



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 11, 2019

Peggy S. Love
1750 W 17th S
Idaho Falls, ID 83402

CarolAnn Torres
1778 W 17th S
Idaho Falls, ID 83402

RE: Application for Transfer 83602

Dear Parties:

This letter is intended to acknowledge the receipt of protest(s) against the above referenced application from the following:

CarolAnn Torres

A representative from the Department will contact you in the coming weeks to find availability dates for a pre-hearing conference. The parties are encouraged to discuss the protest(s) prior to the pre-hearing conference to see if the issues of protest can be resolved prior to the conference. The attached document summarizes the procedure used to address a contested application for transfer. Please feel free to contact our office if you have questions about the procedures described in this letter. Additional information about water rights and other Department matters is available on the Department's website: www.idwr.idaho.gov.

Sincerely,

Christina Henman
Administrative Assistant

Encl: Protest(s)

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing Water Rights?
2. Will the proposed transfer constitute an enlargement in use of the original right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. If the proposed transfer is for a municipal use, is it necessary to provide reasonably anticipated future needs for a municipal service area and is the planning horizon consistent with Sections 42-222 and 42-202B, Idaho Code?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, 7, 8, and 9 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 4, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the prehearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

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 Transfer 83602 in the name of Peggy Love
2. Name of protestant CarolAnn Torres
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 1778 W. 17th S. Idaho Falls, Idaho 83402
5. Service telephone no. (208) 346-1960 Email Address: gatorres75@gmail.com
6. Basis of protest (including statement of facts and law upon which the protest is based)

~~Peggy Love~~ under McDaniel Estates owns the land on which is the well. The well itself is under the ownership of CarolAnn Torres. I am perfectly willing to share the well with Ms Love, but she has not paid but \$20 (2x\$20) in the past 5 1/2 years, while I have paid 100% of the power usage for the well; I request that she pay \$20 per mo. (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Each paying \$20 on the power & no more bullying or threatening.

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 11th day of October, 20 19.

CarolAnn Torres
Protestant

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.
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FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Time _____
\$25.00 fee Received by CA # E045384 Date 10/11/19

RECEIVED

OCT 07 2019

Department of Water Resources
Eastern Region

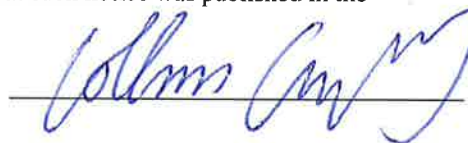
Proof of Publication

The Post Register

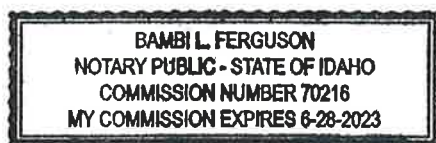
State of Idaho
County of Bonneville

I, ~~Dawn Giannini~~ or Collins Crapo, first being duly sworn, depose and say: That I am the ~~Classified Manager~~, or Processing Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post Register, a newspaper of general circulation, published Tuesday through Sunday at Idaho Falls, Idaho; said Post Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880, and the Idaho Falls Post, established in 1903, such consolidation being made on the First day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than twelve consecutive months and said Post Register having been published continuously and uninterruptedly from the date of such consolidations up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register under ad number: **168522** for 2 consecutive (days) weeks, between **09/26/2019** and **10/03/2019**, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.



Subscribed and sworn to before me, this 3rd day of October 2019




Notary Public

My commission expires: 06/28/2023

_____ attached jurat _____

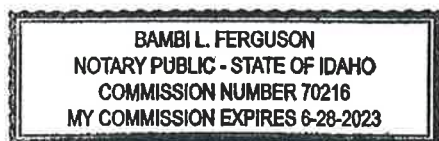
STATE OF IDAHO

ss.

COUNTY OF BONNEVILLE

Subscribed and sworn to before me, this 3rd day of October 2019, before me, the undersigned, a Notary public for said state, personally appeared ~~Dawn Giannini~~ or Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for The Post Company

Residing: Idaho Falls, Idaho

Commission expires: 06/28/2023

**NOTICE OF PROPOSED CHANGE OF WATER
RIGHT**

TRANSFER NO. 83602

PEGGY LOVE, 1750 W 17TH S, IDAHO FALLS, ID 83402; has filed Application No. 83602 for changes to the following water rights within BONNEVILLE County(s): Right No(s). 35-13236; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion. The point of diversion will be in SESE Sec 23 T2N R37E for 0.04 cfs from ground water. The place of use remains the same.

TRANSFER NO. 83556

W T WILLIAMS INC, 3094 N 3200 E, TWIN FALLS, ID 83301; has filed Application No. 83556 for changes to the following water rights within BUTTE County(s): Right No(s). 33-10986, 33-2041, 33-2069, 33-4000, 33-4001, 33-4002; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: add points of diversion and change place of use. The points of diversion will be in NWSENE and NWNWSE Sec 23, NWNWNW Sec 16, SENE, SWSENE and SESENE Sec 21, SWSWSE Sec 8, NENENE and NWNWNE Sec 25, T6N R29E for 11.08 cfs from ground water. The place of use is within Sec 14, 15, 23, and 25, T6N R29E for 554 acres within a 629-acre permissible place of use.

For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 10/15/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published: 9/26, 10/3, 2019(168522-42771)