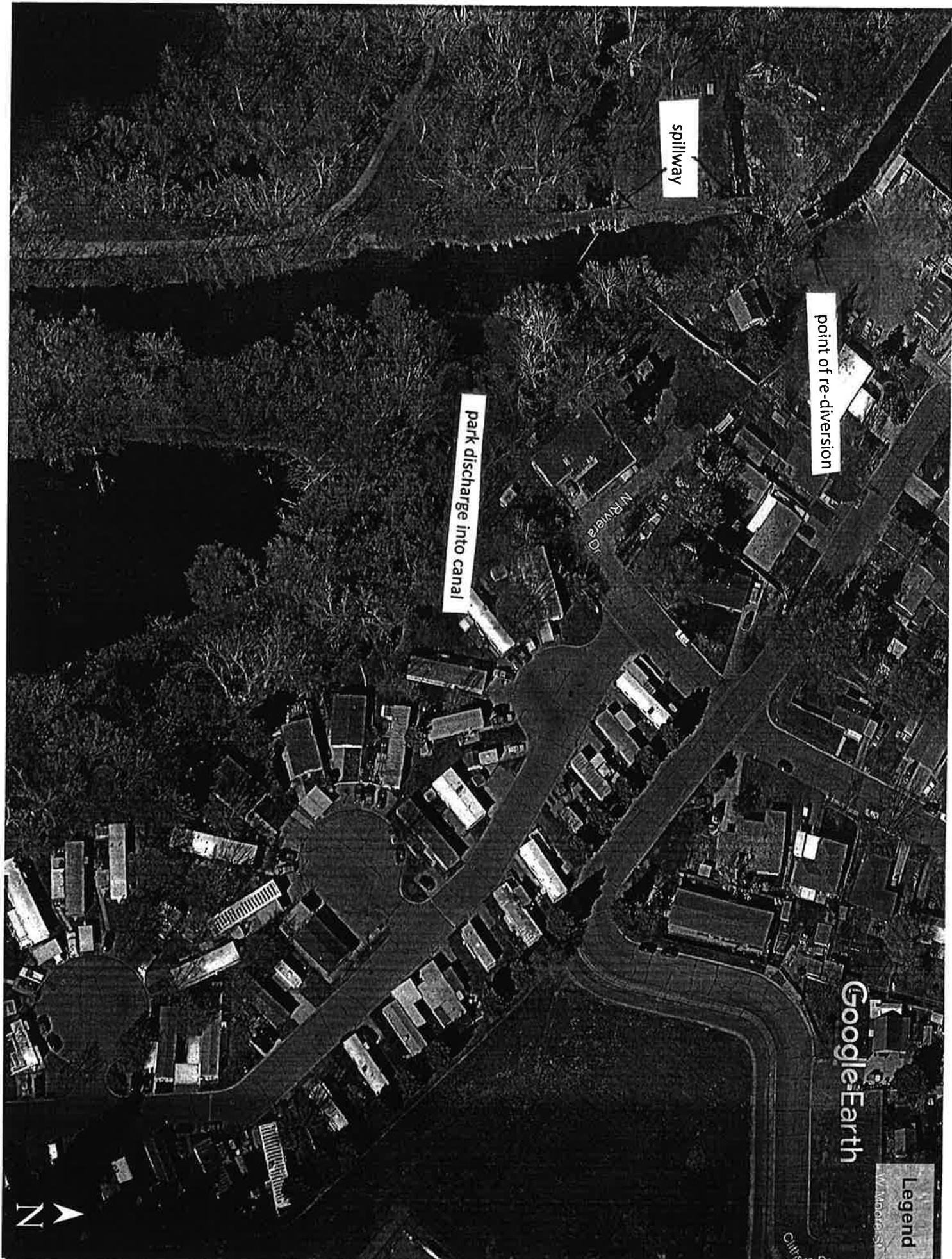
Protestant will also be damaged by contaminated water which the application is attempting to remove from the park ponds. Since development of the parks, Farmers Union has

experienced elevated levels of e-coli, algae, noxious weeds and other contaminants discharged from the ponds into the canal.

Protestant will also be injured by increases in water temperature which will result from roughly 1/3 of the water diverted into its canal sitting in applicants ponds warming before commingling with Farmers Union's river water above the measuring headgate. Elevated water temperature in the canal causes increased moss, algae, milfoil and other noxious weed growth. This causes Farmers Union to lose water transmission capacity and increases maintenance and chemical costs to control the noxious weeds.

