

STATE OF IDAHO DEPARTMENT OF
WATER RESOURCES

NOTICE OF PROTEST

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WATER RESOURCES
WESTERN REGION

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 No. 63-34335 in the name of Thorpe Family Trust
2. Name of protestant: City of Boise
3. Protestant's Representative for service (If different than protestant)
Erika Malmen of Perkins Coie LLP
4. Service mailing address: 1111 West Jefferson Street, Suite 500, Boise, Idaho 83702
5. Service telephone no. (208) 343-3434 Email Address: emalmen@perkinscoie.com
6. Basis of protest (including statement of facts and law upon which the protest is based)

The proposed water right application includes irrigation and flooding uses, 1.3 cfs (65 acres), however, the type of crop is not indicated. Use of the water right for irrigation and flooding purposes potentially provides water quality improvements, however, the use does not specify these improvements.

Seepage from the 65 acre pond (4.72 cfs average loss) could have a significant impact on the City's water right and other downstream users.

Computation for losses provided by the applicant, including the first fill of the 65 acre shallow pond, 32.5 acre feet (approximately 2 days of fill flow at 9.75 cfs), continuous seepage of 1756.8 acre feet (average 4.92 cfs for 180 days), evaporation from the 65 acre shallow pond, 27.5 acre feet (approximately 0.08 cfs for 180 days), results in a reduction to the Dixie Drain system and could significantly impact downstream users, including the City.

In sum, there are questions about whether the Application complies with applicable state law, Department regulations and policy, including but not limited to whether (1) the source includes the wastewater of others; (2) the proposed diversion will reduce the quantity of water under existing water rights; (3) the water supply is sufficient; (4) the application is made in good faith or for speculative purposes; (5) the proposed diversion will conflict with the local public interest; (6) the proposed diversion is contrary to the conservation of water resources within the state of Idaho; (7) the proposed diversion will adversely affect the local economy; (8) the type and size of diversion devices, method of diversion, conveyance system and system for distributing and using the water is adequately described; (9) there are existing water rights that could be transferred to accomplish the proposed use; (10) water will be consumptively used and the amount; (11) an efficiency standard for water quality improvement purposes or other uses will apply; (12) there will be impacts to on site and/or neighboring groundwater quantity or quality; (13) the rate of diversion of groundwater; (14) the

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allocation of quantity among the various beneficial uses; (15) there are or should be corresponding total volume limitations on surface and groundwater; (16) there will be period of time required for completion of the facility works (17) the property/location is suitable for the proposed project/facilities; (18) the proposed beneficial use for wildlife is supported/substantiated (19) the requested amount is excessive; and (20) whether a duty of water will apply to such a use.

Protestant reserves the right to identify additional questions/concerns as further information becomes available.

7. What would resolve your protest?

Information about the proposed project/facilities and diversion that conclusively establishes no impacts to the City of Boise's project or interests and appropriate conditions to address the City's concerns.

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 5th day of June, 2017.

City of Boise
Protestant


Protestant's Representative