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MAY 26 2020

Department of Water Resources  
Eastern Region

STATE OF IDAHO  
BEFORE THE DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 11-7863 Application to  
Appropriate

Nova Jones, LLC,  
Applicant,

PROTEST

BEAR LAKE WATCH  
PROTESTANT

Bear Lake Watch, Inc, a non-profit corporation, hereby protests the Application(s) for Permit No. 11-7863, filed April 16, 2020 ("Application") by filed April 16, 2020 ("Application") by Nova Jones, LLC ("Applicant"). The protest application fee (submitted by mail) is hereby submitted by Bear Lake Watch.

1. Notices. Bear Lake Watch requests that the Department of Water Resources (the "Department") send notices and correspondence regarding this water right proceeding to:

David and Claudia Cottle  
4544 Highway 89  
Fish Haven, ID 83287  
bearlakewatch@aol.com

2. Bear Lake Watch Interest in the Application. Bear Lake Watch, Inc. is a non-profit corporation which was organized in 1994 to preserve and protect the waters and associated lands of Bear Lake. The organization represents of over 1,000 members who live, have businesses, recreate and own property in the Bear Lake area. Additional these individual members represent large family groups, organizations and HOAs around the lake.

Bear Lake Watch is seeking to assure that the public's interest is served when decisions are made that have an impact on the allocation and utilization of Bear Lake's water. Any new water appropriation or change of use in the Bear River Basin could conflict with the public interest by reducing groundwater, natural flows and increasing reliance by existing users on supplemental irrigation water delivered from Bear Lake. The resulting drop of the level causes adverse effects on recreation, local economy, critical habitat for endemic and indigenous fish species in Bear Lake.

Bear Lake Watch is a signatory to the original, 1995 and the Amended Bear Lake Settlement Agreement, (ABLSA), 2004. The Bear Lake Settlement Agreement defines the annual irrigation allocations from storage water based on lake elevations each year.

3. Proposed Application. The Application seeks to appropriate public water of the State of Idaho. The Application proposes to divert 0.85 cfs/67.2 acre feet of water by means of an underground well to supply water to a residential and commercial development near St. Charles, Idaho. Bear Lake Watch request the following concerns be addressed.

4. Current Water Right. Water Right (11-4239) is referenced in the application documents and refers to existing recreational demand fulfilled by this right. Will it be integrated with the other uses and depletions on the property and will the applicant become the owner of 11-4239? What uses are segregated to Recreation demand and is the depletion also segregated?

5. Projected Water Demand. Calculated water demands seems to be in line with current standards. Bear Lake Watch requests that IDWR carefully review the calculations for the water supply capacity needed.

6. Proposed Wells. The application states that two wells to be installed, each anticipated to pump up to 0.85; There is one well existing, will there be two additional

wells? The plan should be clear that the total of the two would not exceed the defined peak demand of 0.85.

7. Operating Plans. Conditions for approval should require adequate measuring, monitoring and reporting that will ensure that the development will continually meet the mitigation to at least match the actual use.

8. The Sewer System. The sewer system referenced in the application is described as an advanced onsite system with returns to hydrologic system, but does not offer any documentation or verification of the system's efficiency and depletion. More information is necessary as depletion calculations are sewer system specific.

9. Mitigation Property Control. The application documents state that "Applicant will cease irrigating the Mitigation Property." Will the applicant be the owner of the property or have other legal authority to cease the irrigation of the property? Bear Lake Watch requests clarification of Northshore mitigation acreage and Lakeview mitigation acreage and specific ownership and /or other agreements plus operational plan(s) that will allow and account for the mitigation of these two separate developments.

10. Water Rights (11-234) and (11-235) jointly have historically irrigated the proposed mitigation acreage and additionally the two are joined in the Permits 11-7844 and 11-7843 for the mitigation plan for North Shore Bear Lake development. Bear Lake Watch believes that the acreage in question can not be dried up with out control of both water rights jointly.

5. Conclusion. Bear Lake Watch respectfully requests that the Department consider its concerns prior to approval of this application. A representative can be available to participate in a pre-hearing conference to discuss its concerns with the Department and the Applicant.

Dated: May 25, 2020.

**BEAR LAKE WATCH**

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David Cottle and Claudia Cottle  
Executive Directors, Bear Lake Watch

Rcpt: E045946 \$25.00 5/26/2020 Cll

## CERTIFICATE OF MAILING/EMAIL

On this 26 day of May, 2020, a true and complete copy of the foregoing document,  
was mailed/mailed to the following:

*(sent via email)*

Idaho Department of Water Resources Eastern Division  
James Cefalo  
900 N, Skyline Drive, Suite A  
Idaho Falls, Idaho 83402  
James.Cefalo@idwr.idaho.gov

*(sent via email)*

Nova Jones, LLC  
c/o Lance Anderson  
95 Golf Course Road, #101  
Logan, UT 84321  
[lance@cachelandmark.com](mailto:lance@cachelandmark.com)

*(sent via email)*

Buffi Morris  
Sr. Property Agent PacifiCorp  
1407 W. North Temple, Suite 110 Salt Lake City, UT 84116  
[buffi.morris@pacificorp.com](mailto:buffi.morris@pacificorp.com)

*(sent via email)*

Randy Budge  
Racine, Olson, Nye, Cooper & Budge PO Box 1391  
201 E. Center  
Pocatello, Idaho 83204-1391 [randy@racineolson.com](mailto:randy@racineolson.com)