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BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 13-8042 IN THE
NAME OF WESTON CREEK
IRRIGATION COMPANY

NOTICE OF PROTEST FOR

**CLINTON ASTON,
PROTESTANT**

1. Protestant Clinton Aston, (hereinafter "Aston" or the "Protestant"), as landowner and water right holder in Basin 13 State of Idaho, and residing in Weston, Idaho, County of Franklin hereby files this protest before the Idaho Department of Water Resources in the above referenced application. Please send notices and correspondence regarding this protest to:

Clinton Aston
P.O. Box 35
Weston, Idaho 83286

2. Protestant resides in Franklin County and has public interest in the community. Protestant also owns water rights in the Bear River Basin 13, Franklin County, State of Idaho.

3. The Weston Creek Irrigation Company (the "Applicant") has filed an application to develop a water right for 4 cfs with a period of use from January 1st to December 31st to be used for a diversion to storage and irrigation storage and from April 1st to October 31st for irrigation storage for a total of 120 acre-feet. The priority date for this right is 2019.

4. The source of water for the application is water diverted from Weston Creek.
5. The application will result in an enlargement, and it is not in the local public interest to allow such an enlargement of a water right.
6. Furthermore, the pond (reservoir) referenced in the application was built without prior and proper permits from the Idaho Department of Water Resources. It is also unclear from the application whether they had stream alteration permit approval during time of construction.
7. It is suspected that Applicant even needs a permit for a water right application if it is truly a regulating reservoir. The application also states that the reservoir is to be used outside of the irrigation season for Weston Creek Irrigation Company. Water should only be released from Weston Reservoir's upstream storage during its irrigation season, from April 1st to October 31st.
8. Applicant also asserts, according to item number 10 on the application, that the service area for existing rights needs to be amended to reflect current service area. This assertion would result in an enlargement of the Applicant's water rights after the water rights were already established. Protestant protests increasing the irrigated acres under historical water rights and has evidence showing that, from the year 2009 to the year 2013, substantial irrigated acres were added to Applicant's service area. Protestant also is concerned that there was not a transfer or amendment to the Applicant's service area prior to the proposed application. Such a transfer or amendment to Weston Creek Irrigation Company's service area would not be in the public's best interest.
9. On item number 11b on the permit application, it is unclear if the owner of the lands to be irrigated actually owns shares in the Company.
10. Item number 12 on the permit application states that the pond will be used during the regular irrigation season (April 1st to October 31st) of the Weston Creek Irrigation Company, but

item number 5 on the permit application states that the diversion to storage and irrigation storage will be used outside of the irrigation season from January 1st to December 31st.

11. Item number 12 on the permit application also states that the ponds will be emptied and refilled up to three times a year, which is highly unlikely due to the priority call date of 2019 as stated on the application. This application is therefore speculative.

12. Application for permit may not meet the guidelines of the Bear River Compact.

13. Protestant reserves the right to add to these arguments and add additional bases or protest as thorough research is completed.

CONCLUSION

For the reasons set forth above, the Idaho Department of Water Resources should not approve the *Application for Permit* as proposed by the Weston Creek Irrigation Company. Instead, the Idaho Department of Water Resources should deny the proposed *Application for Permit*. Protestant is open to discussion of possible resolutions or possible amendments to the application to resolve Protestant's concerns.

DATED this 19th day of October, 2019.



Clinton Aston

Receipt: E045403

\$25

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of 10/21/2019, I served a copy of the following described pleading or document on the attorneys and/or individuals listed below by the method indicated below.

DOCUMENT SERVED: NOTICE OF PROTEST FOR CLINTON ASTON

ORIGINAL VIA EMAIL

AND FIRST-CLASS MAIL TO: James Cefalo
Idaho Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
James.Cefalo@idwr.idaho.gov

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Weston Creek Irrigation Company
Idaho Department of Water Resources
P.O. Box 1
Weston, Idaho 83286

☒ Regular Mail
☐ Hand Delivery
☐ Courthouse Box
☒ Email

Greg Bingham, President of Weston Creek
Irrigation Company
3753 S 3200 W
Weston, ID 83286
gonfarmn@gmail.com

☒ Regular Mail
☐ Hand Delivery
☐ Courthouse Box
☒ Email



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