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

October 8, 2019

LATAH COUNTY
PO BOX 8068
MOSCOW, ID 83843

RE: Application for Permit No. 87-11602

Dear Protestant(s):

This office acknowledges receipt of your protest to the issuance of Permit No. 87-11602. As part of the application process, the following options are available for the resolution of contested (protested) application:

-Direct contact with the applicants to determine the nature of the protest and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve the protest.

-Formal proceedings administered by the Department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.

-Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached.

Please consider with the applicant the best option(s) for resolution of the contested application and forward your choice to the Department's regional manager. If no response is received within a few weeks, you may be notified that a pre-hearing conference will be scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Douglas Jones, P.E.
Northern Regional Manager

Enclosure(s)
Pre-Hearing Conference Procedures

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

ISSUES

Applications to appropriate the water of the State of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use 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 have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use 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?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, 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 this issue.

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 pre-hearing 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
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

October 8, 2019

MICHELLE G REYNOLDS
WILLIAM M REYNOLDS
3455 HIGHWAY 95
MOSCOW, ID 83843

RE: Application for Permit No(s). 87-11602

Dear Applicants:

Enclosed is a copy of a protest filed against the issuance of Permit No. 87-11602. As part of the application process, the following options are available for the resolution of contested (protested) applications:

-Direct contact with the protestant(s) to determine the nature of the protest(s) and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve the protest.

-Formal proceedings administered by the department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.

-Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached.

Please consider with the protestant the best option(s) for resolution of the contested application and forward your choice to the Department's regional manager. If no response is received within a few weeks, you may be notified that a pre-hearing protest conference will be scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Douglas Jones, P.E.
Northern Regional Manager

Enclosure(s)
Pre-Hearing Conference Procedures
Copy of Protest

RECEIVED
SEP 26 2019
IDWR / NORTH

Latah County
BOARD OF COUNTY COMMISSIONERS

P.O. Box 8068 ♦ 522 South Adams ♦ Moscow, Idaho 83843
(208) 883-7208 ♦ fax (208) 883-2280 ♦ e-mail bocc@latah.id.us
Thomas C. Lamar ♦ ***David McGraw*** ♦ ***Kathie LaFortune***

September 20, 2019

Director Gary Spackman
Department of Water Resources, Northern Region
7600 Mineral Drive, Suite 100
Coeur D' Alene, ID 83815-7763

Director Spackman,

As per Idaho Code Section 42-203A, the Latah County Board of Commissioners, 522 S. Adams, Moscow, Idaho, 83843 is officially protesting the application for a water right - permit #87-11602 for William and/or Michelle Reynolds, 3455 Highway 95, Moscow ID 83843. We have enclosed our $25.00 fee.

Latah County is concerned by the amount of water requested for this proposal and the effects that it may have on nearby existing uses. Further, the Board has concerns that this use may reduce the quantity of water under existing water rights, that it may conflict with the local public interest as defined in section 42-202B, Idaho Code, and that this use may be contrary to conservation of water resources within the state of Idaho.

The potential exists, with the limited groundwater supplies in the County that this amount of water use could pull water from existing supplies for other established wells in the area and might limit or eliminate the source of water for these wells.

The Board believes it has an obligation to protest all such large water right requests within its borders. We appreciate the ability to comment and look forward to better understanding this application. Thank you.

Sincerely,

Thomas C. Lamar
Chair

David McGraw
Commissioner

Encl.

Cc: William and/or Michelle Reynolds

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 26 2019
IDWR / NORTH

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 Application for Permit by William and/or Michelle Reynolds ((87-11602)
2. Name of protestant Latah County
3. Protestant's Representative for service (If different than protestant)
4. Service mailing address PO Box 8068, Moscow ID 83843
5. Service telephone no. 208-883-7208 Email Address: bocc@latah.id.us
6. Basis of protest (including statement of facts and law upon which the protest is based)

   please see attached

   (additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? please see attached

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 20th day of September, 2019.

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.

FOR DEPARTMENT USE ONLY

Received by Ja Date 9-26-19 Time 2:12 pm

$25.00 fee Receipted by Ja # N035650 Date 9-26-19

5. Basis of Protest:

Since at least 2005 Latah County has made it a standard practice to review water right applications within its borders to protect this precious resource and to ensure neighboring properties are protected from new water rights/uses. Because the Department of Water Resources does not evaluate the source of water, neighboring uses, or impact of the new right when reviewing a permit application, it is incumbent on Latah County to file protests to engage in discussions with the applicant regarding these areas.

The Latah County Comprehensive Plan sets goals of promoting the perpetual viability of adequate water resources in Latah County to meet present and future needs and to ensure water is used in a way that protects and enhances the public health and safety. The Comprehensive Plan policies require the County maintain sustainable groundwater resources and prevent degradation of groundwater quality; encourage water conservation, shared water systems, use of water conserving technologies and use of water resources as efficiently as reasonably possible; encourage evidence based approaches to and scientific research of water resource issues; require that land uses are consistent with any applicable water resources plan, such as the Palouse Basin Aquifer Ground Water Management Plan; and discourage use of groundwater for irrigation consistent with the philosophy of Idaho Code 67-6537.

The amount of water applied for in this water right would not meet these goals and policies and would exceed an amount of groundwater that would be appropriate for growing crops in Latah County.

6. What would resolve your protest?

We do not have enough information at this time to allow us to resolve our protest. We would like to meet with the property owner to discuss the use, methods, possibilities, potential impacts, and to gather more information prior to formulating any potential solution to our concerns.

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

ISSUES

Applications to appropriate the water of the State of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use 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 have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use 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?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, 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 this issue.

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 pre-hearing 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.