



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

November 22, 2019

John Simpson
Barker Rosholt & Simpson LLP
1010 W Jefferson St, Suite 102
PO Box 2139
Boise, ID 83702

RE: Application for Permit 34-7511 (James Rindfleisch)

Dear John:

On November 18, 2019, you filed a protest against Application 34-7511 on behalf of Idaho Power Company. The protest was not filed in a timely manner and cannot be accepted. This letter is meant to provide a brief history of the application and explain why the protest is not timely.

James Rindfleisch filed Application 34-7511 on June 12, 1989. The application proposed diverting 2.14 cfs from ground water for the irrigation of 107 acres in the Big Lost River basin. The application, as originally filed, did not include a mitigation plan and was held unprocessed under the Big Lost River Moratorium and the Trust Water Moratorium.

On October 18, 2012, Rindfleisch filed Amended Application 34-7511, proposing to mitigate for the proposed ground water irrigation use by diverting existing Big Lost River rights for ground water recharge to offset the depletion caused by the proposed permit. The Department determined that the amended application and the associated mitigation plan constituted a significant change to the application and published notice of the amended application on November 1 and 8, 2012. Protests were due on or before November 19, 2012. A timely protest was filed by Gregory B. Hayward. Hayward withdrew his protest, without condition, on February 25, 2013. At this time, there are no active protests against Application 34-7511.

As part of Rindfleisch's mitigation plan, he needed to change the nature of use for his Big Lost River rights from irrigation to ground water recharge. Rindfleisch filed Application for Transfer 83703 on October 22, 2019, proposing to change the nature of use for water rights 34-13665, 34-14299 and 34-14301. The Department recently published notice of Application for Transfer 83703. Protests against Application 83703 were due on or before November 18, 2019.

You filed a Notice of Protest on November 18, 2019. The caption of your Notice of Protest states that it is directed to Application for Permit 34-7511. The enumerated issues are also directed to Application for Permit 34-7511 (sufficiency of mitigation, trust water concerns, Idaho Code § 42-203A). There is no reference in the protest to Application for Transfer 83703 or to the elements of review for transfer applications.

Pursuant to Rule 304 of the Department's Rules of Procedure, the Department may return late pleadings. Because the protest against Application 34-7511 was filed well after the protest deadline (November 19, 2012), I am hereby returning the protest. I have requested a refund of the \$25 filing fee (Receipt C107951). A refund check from the state of Idaho should arrive within the next two weeks. Please feel free to contact me if you would like to discuss the permit application, mitigation plan, or transfer application in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', written in a cursive style.

James Cefalo

Encl: Notice of Protest

Cc: James Rindfleisch
3258 N 3350 W
Moore, ID 83255