State of Idaho
DEPARTMENT OF WATER RESOURCES
Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene ID 83815-7763
Phone: (208) 762-2800 • Fax: (208) 762-2819
Website: idwr.idaho.gov • Email: northerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 6, 2020

Dave Renberg or Becky Johnson
40826 Little Canyon Rd.
PECK ID 83543

RE: Protest of Application for Transfer #83543, Jared & Jessica Holz

Dear Mr. Renberg, Ms. Johnson:

Our office received a protest with the required fee on December 12, 2020. **The protest was received and the fees paid after the prescribed date in the notice of December 9, 2019, therefore we must reject your protest (copy enclosed).**

Pursuant to: ***TITLE 42-203A*** (emphasis added)

*(4) Any person, firm, association or corporation concerned in any such application may, **within the time allowed** in the notice of application, file with said director of the department of water resources a written protest, together with the statutory filing fee as provided in section 42-221, Idaho Code, against the approval of such application, which protest shall state the name and address of protestant and shall be signed by him or by his agent or attorney_and shall clearly set forth his objections to the approval of such application.*

(If you need a copy of the full statute, please contact this office. Idaho Statutes are also available on the Internet by using the electronic address: https://legislature.idaho.gov/statutesrules/idstat/Title42/T42ch2/).

One other protest was filed on the application. In lieu of the protest you may request IDWR to apply the fee already paid toward granting you permission to participate as an Intervenor in this matter. An Intervenor can participate in settlement conferences and the hearing, if one is held. Intervenors have different limited roles in the process as compared to Protestants, but will be notified of dates and times of meetings and would have a "seat at the table". If this is your preference IDWR needs to receive a simple letter asking to be an intervenor, referencing the transfer number #83543. If instead you wish to receive a refund please let us know ASAP and one will be processed immediately.

If you have questions about this process, please feel free to contact us at the Northern Region Office at (208) 762-2800.

Sincerely,

Douglas Jones
Northern Regional Manager

Enc.

CC: Jarred and Jessica Holz, 501 S Wickham, Boise, ID 83709

07/2008

RECEIVED
DEC 12 2019
IDWR / NORTH

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 Change of water right transfer #83543
2. Name of protestant Dave Renberg
3. Protestant's Representative for service (If different than protestant)
   Becky Johnson
4. Service mailing address 40826 Little Canyon Rd.
5. Service telephone no. 208.791.3392 Email Address: beckyj@nezperce.org
6. Basis of protest (including statement of facts and law upon which the protest is based)
   Please see attached letter

   (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Denial of transfer of point of diversion and review of whether water rights for 11-15799 and 85-15800 are actually valid.

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 5th day of December, 2019.

Dave Renberg
Protestant

Rebecca Johnson
Protestant's Representative

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.

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.

FOR DEPARTMENT USE ONLY

Received by Ja Date 12-12-19 Time 3:40pm

$25.00 fee Receipted by Ja # N035821 Date 12-12-19

December 5, 2019

Dave Renberg
40826 Little Canyon Road
Peck, ID 83545

Department of Water Resources
Northern Region
7600 N Mineral Dr. Ste 100
Coeur d'Alene, ID 83815

To whom it may concern:

I am submitting the attached notice of protest regarding Application No. 83543 for changes to the following water rights within Nez Perce County: #85-15799 and #85-15800.

My home and farm are located at 40826 Little Canyon Rd on the banks of Little Canyon Creek, immediately downstream and adjacent to the property recently purchased by Jarred M Holz and Jessica R Holz. Attached is a map printed from the Idaho Department of Water Resources (IDWR) website that identifies the location of my farm.

I have lived at this location and own several other pieces of property in the Little Canyon Creek canyon which I have farmed since 1994. I have leased and farmed (for grass hay) the property that the Holz's have purchased (associated surface water rights 85-15799 and 85-15800) and the 20 acres next to it (Ray Wargi's – associated surface water rights 85-2118A and 85-4214) continuously for the last 25 years (from 1994 to 2018). During those 25 years I did not, nor did anyone else, utilize the surface water rights associated with this property to withdraw water from Little Canyon Creek to irrigate. The current Point of Diversion is located on my property right below my house – so I would be aware of any irrigation/diversion that would have occurred. Based on my understanding of Idaho water code it's unclear to me whether these water rights are actually active as there has not been five continuous years of use. In fact, they haven't been used for at least a continuous 25 years. When I purchased the property where my farm is located (which was at one time a dairy farm) in the 1990s it appeared that the water right for irrigation from the current point of diversion had not been used for quite some time. Therefore, it appears to me that there is no active or valid water right associated with the proposed transfer of the point of diversion.

