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JUN 27 2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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JUN 22 2018

DEPARTMENT OF
WATER RESOURCES

NOTICE OF PROTEST

IDWR / NORTH

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 96-9701 in the name of Jim Schaper and Marlane Schaper

2. Name of protestant Idaho Water Resource Board

3. Protestant's Representative for service (If different than protestant)

4. Service mailing address PO BOX 83720 Boise, ID 83720-0098

5. Service telephone no. 208.287.4800 Email Address: Cynthia.Clark@idwr.idaho.gov

6. Basis of protest (including statement of facts and law upon which the protest is based)

The Idaho Water Resource Board holds a minimum stream flow water right on the Pend Oreille River (water right nos. 96-8730). This application poses possible impacts to the Board's minimum streamflow water right.

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

7. What would resolve your protest? Withdraw water right application.

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 22 day of June, 2018.

IDAHO WATER RESOURCE BOARD
Protestant

CYNTHIA BRIDGE CLARK
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 AW Date 6/22/18 Time 11:20
\$25.00 fee Received by N/A # _____ Date _____

No fee required as per Idaho code

MEMORANDUM

TO: Water Rights Section
FROM: John Homan 
DATE: May 13, 2015
RE: Exemption from Fees – Idaho Water Resource Board

Idaho Code Section 42-1734 (6) provides that the Idaho Water Resource Board ("Board") filings and appropriations of water or water rights owned or claimed by the board shall be made in the same manner and subject to all the state laws relating to appropriation of water. The section goes on to create an exception for the Board from paying fees for its appropriations.

There are several methods of calculating fees based on quantity of water under Idaho Code Section 42-221 (A). The initial filing fee to appropriation water described under Idaho Code Section 42-221 (A) appears to fall squarely within the exemption set out in Idaho Code Section 42-1734 (6). In addition to the exemption from the initial filing fee to appropriations water by the Board, Idaho Code Section 42-1734 (6) also includes the language that exempts the Board from paying fees associated with "any water rights owned or claimed by the board". Given the expansive language of Idaho Code Section 42-1734 (6), the Board is exempt from all fees pertaining to the appropriation of water.

Although the Board may be exempt from paying fees associated with its filings and ownership of water rights, the Board should be required to pay protest fees or other fees not related to its own water rights.