

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF PERMIT TO)
APPROPRIATE WATER NO.**

95-16498)

**NOTICE OF PRE-HEARING
CONFERENCE**

**IN THE NAME OF:)
GLENN A SYLTE, & MERRILEE E)
SYLTE)**

On 7/25/2012, GLENN A SYLTE, & MERRILEE E SYLTE, filed an Appropriation of a Water Right Permit No. 95-16498 with the Idaho Department of Water Resources (department). Protest(s) were filed by PAUL FINMAN

The department has scheduled the matter for pre-hearing conference on Tuesday, July 16, 2013, beginning at 10:00 AM, at IDAHO DEPT OF WATER RESOURCES, Northern Conference Room, 7600 NORTH MINERAL AVE., STE. 100, COEUR D ALENE, ID, 83815-7763.

Agenda items for the pre-hearing conference will include:

1. Identify spokesman and/or counsel representing the protestant
2. Review of the application
3. Identify issues of protest
4. Designate date for identifying witnesses
5. Designate target date for conducting administrative hearing if resolution is not possible during the pre-hearing conference.

The department encourages the applicant and protestants to discuss and resolve the protests before the pre-hearing conference. If private discussions are not possible or do not resolve the protests, the department's Rules of Procedure provide for a pre-hearing conference to be held before scheduling a formal hearing.

The pre-hearing conference provides another informal opportunity for the applicant and protestants to meet. The parties often settle their differences at the pre-hearing conference. If a formal hearing is needed to resolve the protests, the pre-hearing conference serves as an opportunity to formulate or simplify the issues, obtain concessions of fact or identification of documents to avoid unnecessary proof, schedule discovery (when discovery is allowed), arrange for the exchange of proposed exhibits or prepared testimony, limit witnesses, schedule hearings, establish procedure at hearings, and address other matters that may expedite orderly conduct and disposition of the proceeding.

It is important for all parties to give considerable thought to each of these matters before appearing at the pre-hearing conference and to make the most of the opportunity to resolve the dispute informally.

The pre-hearing conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the pre-hearing conference, please notify the department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Dianne Ball, (208)762-2800.

Dated this 1st day of July, 2013.



Keith Franklin
Interim Program Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of July, 2013, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

Document Served: Notice Of Pre-Hearing Conference
Hearing Procedure for Application for Permit

GLENN A SYLTE
PO BOX 495
RATHDRUM, ID 83858

MERRILEE E SYLTE
PO BOX 495
RATHDRUM, ID 83858

PAUL FINMAN
764 S CLEARWATER LOOP
POST FALLS, ID 83854



Dianne Ball
Administrative Assistant

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issues 4, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

PROTEST INFORMATION SHEET

Application No. 95-16498

SPECIAL NOTE: Paul Finman

Protestant(s) NAME(S)	ADDRESS	PHONE
1 <u>Paul F Finman</u>	<u>764 S Clearwater Loop</u>	<u>208 415 4300</u>
2		
3		
4		
5		
6		
7		
8		
9		
10		

Protestant(s) ATTORNEY

ADDRESS

PHONE

DATE FILED: 7/25/12

PROTEST DUE DATE: 9/24/12

ISSUES: adverse impact on Finman's property - interconnected surface & underground water sources. Sytle & his family could use this WR to limit Finman's property & his water

Applicant(s)

ATTORNEY

ADDRESS

PHONE

DATE

Protest Date Entered on Computer

9/24/12

Acknowledgment Letters Sent

9/24/12

Conference/Hearing Date

(Other Dates)

Other Information

Protest information submitted to computer following hearing:



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 24, 2012

GLENN A SYLTE
MERRILEE E SYLTE
PO BOX 495
RATHDRUM, ID 83858

RE: Application for Permit No(s). 95-16498

Dear Applicant(s):

Enclosed is a copy of a protest(s) filed against the issuance of Permit No(s). 95-16498. As part of the application process, the following options are available for the resolution of contested (protested) applications:

- Direct contact with the protestant(s) to determine the nature of the protest(s) and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).

- Formal proceedings administered by the department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.

- Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached. If you are interested in this option, please contact our office for details.

