

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

RECEIVED

JUN 04 2010

WATER RESOURCES
WESTERN REGION

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 63-33321 Elk Creek Corp.
2. Name of protestant City of Idaho City
3. Protestant's Representative for service (If different than protestant)
Richard K. Linville, Idaho City Attorney
4. Service mailing address PO Box 671 Emmett ID. 83617
5. Service telephone no. 365-2106 Email Address: richard@linville.com
6. Basis of protest (including statement of facts and law upon which the protest is based)
1. Violation of Idaho City Code 9-1-35, Copy Attached
2. Conflict with local public interest, Idaho Code 42-203(A)(5)
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? N/A. Proposed use is not
permissible.

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 4 day of June, 2010.

City of Idaho City
Protestant

Richard Linville Richard Linville
Protestant's Representative Idaho City Attorney

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 name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
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FOR DEPARTMENT USE ONLY

Received by Jmh Date 6-4-10 Time 2:17 PM
\$25.00 fee Received by Jmh # W038441 Date 6-4-10

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WATER RESOURCES
WESTERN REGION

Richard K. Linville

Idaho City Attorney

P.O. Box 671

Emmett, ID 83617

Telephone: 208-365-2106

richardlinville@richardlinville.com

Fax: 208-365-9411

June 4, 2010

Director
Dept. of Water Resources
2735 Airport Way
Boise, ID 83705

Re: Application for Permit No. 63-33321, in the name of Elk Creek Corp.

Dear Director:

On behalf of the City Council of Idaho City, I am enclosing with this letter the City's Notice of Protest of the above-referenced matter, along with my protest fee of \$25.00.

Sincerely Yours,



Richard K. Linville

cc: Elk Creek Corp.

4

CITY CODE
of
IDAHO CITY
IDAHO

2000



STERLING CODIFIERS, Inc.
7600 Mineral Drive
Coeur d'Alene, Idaho 83814
(208) 762-3449 • fax (208) 762-9140

9-1-34

9-1-35

water source located on property owned or maintained by the city of Idaho City.

- B. Violation: Violation of this section after one verbal or written notice shall constitute a misdemeanor. (Ord. 299, 5-27-2003)

9-1-35: PRIVATE WELLS:

- A. For the purpose of this section a "private well" is a well that upon its completion is not owned and operated by the city of Idaho City, Idaho.
- B. It shall be unlawful for any person to construct a private well in the city without first obtaining approval from the city council.
- C. It shall be unlawful for any person to construct a private well in the city that is deeper than thirty feet (30').
- D. If property in the city is within two hundred fifty feet (250') of city water service, it shall be unlawful to use any private well on such property to provide water for any purpose except irrigation water. The measurement of the distance from the property to the water service shall be a straight line from the water service to the part of the property closest to the service.
- E. The owner of any house, building or property used for human occupancy, employment, recreation or other purposes situated within the city shall at the owner's expense connect such improvements to city water in accordance with existing application procedures if city water service is available within two hundred fifty feet (250') of the owner's property. The measurement shall be the same as set forth in subsection D of this section.
- F. After property in the city has at any time been connected to city water, it shall be unlawful to use any private well on such property to provide water for any purpose except irrigation water. (Ord. 313, 3-29-2007)