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JUL 20 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 Transfer No. 84020 in the name of J. R. Simplot Company

2. Name of protestant Pioneer Irrigation District ("Pioneer" or "Protestant")

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

Andrew J. Waldera

4. Service mailing address P.O. Box 7985, Boise, ID 83707

5. Service telephone no. 208-629-7447 Email Address: andy@sawtoothlaw.com

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

Please see Attachment hereto.

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Please see Attachment hereto.

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 July, 2020.

Protestant

for:  
Protestant's Representative Andrew J. Waldera

**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.

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**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 LE Date 07/20/2020 Time 4:50 pm  
\$25.00 fee Received by LE # W048531 Date 07/20/2020

**Attachment to Notice of Protest of  
Application for Transfer No. 84020 in the Name of J.R. Simplot Company**

Pioneer is concerned that proper administration of Simplot's water rights under Idaho Code Section 42-222 requires a variety of clarifications and conditions protecting the integrity and function of the sources for the water rights.

1. As a general matter, Pioneer understands Simplot's Application for Transfer to be one largely of housekeeping/updating. Seemingly the biggest proposed change is moving Simplot's Bardsley Gulch Drain-sourced water rights so that they are sourced from the more reliable Dixie Drain. Pioneer is agreeable to the proposal with some additional clarifications and conditioning addressing Pioneer's Dixie Drain operations.

For purposes of clarification, Simplot's two new points of diversion (the white or gray-mapped dots) are not located on Dixie Drain. Instead, the proposed points of diversion are located on a private, concrete lined user ditch conveying water out of the drain to Simplot. Dixie Drain heads due south where it flows into the West End Drain opposite/across from where Bardsley Gulch Drain flows into the West End Drain (*i.e.*, Dixie Drain flows into the West End Drain from the north and Bardsley Gulch Drain flows into the West End Drain from the south).

Operationally, Pioneer seeks adequate conditioning preventing excess siltation and vegetation in the Dixie Drain should Simplot's new diversion require the drain to be checked in such a manner allowing slower/backwater conditions. At present, the Dixie Drain is deep and largely self-scouring; Pioneer does not want to bear increased operation/cleaning burdens as a result of Simplot's activities.

2. Currently, Simplot's drain-based water rights in the Application for Transfer carry two different versions of a "wastewater" acknowledgement remark; one acknowledging the right of recapture and one not. Pioneer's preference is that Simplot's water rights be updated with the more modern "wastewater" remark recognizing upstream appropriators' right of recapture.

3. Pioneer believes Simplot's Dixie Slough Drain-sourced water rights to be in error. Dixie Slough is farther to the west and tributary to the Boise River down gradient from the Riverside Canal. In the spirit of updating and clarification as is the stated desire of Simplot's application, Simplot's Dixie Slough Drain-sourced rights should be corrected to reflect the true source of the water.