Please consider with the protestant the best option(s) for resolution of the contested application and forward your choice to the Department's regional manager. If no response is received within a few weeks, you may be notified that a pre-hearing protest conference will be scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Keith Franklin
Interim Program Manager

Enclosure(s) Pre-Hearing Conference Procedures
Copy of Protest(s)

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 24, 2012

PAUL FINMAN
764 S CLEARWATER LOOP
POST FALLS, ID 83854

RE: Application for Permit No(s). 95-16498

Dear Protestant(s):

This office acknowledges receipt of your protest to the issuance of Permit No(s). 95-16498. As part of the application process, the following options are available for the resolution of contested (protested) applications:

- Direct contact with the applicant(s) to determine the nature of the protest(s) and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).
- Formal proceedings administered by the Department pursuant to the Department's Rule of Procedure (IDAPA 37.01.01). A pre-hearing conference identifies the protestant's concerns and reviews the resolution possibilities with the parties. If the concerns cannot be resolved, a formal hearing will be scheduled.
- Mediation through a certified professional mediator can reduce costs and time that are associated with formal proceedings, present the opportunity to address non-water concerns, provide influence over a final settlement, and fast track the processing of the application if a mediated agreement is reached. If you are interested in this option, please contact our office for details.

Please consider with the applicant the best option(s) for resolution of the contested application and forward your choice to the Department's regional manager. If no response is received within a few weeks, you may be notified that a pre-hearing conference will be scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information about water rights and other matters administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Keith Franklin
Interim Program Manager

Enclosure(s)

Pre-Hearing Conference Procedures

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 21 2012
IDWR / NORTH

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 Permit No. **95-16498** in the name of Glenn A Sylte and Merrilee E Sylte

2. Name of protestant: Paul F. Finman

3.

Protestant's Representative for service (If different than protestant): N/A

Receipt #
N029502
9/21/12 *df*

4. Service mailing address: 764 S Clearwater Loop, Post Falls, ID 83854

5. Service telephone no: 208-415-4300 **Email Address:** pfinman@LCFamps.com

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

A general statement of the protest follows:

This protest is based on all of the criteria listed in Idaho Code Section 42-203A(5), including, but not limited to, injury to existing water rights, lack of available water resources, adverse impacts on the local public interest, and proposed use contrary to conservation of water resources within the State of Idaho. The protestant reserves the right to raise other issues before or during the hearing in this matter based upon any additional evidence or information that is made available or that otherwise comes to the attention of the protestant.

More specific points of the protest are:

- (a) Adverse impact on my neighboring property and interconnected surface and underground water sources. Glenn E Sylte and Merrilee E Sylte working on their behalf and on behalf of other Sylte family members could use this water right as a vehicle to limit my use of my neighboring property and its water.
- (b) Sylte family members have excessive claims to Idaho water already, and there is a pattern of controlling neighboring land use through water rights and a coordinated voting block of water right holders at the annual Water District 95C meetings held each May at Twinlow Camp, Twin Lakes, ID.
- (c) There is a record of Gordon Sylte falsely claiming to the Watermaster of District 95C that I was impacting the Sylte water right 95-944. Gordon Sylte's request for appointment of the Watermaster for District 95C had no statement of any problem and no supporting data. New water rights for Glenn A Sylte and Merrilee E Sylte increases the potential for consuming IDWR resources to address false, unexplained, and undocumented claims

of water right infringement.

(d) I consider it a problem that a member of the Sylte family told me there is no requirement to directly notify neighbors or even the owner of a property on which a water application is being made. Also, Gordon Sylte told me that a dam on my property had been built over 70 years ago and all water rights associated with the dam had probably expired 30 - 40 years ago. Gordon Sylte made this statement to me when he had applied to the IDWR to transfer to him a water right at this dam registered in my name.

(e) Glenn A Sylte told me that Rathdrum Creek is an Idaho Waterway that runs year round and contains fish. I heard a statement from John Eixenberger of the Twin Lake Flood Control District that Rathdrum Creek is classified as a seasonal irrigation channel that can go dry in the summer. We need acknowledgement of the status of Rathdrum Creek that is consistent with Glenn A Sylte and Merrilee E Sylte drawing water from Rathdrum Creek for external domestic use.

(f) Water rights for Rathdrum Creek exceed the available water for most of the season. Providing proof of beneficial use in the spring when watering is not needed, and then using water in August when watering is needed but the availability of water is limited or even non-existent creates a false allocation of Idaho water resources.

