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JUN 13 2014

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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.

- TRANSFER
1. Matter being protested TRANSFER OF WATER RIGHT 34-2055 #79330
 2. Name of protestant BIG BEND IRRIGATION & MINING CO., LTD
 3. Protestant's Representative for service (If different than protestant)
ALMER HUNTLEY, JR., PRESIDENT
 4. Service mailing address 27215 900E HAGERMAN, ID 83332
 5. Service telephone no. 208-421-1287 Email Address: PLSPE@HOTMAIL.COM
 6. Basis of protest (including statement of facts and law upon which the protest is based)

SEE ATTACHED STATEMENT

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

7. What would resolve your protest? DONOT ALLOW THIS TRANSFER

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 19th day of JUNE, 2014.

BIG BEND IRRIGATION & MINING CO., LTD
Protestant

Almer Huntley Jr., President
Protestant's Representative
ALMER HUNTLEY, JR., PRESIDENT

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 DM Date 6-13-2014 Time 10:00 AM
\$25.00 fee Received by DM # S034074 Date 6-13-2014

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DEPT. OF WATER RESOURCES
SOUTHERN REGION

BIG BEND IRRIGATION & MINING CO., LTD

PO BOX 334 HAGERMAN, ID 83332

June 12, 2014

Big Bend Objection to Transfer of Water Right Place of Use Transfer File # 79330

Bend Irrigation and Mining Co., Ltd, hereby registers their objection to the Transfer of the Place of Use for 10 cfs of Water Right Number 36-2055 owned by the Idaho Fish and Game Department and used at Hagerman State Fish Hatchery, to the Rangen, Inc. location and/or Billingsley Creek to satisfy in part the Director of Idaho Department of Water Resources' ***Final Order regarding Rangen, Inc.'s Petition For Delivery Call; Curtailing Ground Water Rights June to July 13, 1962 (Curtailment Order)***.

Source of the proposed 10 cfs to be transferred is from the lower spring or pool of the Upper Tucker Spring. This proposal would, by an intake works and pumping facility and 1.7 mile pipe line, transfer the 10 cfs from the Tucker Spring to the Rangen, Inc. facility and/or Billingsley Creek. Upper Tucker Spring is in the Riley Creek Drainage and Rangen's is in the Billingsley Creek Drainage.

Big Bend's objection is based on the following:

1. To Big Bend's best knowledge and belief, before settlement in the Hagerman Valley, both the Upper Tucker Spring and the lower spring both emerged from the canyon wall, merged and flowed to the west, joining Riley Creek, which then flowed to the Snake River. It appears that the upper spring is at a higher elevation and directly over the lower spring. At some point in the late 1800's or early 1900's, a dike-like structure was constructed that separated the upper spring from the lower spring. By this structure, the upper spring was diverted to run northerly and became the Big Bend Ditch. The lower spring continued to flow to the west and was probably used on the farm that later became, in about 1946, the Idaho Fish and Game property and the Hagerman State Fish Hatchery (HSFH).

Big Bend Irrigation and Mining Co., was incorporated in the State of Idaho in 1904.

In 1909, a third party applied to the Big Bend to do some sort of alteration to the dike-like structure separating the upper and lower spring. The result was evidently catastrophic, as the upper spring water joined the lower spring water and ran to west. No water was running down the Big Bend ditch. The third party evidently did not repair the problem and Big Bend shareholders had to make the repair. Big Bend brought a lawsuit against the third party, evidently to no avail.

Over the years, there have been repairs and changes to the dike structure to improve the flow and to accommodate piping and install measuring weirs and devices. This dike structure has been repaired at least three times in the last 30 years.

Big Bend is highly concerned that the placement of the proposed intake structure could affect the delicate dike structure that separates the upper and lower spring. Even though the proposed intake is probably at least 100 feet from the lower spring's exit from the canyon wall, vibrations from the construction equipment and trucks could upset the separation of the two spring flows. Each tenth of a foot drop in the upper spring pool level would result in a loss of at least 3 cfs in the Big Bend water flow

from the upper spring. Any drop in that water level elevation would also affect the amount of flow from the upper spring to the hatch house of the Hagerman State Fish Hatchery, and the flows to the Salmon Falls Land and Livestock Co., Idaho Power Co. and Idaho Department of Transportation, as all four also have water rights and take water from the upper spring.