7. What would resolve your protest?

Farmers Union's protest can be resolved by the Department requiring Applicant to bypass the Farmers Union canal and not allow discharge of water from the park ponds into the Farmers Union's canal.



spillway

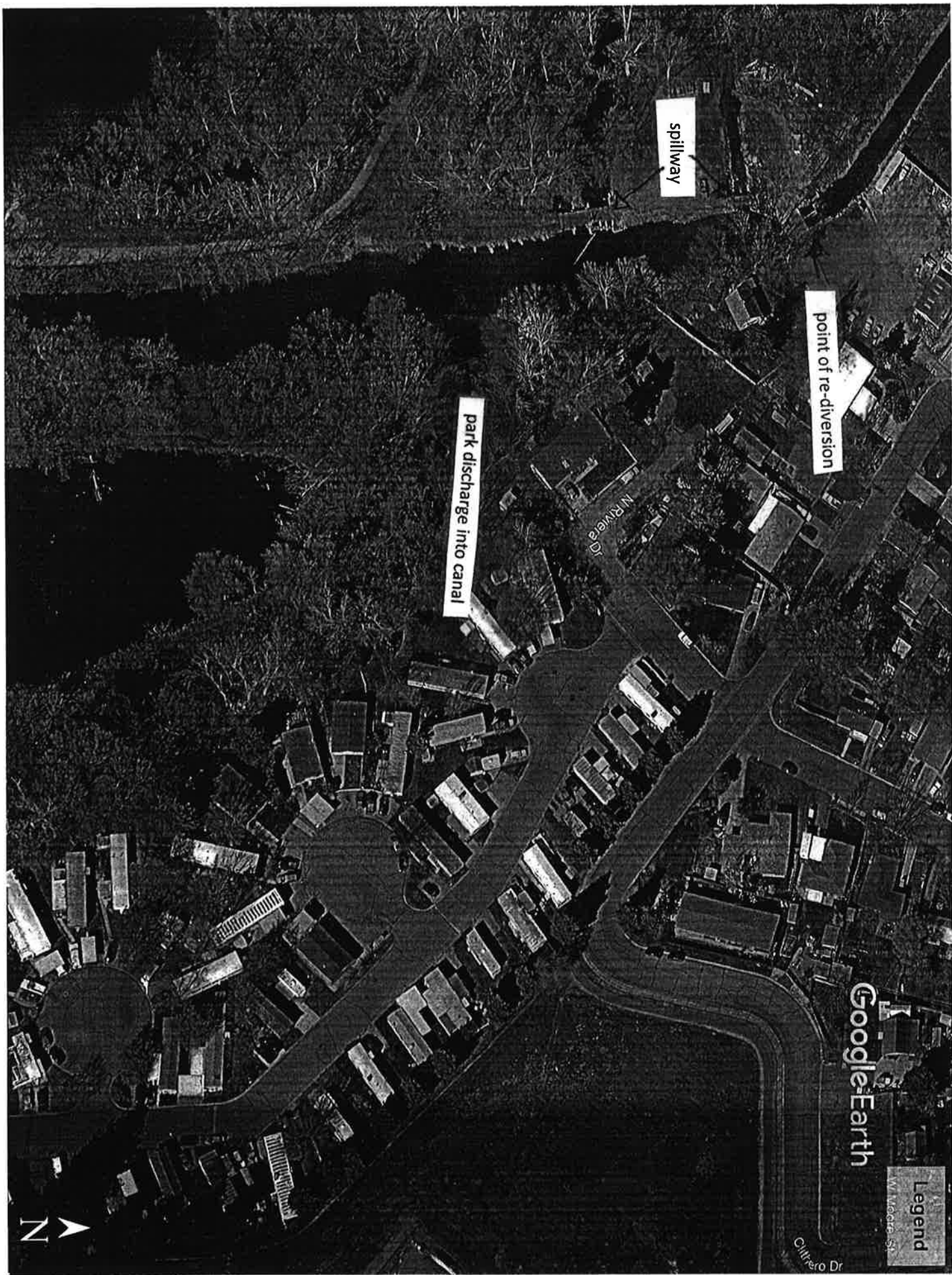
point of re- diversion

park discharge into canal

Google-Earth

Legend





spillway

point of re-division

park discharge into canal

N. RIVER RD

Google Earth

Legend

Citrero Dr

