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MAY 23 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

RECEIVED
MAY 20 2014
DEPARTMENT OF
WATER RESOURCES

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 Transfer 79190**
2. Name of protestant: **John and Kristi Molyneux, Michel Harris & Pepin Corso-Harris**
3. Protestant's Representative for service (if different than protestant)

Albert P. Barker
Barker Rosholt & Simpson LLP

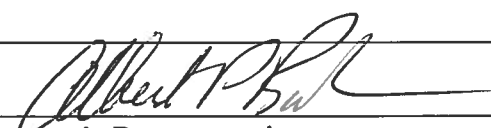
4. Service mailing address: **1010 W. Jefferson St., Suite 102, P.O. Box 2139, Boise, ID 83701-2139**
5. Service telephone no. **208-336-0700** Email address: **apb@idahowaters.com**
6. Basis of protest (including statement of facts and law upon which the protest is based).
Transfer appears to expand use. Transfer appears to "dry up" acres not under the ownership of Applicant. Transfer does not account for reduced return flows to groundwater and surface water from new POU.
7. What would resolve your protest?
Denial of transfer or mitigation of the additional consumptive use.

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.

SEE ATTACHED.

Signed this 19th day of May, 2014.

Protestant

By: 

Protestant's Representative

FOR OFFICE USE ONLY

Fee: \$25.00

Receipt No. CD98860

Receipt by: CS (S.O.)

Date Received: 5-20-2014

NOTICE OF PROTEST

MEMORANDUM

Date: Apr. 14, 2014
To: Transfer 79190 File, Sun Valley Company
From: Douglas Jones
Re: Evaluation of Sufficiency of Information Submitted

Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions.

- **Authority to File:**
The applicant is listed as the current owner of involved water rights (37-415 and 37-416) according to IDWR records. However, lands proposed to be dried up are owned by others. Clear title to appurtenances is absent.
- **Water Right Validity:**
Both water rights have been decreed in the SRBA. Review of aerial photos from over the years show that the land being excluded from the Permissible Place of Use (PPU) were originally irrigated by the rights, then subdivided and developed over the decades. Lands involved, not in roadways and homes, with the transfer have recently been irrigated.
- **Injury to Other Water Rights:**
It is the apparent position of the applicant that the lands being irrigated are supplied water from another source and that they wish to move the surface water formerly used there for irrigation to other lands more recently developed. However, the applicant will continue to route surface water to the present PPU for aesthetic purposes under these same water rights. Unstacking the surface water and the current source for irrigation (presumably Sun Valley Water municipal supply) would result in an enlargement of total number of acres.
- **Enlargement of Use:**
See analysis on injury discussed above.
- **Local Public Interest:**
No hydrological impact anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.

Questions of ownership of land the rights are appurtenant to and issues of enlargement by unstacking rights to provide new irrigation require close attention on whether to deny, or approve with conditions, the application for transfer.

Idaho Department of Water Resources Receipt

Receipt ID: C098860

Payment Amount \$25.00 Date Received 5/20/2014 2:12 PM Region STATE
Payment Type Check Check Number 23484
Payer BARKER ROSHOLT AND SIMPSON LLP
Comments NOTICE OF PROTEST FOR TRANSFER 79190

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	56103	0229	21		1155



Signature Line (Department Representative)

ALBERT P. BARKER
JOHN A. ROSHOLT
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Albert P. Barker
apb@idahowaters.com

May 19, 2014

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DEPT. OF WATER RESOURCES
SOUTHERN REGION

Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, ID 83720-00987

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DEPARTMENT OF
WATER RESOURCES

Re: Notice of Protest – Transfer 79190

Dear Department:

The attached Notice of Protest was fax-filed this afternoon. Enclosed is an extra copy to conform with your file stamp and return to us in the envelope enclosed. Also enclosed is your \$25.00 filing fee.

Thank you for your assistance.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Sue Estes, Assistant to
Albert P. Barker

/se
Enclosures