

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

✓ **RECEIVED**
AUG 03 2016
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.** Proposed Application for Transfer No. 81039. Specifically, the proposed relocation of Points of Diversion from their original site approximately .25 miles north and east of my property line to a spring site within my legally deeded, titled and taxed property boundaries and on which we have applied for water rights permit on July 7, 2016, evidenced and acknowledged by deposit of our check #2798 by IDWR.
2. **Name of protestant.** James L. & Sandra J. Henley, referred to herein as a single party.
3. **Protestant's Representative for Service.** None specified at this time. Legal representation will be provided by our family attorney, if required for final resolution.
4. **Service mailing address.** P.O. Box 396, New Meadows, Idaho, 83654.
5. **Service telephone no.** 208-347-3191 **Email Address:** sjhenley8@gmail.com
6. **Basis of protest including statement(s) of fact:**

Prior to purchase of my legally deeded property in 1998, Due Diligence research was performed by myself, with our family attorney, Mr. David Leroy of Boise, Idaho advising. Separate, subsequent conferences with he and Mr. Hobart Alter of HPG Enterprises, developer and owner of the property and myself revealed no existent nor pending water rights issues associated with this property; two platted **waterline easements and one irrigation (ditch) easement** did exist but were acceptable to me in terms of purchase. All research indicated that no rights of record were held on the numerous springs on our property, an important issue to us and a fact which was affirmed by your IDWR representative, Dannie Merriman earlier this month.

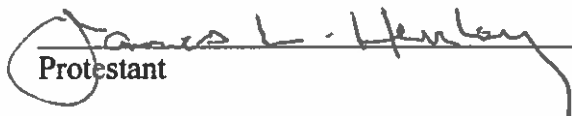
The easements, recognized by the county but not issued by them, provide access, but do not provide rights to the springs themselves, which are held under the IDWR authority. The two waterline easements are, if fact, depicted in one of the engineering/topographical drawing under the heading of TH-12 as "(Not used)". The statement in the Wallace filing #81309, sec. 6, subsec. b, is a misrepresentation of fact, citing "**County Easement for both springs**"; no such easement exists in writing and the county is not the issuing agency for easements in any case. Both springs fall solely within IDWR authority not the county.

Appropriate rights applications have been duly filed with the IDWR for these springs by the legal owners of the spring sited properties (myself and Ed Kalinowski) and are awaiting IDWR determinations.

7. **What would resolve your protest?** I certainly have no objection to the legal and appropriate transfer of Leonard Wallace's rights to his family members. I do however, vehemently object to **their attempt to relocate the PODs to my property** as a part of this transfer of a decades old water right (78-10067). We purchased this property unencumbered in 1998, are the legal deeded and titled owners and have paid substantial property taxes since our purchase. The only satisfactory resolution would be the abandonment of the **POD Relocation** portion of this Transfer Application by the Wallace family recognizing that we have filed for rights on these springs. Failing to do so will result in our utilization of legal resources to protect our rights as the legal owners of this property and it's resources.

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 _____ day _____, 2016


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.
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FOR DEPARTMENT USE ONLY

Received by AS Date 8/3/16 Time 11:10
\$25.00 fee Receipted by AS # W044478 Date 8/3/16

