

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 30 2013

Department of Water Resources
Eastern 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.

1. Matter being protested Application For Exchange # 78800 in the name of Nancy Linell Bills
2. Name of protestant Tom McFarland
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address Box 127 Carmen, Id. 83462
5. Service telephone no. 208 940-1357 Email Address: mcFarlandm@centurytel.net
6. Basis of protest (including statement of facts and law upon which the protest is based)

see Attachment A

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

7. What would resolve your protest? see Attachment A
-
- _____
-
- _____

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 26th day of September, 20 13Tom McFarland
Protestant_____
Protestant's RepresentativeReceipt
#E039173

Attachment A

6. Basis of protest (including statement of facts and law upon which the protest is based)

Carmen creek is very much a self-contained system with each successive user contributing recharge water to the basin. This additional point of diversion from the upper end of the basin takes water entirely out of the basin with potential for zero to little recharge in Carmen Creek, thereby directly impacting five diversions between the two place of diversion.

The focus of many of the water users, who can be identified by their participation with Upper Salmon Basin Watershed Program (USBWP), has been to manage the water resource so as best to meet the needs of the irrigators and the aquatic species in Carmen Creek. This transfer removes water from a large portion of the stream to the detriment of all aquatic species for a single purpose use.

This is an attempt to take early priority water out of the system near its head and attempting to mitigate by transferring very low priority water downstream. Transferring 3.35 cfs of water to a 408 acre place of use is an expansion of water right, because no one will be able to monitor using it on only 111 acres.

Contrary to statement in the exchange of water explanation, this exchange will involve other parties.

The application states that there are no diversions from Freeman Creek between the Bills ditch and Freeman Creek's confluence with Carmen Creek. That is true but obscures the fact that Freeman Creek is one of two major sources of Carmen Creek water and there are five diversions between the two points of diversion noted in the application.

7. What would resolve your protest?

Our resolution to the protest is to not approve moving the point of diversion upstream and changing its place of use.

Tom McFarland