

WILLIAM D. COLLINS
Idaho State Bar No. 1054
WESTBERG & COLLINS, CTD.
ATTORNEYS AT LAW
1520 W. WASHINGTON STREET
P.O. BOX 2836
BOISE, ID 83701-2836
TELEPHONE: (208) 336-5200
FACSIMILE: (208) 336-2121
EMAIL: BCOLLINS@WMCLEGAL.COM

ATTORNEYS FOR PROTESTANTS

RECEIVED
NOV 21 2017
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF THE APPLICATION	)	
FOR PERMIT NO. 65-23703 IN THE NAME	)	DOBSON'S AMENDED PROTEST
OF BOGUS BASIN RECREATIONAL	)	IN OPPOSITION TO APPLICATION
ASSOCIATION, INC.	)	NO. 65-23703
_____	)	

COMES NOW, the Protestant, Dobson Livestock, LLC, an Idaho limited liability company, as the owner of Water Right Nos. 65-12737, 65-7369 and 65-4015X, and hereby protests the Application of Bogus Basin Recreational Association, Inc., for a permit to appropriate the public waters of the State of Idaho, Application No. 65-23703.

1. The Protestant asserts that the Application, if approved, will reduce the quantity of water under or available for the Protestants' Water Right Nos. 65-12737, 65-7369 and 65-4015X. There is presently insufficient water at the Protestant's points of diversion throughout the period of their use to fulfill their rights and, as a consequence, if water is diverted under the Application, it will further diminish the water available to fulfill the Protestant's Water Rights.

2. The Protestant further asserts that the water supply itself is insufficient for the purposes for which it is sought to be appropriated.

3. The Protestant further asserts the Application is speculative until such time as the Applicant has done further studies on its ability to actually construct the dams or dam it proposes to use for the storage of the water sought.

4. The Protestant further asserts that diversion of water under the Application will adversely affect the local economy of the lower portion of the Schaefer Creek Watershed. Bogus Creek is a tributary to Schaefer Creek. The Protestant asserts that if the water is used as the Applicant proposes that it will substantially reduce the fair market value of the Protestant's land along Schaefer Creek. The Protestant uses its Water Rights for the irrigation of approximately 70 acres and for domestic stock water purposes year round. The Protestant's land is by and large useful only for dry grazing except for the 70 acres of land the Protestants irrigate. If there is no water to irrigate that land or no water for the Protestant's livestock, it substantially reduces the purposes for which the land may be used and thereby substantially reduces the land's value and the economy of the lower portion of the Schaefer Creek drainage.

GENERAL COMMENTS

The Protestant and their counsel have met with representatives of the Applicant and its counsel on two occasions to discuss what is proposed by this Application. However, with the information provided to date by the Applicant, the Protestant is not satisfied with the Applicant's assessment of the technical factors to:

- (a) accomplish the construction of a single or several reservoirs;
- (b) conclude that the evaporative losses occasioned with the making of snow are minimal;
- (c) conclude that snow making will actually increase the amount of water at the Protestant's points of diversions during the period of their use; and
- (d) conclude that it needs this additional water for snow making when the Applicant has available two Water Rights for snow making out of Bogus

Creek, 65-13381 for 4.6-acre feet and 65-13382 for 32-acre feet with the limitation that those two Water Rights coupled with a Groundwater Right, No. 65-13466 for 8.6-acre feet cannot exceed a total of 32-acre feet per annum. Therefore, the Applicant already had the right to use up to 32-acre feet per annum out of Bogus Creek for the making of snow. This is roughly enough water to cover the area to be used for snow making by six inches.

The Protestant requests that the Department deny the Applicant the permit it seeks.

The mailing address of the Protestant is Dobson Livestock, LLC, c/o Stephen F. Dobson, P.O. Box 125, Horseshoe Bend, Idaho 83729, phone number (208) 793-2694. The Department is requested to serve documents on both the Protestant and its counsel. Counsel's mailing address and its phone number are as listed on the top of the first page.

DATED this 21st day of November, 2017.

 For

William D. Collins
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2017, a true and correct copy of the foregoing document was served by first-class mail, postage prepaid, on the following parties, as indicated below:

Christopher M. Bromley
McHugh Bromley, PLLC
380 S. 4th Street, Suite 103
Boise, ID 83702

Attorney for Bogus Basin Recreational Association, Inc.

A handwritten signature in black ink, appearing to read 'W.D. Collins', followed by the word 'FOR' in capital letters. The signature is written over a horizontal line.

William D. Collins

WESTBERG & COLLINS, CTD.

ATTORNEYS AT LAW
1520 W. WASHINGTON STREET
P.O. BOX 2836
BOISE, ID 83701-2836

WILLIAM D. COLLINS
CHRISTIAN D. COLLINS

TELEPHONE
(208) 336-5200
FAX
(208) 336-2121

November 21, 2017

Of Counsel:
PAUL L. WESTBERG

VIA HAND DELIVERY

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

RECEIVED
NOV 21 2017
WATER RESOURCES
WESTERN REGION

Re: Protest to Application 65-23703

Dear Sir or Madam:

I am enclosing with this letter Dobson's Amended Protest in Opposition to Application No. 65-23703. The Protest was amended to correct a typographical error in the name of the Protestant.

Very truly yours,

WESTBERG & COLLINS, CTD.



Jessica Kline, Paralegal

WDC/jk
Enclosure
cc: Stephen F. Dobson
Christopher M. Bromley