What gives Big Bend great concern is the fact that was brought out at the Hearings on IGWA'S Second Mitigation Plan, that the HSFH had experienced certain fish diseases that were not found at the Rangen facility. Rangen does not want these fish diseases to be transported to their facility. No one seems to know where these fish diseases originate.

To try to eliminate any possible source, the suggestion made to move the proposed intake structure as close to the lower spring outlet area as possible so that a source of possible contamination could be eliminated.

Big Bend believes that moving the proposed intake structure as close as possible to the exit points of the lower spring will cause a far greater chance of damaging the structure separating the upper and lower spring, and should not be allowed.

Repair would be time consuming and costly.

2. Hagerman State Fish Hatchery has a 64 cfs water right from the lower spring. In January, 2014, they were only receiving 46 cfs, a 28 % drop. They also have a 20 cfs water right from the upper spring, and are receiving about 6 cfs. Big Bend has a 20 cfs water right from the upper spring, and, as of May 28, 2014 was only receiving about 18 cfs. The other water rights holders in the upper spring are down an estimated 25% from their water rights.

Taking an additional 10 cfs from the HSFH will severely cripple their ability to raise fish with only 36 cfs and another 6 or so from the upper spring. Each spring, before irrigation season, Big Bend loans 3 or 4 cfs to the hatchery to enable them to finish the raising of their trout. This scheme does not make any sense whatsoever!

There is no "surplus" water that can be taken from the Upper Tucker Spring complex and be pumped over the hill to a different watershed at Rangen and/or Billingsley Creek.

Big Bend believes that it is not good practice to remove water from an area that is quite short of water to another location simply to satisfy the Rangen Call. And it may be illegal. It certainly defies common sense.

3. Big Bend is concerned about the turning over of a State of Idaho property (10 cfs of Upper Tucker Spring) to IGWA. There seems to be some confusion, as some documents from IGWA state that the 10 cfs will be turned over to IGWA and other documents state that the 10 cfs will remain the property of Idaho Fish and Game and be used by IGWA. Be that as it may, either turning over the 10 cfs to IGWA or retaining the 10 cfs and allowing IGWA to use it to without compensation to the State of Idaho is most likely illegal. The State of Idaho should not be a party to what is the responsibility of IGWA to provide the 9.1 cfs to satisfy the Rangen call.
4. If this proposed water right transfer of 10 cfs is allowed, the Hagerman State Fish Hatchery will be extremely short of water to raise their usual number of fish. No doubt, Idaho Fish and Game will be looking to find replacement water to make up for the 10 cfs loss. Big Bend has received some "suggestions" of where additional water for the Hagerman State Fish Hatchery might come from. Both "suggestions" depend on acquiring water from the Big Bend Water Rights.

Naturally, Big Bend is vehemently opposed of any of these "suggestions", and will take legal action to prevent them.

Sincerely,

Big Bend Irrigation and Mining Co., Ltd


Almer Huntley, Jr., President

CERTIFICATE OF SERVICE

The undersigned, President of Big Bend Irrigation & Mining Co., LTD, hereby certifies that on the 13th Day of June, 2014 caused a true and correct copy of the forgoing document to be served upon the following by the indicated method.

Randall C. Budge, Thomas J. Budge

RACINE OLSEN NYE BUDGE & BAILEY CHARTERED

201 E. Center Street, P O Box 1391, Pocatello, ID 83204

By U. S. Mail

Almer Huntley, Jr. President

A handwritten signature in cursive script, appearing to read "Almer Huntley, Jr.", written in black ink.

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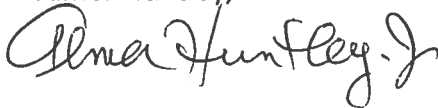
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