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MAR 21 2016

DEPARTMENT OF  
WATER RESOURCES

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**NOTICE OF PROTEST**

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 Water Right Transfer Nos. 80644-80592
2. Name of protestant Mary E. Sloan
3. Protestant's Representative for service (If different than protestant)  
\_\_\_\_\_
4. Service mailing address 1063 Lemhi Road, Salmon Idaho 83467
5. Service telephone no. 208-756-1279 Email Address: milolandbuster@centurylink.net
6. Basis of protest (including statement of facts and law upon which the protest is based)  
Transferring water to point of diversion may not be feasible.  
May entail an inactive water right  
See attached.  
\_\_\_\_\_  
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest?  
See attached.

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 17 day of March, 2016.

Mary E Sloan

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.

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**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 \_\_\_\_\_ Date 3-21-16 Time 3:50  
\$25.00 fee Receipted by \_\_\_\_\_ # C101704 Date 3-21-16

These water transfers are part of a state fish restoration project that will reconnect Pratt Creek to Sandy Creek. In part, the project proposes to construct a new creek channel on lower Pratt Creek. Apparently, the site of the new channel has not been determined so it is impossible for us to know how far the water will need to travel or the topographical features the water will traverse before it can reach the new point of diversion. Whatever the new location of lower Pratt Creek, it is not reasonable to expect that, even in the best of conditions, all of water will reach Sandy Creek and replenish it.

Pratt Creek is routinely dewatered by water diversions on the upper Pratt Creek and there is no stable, committed source of water to carry the transferred water to the new point of diversion. It is very likely that all of the Pratt Creek transfer will be absorbed into the new creek bed or evaporated in the summer heat before it reaches the new point of diversion. My continuing concern regarding this fish restoration project is that it lacks integrity.

In addition to my feasibility concerns relating to these water transfers, I believe the Idaho Department of Water Resources is administering a water master program in Lemhi County that is rife with cronyism. IDWR is not providing fair and independent investigations of complaints. Our state is allowing individuals with direct conflict of interest to investigate complaints or the water masters are involved in the violation themselves and investigating their own water violations. Or they are investigating and taking action on a complaint for which they have no authority. Complaints made directly to IDWR employees hundreds of miles away can be summarily dismissed without impartial investigation because a Lemhi County friend of the IDWR employee plied them with disinformation. As a result, the property rights of private land owners are systemically being violated. I believe the ongoing conflict over flooding, safety hazards, pollution and destruction of property by the misuse of Pratt Creek is a direct outcome of IDWR's long-failed water regulation policy on Pratt Creek.

After witnessing and experiencing the consequences of this policy on North Baker for a number of years now, it is very difficult for me to believe the State of Idaho will now require Pratt Creek water users to follow our state's water laws and supply the amount of water needed for this transfer to the new diversion point. I do not believe it is likely that Assistant Water Master Phil Moulton will willingly deliver the transferred water or that the Mulkey Ranch will demand the water. After seeing the State of Idaho allow Bruce Mulkey vote \$500,000 of public funding at two Salmon Basin Advisory Committee meetings that will finance this rehabilitation project that significantly benefits his own ranch, I do not have any reason to believe the State of Idaho will now act in good faith and require the Mulkey Ranch to adhere to our state's water laws or this project's contract. What I think will most likely happen if these transfers are approved is that all the water to run the new publicly-financed irrigation system will be pumped out of Sandy Creek without any contribution from Pratt Creek. If IDWR holds true to its current agenda in North Baker, nothing will be done to protect the Hartvigson Ranch water right or the public's natural and financial resources. I am afraid that Sandy Creek fish habitat will be destroyed as on Pratt Creek. That is why I do not support these water transfers.

Below are some actions that could help to resolve my protest.

1. Applicant must tangibly demonstrate the feasibility of transferring the water to the new point of diversion.
2. An undetermined amount of Pratt Creek water will have to be committed to convey the transferred water to the new point of diversion.
3. Applicant must be able to demonstrate that the water rights for these transfers have been active within the last five years.
4. Applicant must contractually agree that all of transferred Pratt Creek water will be made available at the new point of diversion prior to diverting water out of Sandy Creek.
5. A measuring device installed where it is accessible to the public near the Lemhi County Backroad that will accurately measure the amount of water in Pratt Creek.
6. A measuring device installed near the new point of diversion to accurately measure the amount of water reaching the point of diversion.

7. A comprehensive monitoring/inspection plan must be developed and implemented that will ensure the Mulkey Ranch is not using Sandy Creek water without replenishing it with their transferred water right.
8. The Idaho Department of Water Resources will need to uphold our state's water laws on both Pratt Creek and Sandy Creek and provide fair and impartial investigation of any complaints of water misuse and take action to correct any violations.

The impact of these transfers being approved without mitigation include but are not limited to the following:

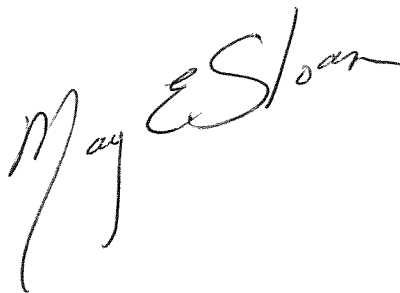
1. Degradation of already existing fish habitat in Sandy Creek.
2. Hundreds of thousands of dollars of public funding will be used to finance a fish restoration project on a dry creek bed.
3. Hartvigson Ranch loss of their water right without due process.
4. Possible litigation due to any destructive impact of these transfers.

I hereby certify that on March 17, 2016, I served copies of this Notice of Protest by US mail to the following:

Gary Spackman, Director  
Idaho Department of Water Resources  
P.O. Box 83720  
322 E Front Street  
Boise, ID 83720-0098

Garrick Baxter  
Idaho Department of Water Resources  
322 E Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

Brent Mulkey  
1008 Highway 28  
Salmon, Idaho 83467-5303

A handwritten signature in black ink, appearing to read "May E Sloan". The signature is written in a cursive, flowing style.