

**RESPONSE TO DOUBLE ANCHOR RANCHES' AND KELLY
RIGGS' PROTESTS AGAINST CASA DEL NORTE, L.P.
WATER RIGHT APPLICATION FOR TRANSFER NO. 80342**

Prepared for

CASA DEL NORTE, L.P.

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July 22, 2019



**SPF WATER
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**Applicant's
Exhibit**

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1. OVERVIEW

Casa Del Norte, L.P. (CDN) filed Application for Transfer No. 80342 (the "Application") seeking to construct one additional point of diversion for water right numbers 61-2095A, 61-2199A, 61-2209A, and 61-11887A. These water rights currently authorize two points of diversion.

Transfer No. 80342 was initially filed August 7, 2015. This Application was subsequently protested by Double Anchor Ranches, Inc. (DAR). The Application proposed adding an additional point of diversion located at T04S R09E Section 10 SWNW.

An amended Application was filed December 20, 2018, with the amendment changing the location of the additional point of diversion from Section 10 SWNW to Section 10 NWNW. The amended Application was protested by Kelly Riggs (Riggs).

CDN engaged Riverside Inc. to construct a well at the location identified by the amended transfer (Section 10 NWNW). This well was completed October 17, 2018.

This report evaluates the Application's compliance with the requirements for approval set forth in Idaho Code § 42-222. The Application should be approved if:

- (a) no other water rights are injured thereby,
- (b) the change does not constitute an enlargement in use of the original rights,
- (c) the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code,
- (d) the change will not adversely affect the local economy of the water-shed 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, and
- (e) the new use is a beneficial use.

As discussed below, the Application meets these requirements.

2. THE TRANSFER WILL NOT REDUCE THE QUANTITY OF WATER UNDER EXISTING RIGHTS

2.1. Injury to Other Rights

The protest filed by DAR contends

- "...the transfer application proposes a point of diversion for groundwater within an area and water bearing zone that may be connected and contribute to the source(s)

from with Protestant diverts water pursuant to valid water right(s). Thus, the proposed new point of diversion may injure Protestant."

- "The transfer application also references the fact that the place of use under this proposed transfer is to be the place of use proposed in unpublished transfer application nos. 79528 and 79945 – in other words, it presumes approval of the proposed place of use under those unpublished transfers. As those unpublished transfers may injure Protestant, or otherwise not comply with the requirements of I.C. §42-222, Protestant must protest this transfer application on the grounds that the proposed change in place of use may result in injury to Protestant"

The protest filed by Riggs states "I am concerned that this transfer will injure my water rights and/or impact the water supply. #61-341, 63-342, 63-10299 & 61-10300."

2.2. Preventing Injury to DAR Rights

Water rights owned by DAR within the vicinity of CDN's Application rights have sources including Cold Springs Creek and springs. Injury to DAR's water rights can only occur if (1) the new point of diversion from groundwater has a direct hydraulic connection with, and reduces flows of, DAR's surface water sources of springs and Cold Springs Creek, and (2) if any flow reduction is greater than the historical reduction caused by pumping under the transferred CDN rights.

The Well Driller's Report submitted by Riverside Inc. describes a 24-inch diameter borehole from 0 to 659 feet, and an unidentified diameter borehole from 659 to 740 feet. Sixteen-inch casing was installed from +2 to 390 feet with alternating segments of screen and casing from 390 to 680 feet. A bentonite chip seal was placed from 0 to 351 feet, and from 585 to 613 feet. The Report identifies water encountered at 82 to 258 feet. This water-bearing zone was not tapped and is protected from impact by the bentonite chip seal. This Well Driller's Report is attached.

The bentonite chip seal from 0 to 351 feet documented in the Well Driller's Report describes construction that purposely excluded the potential for hydraulic connection with surface water sources including sources authorized by DAR's water rights. The transfer is unlikely to impact flows in springs or Cold Springs Creek, and thus injury to Cold Springs Creek rights is not expected.

DAR's protest contends that this Application presumes approval of unpublished transfer applications that propose changes in the place of use. This Application does not presume approval of applications 79528 and 79945. These pending transfer applications are separate and are expected to be evaluated on their own merits.

2.3. Preventing Injury to Riggs' Rights

Water rights listed in Riggs protest have sources including Cold Springs Creek (61-341, 63-342, 63-10299) and ground water (61-10300). As described above, the well installed by Riverside Inc. in 2018 with an extensive surface seal from 0 to 351 feet is constructed

to prevent a connection with and impact to surface water sources including Cold Springs Creek. The transfer is unlikely to directly impact flows in Cold Springs Creek, and thus injury to Cold Springs Creek rights is not expected.

Riggs' water right 61-10300 describes a ground water point of diversion in 4S 9E 28 SENESW. A search of IDWR's Well Construction database did not identify a Well Driller's Report for any wells located in Section 28. The Riggs well is approximately 3.6 and 3.7 miles from the two points of diversion currently authorized by CDN rights included in the Application. A new well within Section 10 NWNW could be at the nearest approximately 3.5 miles from the Riggs well. This minor increase in proximity to the Riggs well is highly unlikely to yield a measurable change in water levels at the Riggs well compared to existing and historic conditions.

3. THE TRANSFER WILL NOT RESULT IN ENLARGEMENT OF WATER RIGHTS 61-2095A, 61-2199A, 61-2209A, OR 61-11887A

The protest filed by DAR states "Protestant is concerned that the proposed transfer may not comply with the requirements of I.C. §42-222 in that Protestant may be injured thereby, or that the change may constitute an enlargement in the use of water rights." The Application proposes an additional point of diversion. Productivity of the existing two wells has declined over time. Adding a third point of diversion will help to restore diversion capacity authorized by CDN's water rights. The diversion will be equipped with a lockable controlling works and an authorized flowmeter as required by Water District 161 and expected by be required by conditions of Application approval. Enlargement by diverting in excess of authorized water rights is not anticipated and will be controllable if the condition exists. The Application proposes no changes to the place of use, type of use, or season of use that could result in an enlargement.

4. THE TRANSFER IS CONSISTENT WITH THE CONSERVATION OF WATER RESOURCES WITHIN THE STATE OF IDAHO

Center-pivot sprinkling is the primary method of irrigation application utilized by CDN on the farm supplied by water rights under this Application. Utilization of center-pivot sprinkling for irrigation application is consistent with the conservation of water resources within Idaho.

5. THE TRANSFER IS IN THE LOCAL PUBLIC INTEREST

The application will allow CDN to continue irrigation and farming as authorized by the existing water rights. Farming is a practice that benefits and is consistent with the local public interest.

6. THE TRANSFER WILL NOT ADVERSELY AFFECT THE LOCAL ECONOMY

The Application will benefit the local economy. Additional water provided by construction of an additional point of diversion will result in greater crop yield and improve CDA's economic output.

7. THE NEW USE IS A BENEFICIAL USE

The water rights affected by the Application authorize irrigation of 800.9 acres. Irrigation is a beneficial use in Idaho. The Application does not change the beneficial use.