

WA

FEB 10 2010

DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

Transfer No. 73969

OBJECTION TO INTERVENTION OF IDAHO WATER RESOURCE BOARD

COMES NOW the Applicant, Robert Rohe, by and through Fritz X. Haemmerle of Haemmerle & Haemmerle, P.L.L.C., and hereby objects to the Petition for Intervention by the Department of Water Resources Board ("Board") on the following grounds:

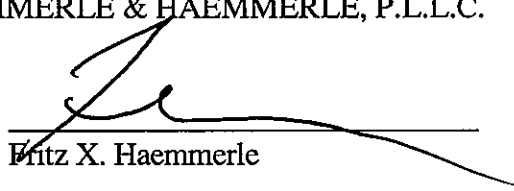
2. IDAPA 37.01.01.350: No substantial interest: IDAPA requires that the party who seeks intervention must set forth a substantial interest. In this case, the Rohe

simply asks the Idaho Department of Water Resources to not subordinate the transfer (March 24, 1883 priority date) to the State Minimum Stream Flow rights; 37-8308, 119 cfs, priority date of October 16, 1987; and (2) 37-7919, 70 cfs, priority date of June 18, 1981. Since the minimum stream flow rights were permitted, the Board has never advocated or been concerned about subordinating senior water rights to the minimum stream flow rights. It is difficult to understand how the Board can now claim a "substantial interest" in subordination when it has stood idly by for the last twenty-eight (28) years without any concern about subordination.

DATED this 8th day of February, 2010.

HAEMMERLE & HAEMMERLE, P.L.L.C.

By:


Fritz X. Haemmerle

CERTIFICATE OF SERVICE

I hereby certify that on the 8 day of February, 2010, I served a true and correct copy of the within and foregoing document upon the persons or attorney(s) named below in the manner noted:

Gary Spackman, Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Via E-mail

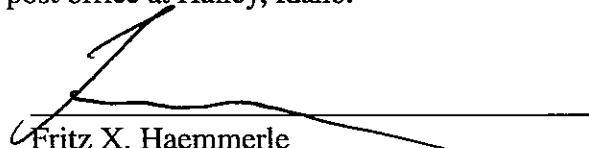
Shasta Kilminster-Hadley, Deputy
Idaho Attorney General's Office
P.O. Box 44449
Boise, ID 83711-4449
FAX: (208) 334-2690

Allen Merritt
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
Via E-mail

✓ By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Hailey, Idaho.

 By hand delivering copies of the same to the office of the attorney(s) at his offices in Hailey, Idaho.

✓ By telecopying copies of same to said attorney(s) at the telecopier number (208) 334-2690, and by then mailing copies of the same in the United States Mail, postage prepaid, at the post office at Hailey, Idaho.


Fritz X. Haemmerle