

THE BLAINE COUNTY BOARD OF COMMISSIONERS
206 FIRST AVENUE SOUTH, SUITE 300
HAILEY, IDAHO 83333
(208) 788-5500 • FAX (208) 788-5576

Mary Ann Mix, Chairman • Leonard Harlig, Commissioner • Dennis Wright, Commissioner

November 1, 2000

RECEIVED

NOV - 3 2000

Department of Water Resources
Southern Region

Mr. Allen Merritt
Department of Water Resources, Southern Region
1341 Fillmore St. Suite 200
Twin Falls, ID 83301

RE: BLAINE COUNTY PROTEST OF APPLICATION #37-08916

Dear Allen,

We are protesting the above referenced application by Walker Monroe. A check for \$25.00 and a "Notice of Protest" are included with this letter.

Under the Department's "policy memorandum" of 1980 and the *Big Wood River Ground Water Management Area* (BWRGWMA) (June 28, 1991), water in the Blaine County area has been declared over-allocated. This application proposes to run water from the Big Wood River through a private canal and store water in a private lake.

If such uses were confined to high water overflow, the canal and pond might serve a useful purpose in the spring to absorb excess capacity in the river. We would not object to such a short-term use as long as there were verifiable assurances that the pond and canal would be firmly cut off from the Big Wood after high water flows have passed.

However, the use of this same diversion process all year, and especially when the Big Wood is at or near minimum stream flows, can represent a substantial impact of both riparian and fish habitat. To the extent that the diversion reduces surface flows to senior water rights holders south of this diversion it would also conflict with the requirement for a demonstration that no injury will occur to other water rights holders (I.C. §42-222).

The proposed use will cause real and measurable depletion to the surface system. The proposed new water usage is wholly inconsistent with Idaho law. The applicant carries the burden of providing evidence that the proposed use will not injure other water rights holders, will not constitute an enlargement of use, and will be consistent with principles of conservation of the water of the State of Idaho. None of these requirements are found in this application.

Receipt # SO 23478
11/9/00

There is a no showing by the applicant that this application "is in the public, as opposed to private, interest" [I.C. §42-1503 (b)].

The practice of creating large ponds for aesthetic purposes is more likely in Blaine County than in most Idaho counties because of the extraordinary land values in Blaine County. The potential for abuse of the Department's stated goal of water conservation and preservation is more likely here than in most Idaho Counties. One of the reasons the Board of Commissioners established a "Local Public Interest Water Policy (Policy)" [Shokal v. Dunn and Hardy v. Higgenson and I.C. §42-203 A (5)] was because of the unique nature of this community and the measurable impact of increased, expanded use of a scarce water resource, always to the detriment of other water rights holders.

No matter how "minimum" the amount of impounded water in each new pond is said to be, by an applicant, the cumulative impact of a succession of huge ponds in our community will in fact have a very measurable affect on the availability of water for other water rights holders, minimum stream flows, and all the other water interests noted in the 1998 Blaine County "Local Public Interest Water Policy".

There are many hundreds of lots in Blaine County large enough to hold large ponds. It wouldn't take much imagination to compute how much water even as few as fifty such ponds would take out of the system and how this cumulative impact would shift the use of water in our community, from agricultural and public purposes, to private marketing and aesthetic interests. Neither the interests of the State of Idaho nor the welfare of residents of Blaine County will be served if aesthetic ponds are used to divert water from other water rights holders and from the aquifer system.

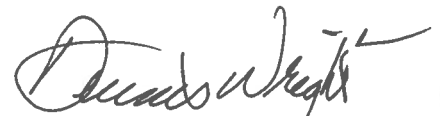
We ask that you deny this application for the above stated reasons. Further, we ask again that future applications for aesthetic ponds in our County be evaluated under a re-defined terminology that recognizes that such ponds aren't really "non-consumptive", but are actually "consumptive", **and that the cumulative impacts of multiple ponds must be considered before approving such applications for enlargements of water use.**

Thank you for your consideration.

Sincerely,


Mary Ann Mix


Len Harlig


Dennis Wright

cc: Walker Monroe
Linda Haavik
Douglas Werth

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

NOV 3 2000

Department of Water Resources

Southern Region Office

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203B, 42-211, 42-222 and 42-224, 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 # 37-08916
2. Name of protestant ^{applicant} WALKER MONROE
3. Protestant's representative for service (If different than protestant) Blaine Co. Commissioners
DOUG WERTH
4. Service mailing address 201 2nd Avenue S. Suite 100
Hailey, ID 83333
5. Service telephone no. 208 788 5545
6. Basis of protest (including statement of facts and law upon which the protest is based)
See attached letter.

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

7. What would resolve your protest? See attached letter

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 2nd day of November, ~~19~~ 2000.

Blaine County, Idaho
PROTESTANT

[Signature]
PROTESTANT'S REPRESENTATIVE

Receipt # 502 3478
11/9/00