However, if the proposed point of diversion transfer were to move forward I am concerned that moving the point of diversion would injure the water right associated with the domestic water supply for my home and farm. Water right 85-11198, owned by George and Nancy Miller, supplies both my farm and their residence with domestic water supply. This sharing agreement is spelled out in the deeds for our properties. This water right is for a spring located on my property (please refer to the map where the domestic water supply spring is located). This spring has very high connectivity to the level of

Little Canyon Creek. Often, during the summer months of the year when the creek level is very low there is very little supply from the spring. Several times over the recent past summers both the Millers and I have had to truck water in to supply both domestic and stock water for our homes/farms. In the last 25 years I have lived on Little Canyon Creek I have noticed this has occurred more and more frequently. It's been my observation that the water supply/creek flow in Little Canyon Creek has been decreasing over the years, especially during the summer months. I am very concerned if the point of diversion change as proposed is moved upstream of our domestic spring location and 0.25 cfs or 112 gpm are being removed from the creek (especially in the summer months when irrigation typically occurs) that it will have a negative and injurious impact on both myself and the Millers domestic water supply, which is not in the local public interest.

I appreciate your review and consideration of my concerns and look forward to your response.

Sincerely,

Rebecca Johnson for

Dave Renberg

Enclosure

Cc: Jared M Holz and Jessica R Holz, 501 S Wickham Fen Way, Boise, ID 83709

ArcGIS Web Map - Little Canyon Creek

domestic water supply spring

12/5/2019 12:58:50 PM

POU - Water Rights

All Other POU (non-provider)

Irrigation Providers and Municipal Service Areas

POD - Water Rights

1:4,514

0 0.03 0.05 0.1 mi

0 0.04 0.08 0.16 km

Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Web AppBuilder for ArcGIS

Esri, HERE, iPC | USGS TNM – National Hydrography Dataset, Data Refreshed October, 2019. | Idaho Department of Water Resources | USDA FSA, DigitalGlobe, GeoEye | Esri, HERE, Garmin, iPC |

40826 Little Canyon Rd. property

PRIORITY®
★ MAIL ★

DATE OF DELIVERY SPECIFIED*

USPS TRACKING™ INCLUDED*

INSURANCE INCLUDED*

PICKUP AVAILABLE

* Domestic only

WHEN USED INTERNATIONALLY, A CUSTOMS DECLARATION LABEL MAY BE REQUIRED.

FROM:
Dave Renberg
40826 Little Canyon Rd.
Peck, ID 83545

TO:
Idaho Dept. Water Re
Northern Region
7600 N. Mineral Dr.
Coeur d'Alene, ID 83

UNITED STATES POSTAL SERVICE®
USPS TRACKING #
9114 9023 0722 4540 0090 22

LA8400R Aug. 2013
7690-17-000-0669

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x 9.5

VISIT US AT USPS.COM®
ORDER FREE SUPPLIES ONLINE

UNITED STA
POSTAL SER

This envelope is made from post-consumer waste. Please recycle - again.

Tracking Records

Tracking Number

9114902307224540009022

Carrier

USPS

Origin

LAPWAI ID, 83540

Destination

COEUR D ALENE ID, 83815

Status

Delivered

Tracking Details

Delivered, In/At Mailbox - Delivered

Thu Dec 12 2019 - COEUR D ALENE, ID

Out for Delivery - Out for delivery

Wed Dec 11 2019 - COEUR D ALENE, ID

Arrived at Post Office - In transit

Wed Dec 11 2019 - COEUR D ALENE, ID

Departed USPS Regional Facility - In transit

Wed Dec 11 2019 - SPOKANE WA DISTRIBUTION CENTER,

Arrived at USPS Regional Facility - In transit

Wed Dec 11 2019 - SPOKANE WA DISTRIBUTION CENTER,

Arrived at USPS Facility - In transit

Tue Dec 10 2019 - MCCALL, ID

Departed USPS Regional Facility - In transit

Tue Dec 10 2019 - BOISE ID DISTRIBUTION CENTER,

Arrived at USPS Regional Origin Facility - In transit

Tue Dec 10 2019 - BOISE ID DISTRIBUTION CENTER,

In Transit to Next Facility - In transit

Mon Dec 09 2019 -

Departed USPS Regional Facility - In transit

Sun Dec 08 2019 - SPRINGFIELD MA NETWORK DISTRIBUTION CENTER,

Arrived at USPS Regional Facility - In transit

Sun Dec 08 2019 - SPRINGFIELD MA NETWORK DISTRIBUTION CENTER,

Arrived at USPS Regional Facility - In transit

Fri Dec 06 2019 - SPOKANE WA DISTRIBUTION CENTER,

Departed Post Office - In transit

Fri Dec 06 2019 - LAPWAI, ID

USPS in possession of item - In transit

Fri Dec 06 2019 - LAPWAI, ID