

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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AUG 02 2012
WATER RESOURCES
WESTERN 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 Permit No. 61-12274 in the name of Louis D Jeffrey
2. Name of protestant Idaho Fresh Pak, LLC @ 357 Constitution Way, Idaho Falls, ID 83402
3. Protestant's Representative for service (If different than protestant)
Rigby, Andrus, & Rigby Chartered @ PO Box 250, Rexburg, ID 83440
Also copy to Rocky Mountain Environmental Associates, Inc @ 482 Constitution Way, Idaho Falls, ID 83442
4. Service mailing address 25 N 2nd E, Rexburg, ID 83440
5. Service telephone no. 208-356-3633 Email Address: jrigby@rex-law.com
6. Basis of protest (including statement of facts and law upon which the protest is based)
New application has potential to cause injury to Idaho Fresh Pak Glens Ferry Facility water rights. See attached
letter for additional details.

(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Mitigation for the proposed application.

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 1st day of Aug, 20 12.
Leo Schubert
Protestant

Protestant's Representative

Receipt 11040447
pd 8/2/12 \$2500



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WATER RESOURCES
WESTERN REGION

August 1, 2012

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: Notice of Protest of Application No. 61-12274

Dear Sir,

Our firm represents Idaho Fresh Pak, LLC in their water right interests for their potato processing plant in Glenns Ferry, Idaho. Approval of Application for Permit No. 61-12274 has potential to cause injury to the Idaho Fresh Pak Glenns Ferry facility water rights.

Idaho Fresh Pak is currently the owner of water right no. 61-7724 that was licensed in August 1999. There were many protests to that application. As a result, the developers of the permit (Magic West, Inc.) and the protestors resolved in an agreement that Magic West (or its successors) will ensure that the protestors have water to pump from their wells by choosing one of several options: (1) help pay for additional pumping costs should the water table drop due to pumping, (2) help pay for deepening a well, (3) make rating changes to existing well to provide sufficient water, etc. Idaho Fresh Pak became the successor to this agreement when they purchased the processing facility and took ownership of the water rights.

Any new applications for permits in this area have potential to cause the aquifer to drop due to additional pumping, which would then obligate Idaho Fresh Pak to pay for adjustments to their protestor's wells as explained above.

If the applicant can provide mitigation for this new right to ensure the aquifer will not be negatively affected, Idaho Fresh Pak will consider withdrawal of their protest.

Respectfully,

A handwritten signature in cursive script that reads "Kristin Moore".

Kristin Moore
Water Rights Analyst

Cc: Leo Herbert, Idahoan Foods, LLC, Lewisville, ID
Jerry Rigby, Rigby, Andrus and Rigby, Rexburg, ID
Louis D. Jeffrey, King Hill, ID