7. What would resolve your protest?

General means for resolving my protest:

Complete withdrawal of the application, or inclusion of conditions satisfactory to address all aspects of the protest.

Specific means for resolving my protest:

(a) I request that Glenn A Sylte and Merrilee E Sylte allow me and any representatives on their property and show me the exact location of the POD and POU. If the POD is unnecessarily close to my property, I ask that it be moved to minimize any potential conflicts.

(b) If Glenn A Sylte and Merrilee E Sylte have any grounds that my use of my neighboring property or water has any potentially detrimental impact on this water right, then this water right must not go through in order for me to have full, proper, and unfettered use of my property. If Glenn A Sylte and Merrilee E Sylte confirm that there are no grounds to claim that anything that I do on my neighboring property has any effect on this water right, then they would have no basis for using this water right as a vehicle to control me and limit the use of my neighboring property. This would resolve an important point of this protest.

(c) Sylte family members have excessive claims to Idaho's water resources already. Any new water right should be offset by a reduction in other water rights including voting rights, and there should be no increase in a coordinated voting block at Water District 95C annual meetings.

(d) Sylte family members should cease and desist from making false claims to the Watermaster of District 95C that consume IDWR resources. Any request for appointment of the Watermaster must be accompanied by a statement of the problem and supporting data which should be supplied to all parties 7 days before any site visit

by the Watermaster.

(e) An agreement on a mutual notification requirement for any water right applications, claims, or transfers should be part of resolution of this protest just to implement a good neighbor policy.

(f) Glenn A Sylte and Merrille Sylte should acknowledge that Rathdrum Creek is a seasonal drainage and irrigation channel that can go dry in the summer.

(g) Proof of beneficial use should occur in August, and it should be verified that this water use does not interfere with more senior water rights if they were being used fully. This would limit setting up of a problem of repeated water calls that the IDWR and Watermaster must service.

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 21st day of September, 2012.
Paul F. Finnan Paul F. Finnan
Protestant
Paul F. Finnan
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

State of Idaho

Department of Water Resources
Application for Permit

RECOMMENDATION OF WATERMASTER

RECEIVED
SEP 12 2012
IDWR/NORTH
RECEIVED
SEP 12 2012
IDWR/NORTH

Application for Permit No 95-16498
Applicant's Name: GLENN A SYLTE
PO BOX 495
RATHDRUM ID 83858

MERRILEE E SYLTE
PO BOX 495
RATHDRUM ID 83858

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
b) ☐ I do not oppose approval of this application if it is conditioned as follows:

c) ☐ I oppose approval of this application for the following reasons:

d) ☐ Additional Comment:

Dated this 9 day of September, 2012

Water District No: 95C


Watermaster's Signature

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Paul Finman
764 S Clearwater Lp
Post Falls ID 83854

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) ☒ Restricted C. Date of Delivery 7.2
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label)

7011 3500 0001 8890 6263

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1640

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Glenn A Sylte
Merilee E Sylte
PO Box 495
Rathdrum ID
83858

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) ☒ Restricted C. Date of Delivery 5-1
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label)

7011 3500 0001 8890 6256

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-

U.S. Postal ServiceTM RECEIPT

CERTIFIED MAILTM
Domestic Mail Only; No Insurance Coverage Provided

For delivery information visit our website at www.usps.com

Postage	\$	\$0.66
Certified Fee		\$3.10
Return Receipt Fee (Endorsement Required)		\$2.55
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.31



Sent To: Paul Finman
Street, Apt. No.: 764 S Clearwater Lp
or PO Box No.:
City, State, ZIP+4: Post Falls ID 83854

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal ServiceTM RECEIPT

CERTIFIED MAILTM
Domestic Mail Only; No Insurance Coverage Provided

For delivery information visit our website at www.usps.com

Postage	\$	\$0.66
Certified Fee		\$3.10
Return Receipt Fee (Endorsement Required)		\$2.55
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.31



Sent To: Glenn A Merilee Sylte
Street, Apt. No.: PO Box 495
or PO Box No.:
City, State, ZIP+4: Rathdrum ID 83858

PS Form 3800, August 2006

See Reverse for Instructions

MEMORANDUM

Date: July 29, 2013
To: Water Right File 95-16498
From: kfranklin
Re: Protest

This application was protested by Paul Finman. A protest conference was held on July 16, 2013 at which time Paul Finman agreed to withdraw the protest. On July 25, 2013 the department received an e-mail from Paul Finman withdrawing the protest. On July 29, 2013 the department sent a formal letter to Paul Finman accepting his withdrawal.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

July 29, 2013

Paul Finman
764 S Clearwater Loop
Post Falls, ID 83854

Re: Protested Application For Permit to Appropriate the Public Waters of the
State of Idaho, No. 95-16498

Dear Mr. Finman:

The Idaho Department of Water Resources received your e-mail on July 25, 2013 withdrawing your protest of Application For Permit No. 95-16498. The department accepts your withdrawal and will proceed with the issuance of the permit to Glenn Sylte.

