

07/2008

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NOV 26 2010

Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 Water Rights Transfer Application No. 76779 - City of Pocatello
2. Name of protestant Portneuf Watershed Users Association, Inc.
3. Protestant's Representative for service (If different than protestant)
Scott L. Campbell, Moffatt Thomas Barrett Rock & Fields, Chtd., PO Box 829, Boise, ID 83701-0829
4. Service mailing address Scott Campbell, Moffatt Thomas, PO Box 829, Boise, ID 83702-0829 and Dan Dimick, President, Portneuf Watershed Users Association, Inc., 8742 S. Sunnyside Road, Lava Hot Springs, ID 83246
5. Service telephone no. (208) 345-2000 Email Address: slc@moffatt.com and dckbtc@aol.com
6. Basis of protest (including statement of facts and law upon which the protest is based)
The proposed transfer will violate Idaho Code Section 42-105. The proposed transfer does not satisfy the standards of Idaho Code Section 42-222. If approved, the proposed transfer will cause additional flooding of private property adjacent to the Portneuf River and will impose additional administrative costs and burdens upon members of the protestant. The proposed transfer appears to have been processed pursuant to Idaho Department of Water Resources Administrative Memorandum No. 24. If so, processing of the proposed transfer has violated Idaho law because Memorandum No. 24 was not properly adopted under the requirements of the Idaho Administrative Procedure Act. +
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Adequate mitigation to address protestant's concerns. Imposition of conditions which protect protestant's interests. In the alternative, denial of the application for transfer.

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 23rd day of November, 2010.

Protestant

Scott L. Campbell
Protestant's Representative

Receipt
#ED36284

CLIENT:1846536.1

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

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Department of Water Resources
Eastern Region

Boise
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John W. Barrett
Richard C. Fields
John S. Simko
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D. James Manning
David B. Lincoln
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns
Michael E. Thomas
Patricia M. Olsson

Christine E. Nicholas
Bradley J. Williams
Lee Radford
Michael O. Roe
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David S. Jensen
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Michael W. McGreaham
David P. Gardner
Julian E. Gabiola
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Jon A. Stenquist
Mark C. Peterson
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Jason G. Murray

Andrew J. Waldera
Dylan B. Lawrence
Rebecca A. Rainey
Paul D. McFarlane
Tyler J. Henderson
C. Edward Cather III
Benjamin C. Ritchie
Noah G. Hillen
Matthew J. McGee
David J. Dance
Mindy M. Willman

Robert E. Bakes, *of counsel*

Willis C. Moffatt, 1907-1980
Eugene C. Thomas, 1931-2010
Kirk R. Helvie, 1956-2003

November 23, 2010

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208 385 5384 Fax
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Idaho Department of Water Resources-Eastern
Region

900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Notice of Protest of Transfer Application No. 76779
Portneuf Watershed Users Association, Inc.

Dear Clerk:

Enclosed for filing in the above-referenced matter is the following original document:

1. Notice of Protest

Also enclosed is check in the amount of \$25 for the filing fee. Please conform the copy of this document and return it via the enclosed self-addressed, postage prepaid envelope.

Thank you for your assistance.

Very truly yours,


Scott L. Campbell

SLC/dll

Enclosures

cc: Michael C. Creamer, Givens Pursley, LLP
Clients