

MAY 26 2020

WATER RESOURCES  
WESTERN REGION

Scott N. Pugrud, ISB No. 8883  
**IDAHO POWER COMPANY**

1221 W. Idaho Street

P.O. Box 70

Boise, Idaho 83707

Telephone: (208) 388-6454

Facsimile: (208) 388-6935

[spugrud2@idahopower.com](mailto:spugrud2@idahopower.com)

John K. Simpson, ISB No. 4242

**BARKER RSHOLT & SIMPSON LLP**

1010 W. Jefferson St., Ste. 102

P.O. Box 2139

Boise, Idaho 83702

Telephone: (208) 336-0700

Facsimile: (208) 344-6034

[jks@idahowaters.com](mailto:jks@idahowaters.com)

*Attorneys for Idaho Power Company*

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 2-10516,

In the name of 124 Degrees LLC

**NOTICE OF PROTEST**

IDAHO POWER COMPANY (the "Protestant"), by and through its attorneys of record, files this *Notice of Protest* to the approval of the above-numbered *Application for Permit* filed by 124 DEGREES LLC (the "Applicant").

The initial bases for the protest are as follows:

1. The source of water has been recognized as Trustwater by the State of Idaho as defined in IDAPA 37.03.08.031(a) and should reference conditions on the exercise of this right that it is Trustwater and subject to additional administrative review, curtailment and conditions.

2. Applicant asserts that the proposed purpose of use is non-consumptive. A review

of the application identifies that the proposed use would result in approximately 59.2 ac-ft. of consumption through evaporation. Applicant must prove that such consumption through evaporative loss still qualifies as a non-consumptive use under Idaho Code.

3. Flooding of irrigation lands during the non-irrigation season as proposed by the Applicant is not a beneficial use.

4. *See also* Idaho Power Company letter explaining its trust water interests, attached as Exhibit 1.

5. Application fails to satisfy the criteria identified in Idaho Code § 42-203A(5).

6. And for such other and further reasons as may be discovered or set forth at the hearing on this matter. Protestant reserves the right to amend this Protest as necessary.

DATED this 26<sup>th</sup> day of May, 2020.



---

Scott N. Pugrud  
*Attorneys for Idaho Power Company*

## CERTIFICATE OF SERVICE

I hereby certify that on this 26<sup>th</sup> day of May, 2020, I served the original of the foregoing **NOTICE OF PROTEST**, by hand-delivering or depositing same in the U.S. Mail, postage prepaid, as indicated, addressed to the following:

Idaho Department of Water Resources  
Western Region  
2735 Airport Way  
Boise, ID 83705

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

124 Degrees, LLC  
2900 Nichols St.  
San Diego, CA 92106-3425

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

SPF Water Engineering  
c/o L. Graves  
300 E. Mallard Dr., Ste. 350  
Boise, ID 83706

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

  
\_\_\_\_\_  
Scott N. Pugrud