If you have any questions, feel free to contact me at this office.

Thank you.

Sincerely,

Keith E Franklin
Program Manager, Northern Region

COPY

Franklin, Keith

From: Franklin, Keith
Sent: Monday, July 29, 2013 3:06 PM
To: 'P. Finman/LCF'
Subject: RE: Withdrawal of protest: Application for Permit No. 95-16498

Paul,
I did receive your e-mail drawing the protest to permit No. 95-16498. I will follow it up with a formal letter to you accepting the protest withdrawal.
Thank you.
Keith.

-----Original Message-----

From: P. Finman/LCF [<mailto:pfinman@lcfamps.com>]
Sent: Thursday, July 25, 2013 1:17 PM
To: Franklin, Keith
Cc: semanko@rmci.net
Subject: Re: Withdrawal of protest: Application for Permit No. 95-16498

Keith,

The last paragraph of the narrative states:

After receiving the above information, and with the goal to help insure that landowners along Rathdrum Creek have equal right to put their land and associated water to beneficial use, I hereby give NOTICE OF WITHDRAWAL OF PROTEST. I, PAUL FINMAN, do hereby withdraw my protest in the matter of the Water Right Application No. 95-16498, filed in the name of Glenn A. Sylte and Merrilee E. Sylte. Dated this 22nd day of July, 2013.

Paul Finman
208-415-4300

On Jul 25, 2013, at 8:50 AM, "Franklin, Keith" <Keith.Franklin@idwr.idaho.gov> wrote:

> Paul,
> Your narrative of the meeting came through ok, but the withdrawal form
> did not.
> Would you please resend the withdrawal.
> Thank you.
> Keith

> -----Original Message-----

> From: P. Finman/LCF [<mailto:pfinman@lcfamps.com>]
> Sent: Tuesday, July 23, 2013 10:55 AM
> To: Franklin, Keith
> Cc: semanko@rmci.net
> Subject: Withdrawal of protest: Application for Permit No. 95-16498

> Keith Franklin,

> Attached is my withdrawal of protest. Please confirm receipt. Also,
> please notify me if you recommend me do anything further.

> Paul Finman
> 208-415-4300

July 16, 2013

MEMO TO: THE FILE
FROM: KEITH FRANKLIN, PROGRAM MANAGER
SUBJECT: PROTEST CONFERENCE FOR RIGHT 95-16498

THE PROTEST CONFERENCE FOR THE ABOVE SAID RIGHT WAS HELD ON JULY 16, 2013 STARTING AT 10:00 AM. PRESENT WERE KEITH FRANKLIN (IDWR), GREG TAYLOR (IDWR), GLEN SYLTE (APPLICANT), MARK SYLTE (APPLICANTS SON) AND PAUL FINMAN (PROTESTANT).

THE CONFERENCE ENDED AT 11:00 AM WITH THE FOLLOWING;
PAUL FINMAN IS TO PREPARE A NARATIVE OF THE MEETING AND
SUBMIT A WITHDRAWAL OF PROTEST ON A FORM PROVIDED BY THE
DEPARTMENT AT THE CONFERENCE. IT WAS AGREED THE
WITHDRAWAL NOTICE WOULD BE RECEIVED BY THE DEPARTMENT AND
GLEN SYLTE BY TUESDAY, JULY 23, 2013.

CONFERENCE

File: # 95-16498
#

Date: July 16, 2013

Time: 10:00 AM

Place: Department of Water Resources
7600 N Mineral Drive Suite 100
Coeur d Alene, ID 83815
(208) 762-2800

ROSTER OF ATTENDANCE

NAME

ADDRESS

Keith Franklin

INDR, 7600 N Mineral Dr., Ste. 100

Greg Taylor

IDWR

Paul Finman

7380 W Willadsen Rd Rathdrum ID 83858

Mark Sylte

6720^w Willadsen (Rd) Rathdrum (ID) 83858

Glenn a Sylte

6720m on illoson Rd Rathdrum ⁵³⁸⁵⁰

RECEIVED

JUL 16 2013

P. Finman/LCF <pfinman@lcfamps.com>

IDWR / NORTH

July 10, 2013 11:43 AM



To: Keith Franklin <Keith.Franklin@idwr.idaho.gov>

Cc: "semanko@rmci.net" <semanko@rmci.net>, Paul Finman <pfinman@lcfamps.com>

Bcc: Lorna Finman <lorna@lcfamps.com>

Resolution of IDWR protest (Application 95-16490)

Keith Franklin,

I received notice of the pre-hearing on Tuesday, July 16th at 10:00 AM in the IDWR conference room. Some months ago Glenn Sylte and I discussed my protest and it seemed that we worked out verbally how to resolve the protest. Now I need to know the procedure to do this formally in writing. Maybe you could tell me how to do this before July 16th and a pre-hearing wouldn't be necessary.

I've heard two main versions of the classification of Rathdrum Creek which I believe affect the use of water and surrounding land. The key points of the first version follow:

1. Rathdrum Creek is seasonal drainage from Twin Lakes and the surrounding mountains.
2. During some years before the construction of the Twin Lakes dam, Rathdrum Creek would be completely dry in late summer.
3. Now the flow from the Twin Lakes dam is controlled in the summer to keep the creek bed wet so the mud does not dry and form cracks that create channels for water leakage into the ground.
4. Rathdrum Creek does not flow into Spokane River, but disappears into a ground sump not too far after Rathdrum City park.
5. Because of the seasonal nature of water flow, stocking Rathdrum Creek with fish does not work and the fish die in the dry summer months.
6. During the fishing derby in Rathdrum City park, water flow from Twin Lakes dam is controlled when the fish are placed in Rathdrum Creek. This control is necessary to provide enough water for the fish to live for a few days, but not enough flow to wash the fish into the sump.
7. The natural thing for water to do in this area is to flow into the porous ground, and much of the water flow from the Twin Lakes dam disappears into the ground before the sump. One estimate that I have heard is that during the summer approximately 90% of the water that flows over the Twin Lakes dam leaks into the ground before reaching the Sylte ranch. There is an artificial process called "muddling" which can help seal Rathdrum Creek and reduce water leakage into the ground.
8. An old-timer told me that Rathdrum Creek originally disappeared into the ground during the summer before my property, but the Greenacres Irrigation District dug an enhanced creek bed through my property to get water to the present sump. I do see one channel for water flow close in to my mountainside and one more natural looking channel through my field that frequently floods in the spring.
9. There can be building, construction, bridges, etc. along Rathdrum Creek with only a basic permit from Kootenai County Planning and Zoning. Use of water from Rathdrum Creek requires a basic permit or license from the IDWR.
10. There is no public access to Rathdrum Creek legally required through the Sylte property, my property, or any other property for recreation such as boating and fishing, waterway maintenance, etc.

There is a second version of the classification of Rathdrum Creek that affects water and land use. The key points of this second version follow:

1. Rathdrum Creek is a waterway that flows year round.

2. Fish live naturally in this waterway.

3. Building, construction, bridges, etc. along Rathdrum Creek requires more than a basic permit from Kootenai County Planning and Zoning. Use of water from Rathdrum Creek requires more than a basic permit or license from the IDWR. Water and land use along Rathdrum Creek can require approval from the Army Corps of Engineers, Idaho DEQ, the Federal EPA, and other agencies with the associated environment impact reports and other documentation.

4. Public access to and through Rathdrum Creek is required for recreation such as boating and fishing, waterway maintenance, etc.

If we can confirm that the key points that I have listed for the first version of the classification of Rathdrum Creek are correct, then it makes sense for Glenn Sylte to use water from Rathdrum Creek for irrigating his yard/field under the basic guidelines of a IDWR permit or license. When Glenn Sylte and I talked, he seemed to confirm that my key points for the first classification were correct. Maybe you can guide us in documenting this in writing. Perhaps just an excerpt from this email is sufficient. If we do this in what should be a simple process, I can drop my protest.

Paul Finman
208-415-4300