

DEC 31 2009

Department of Water Resources
Eastern Region

07/2008

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 Transfer Application #76075 in the name of Grand Teton Canal Company, Ltd.
2. Name of protestant Friends of the Teton River
3. Protestant's Representative for service (If different than protestant)
Tyrel Mack
4. Service mailing address P.O. Box 768 Driggs, ID 83422
5. Service telephone no. 208-354-3871 Email Address: ty@tetonwater.org
6. Basis of protest (including statement of facts and law upon which the protest is based)
see attached

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

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 29th day of December, 2009.

Protestant



Protestant's Representative

Receipt
#ED35521

Protest of Proposed Transfer of Water Right, Transfer Application #76075, Grand Teton Canal Co., Ltd.

Protestant: Friends of the Teton River, Driggs Idaho

#6 – Basis of Protest:

Friends of the Teton River, Inc. (FTR) is an Idaho non-profit corporation engaged in research, restoration, and stewardship efforts for the water resources in the Teton River watershed. FTR is not an advocacy-based organization and is committed to a collaborative approach to water resource issues. As such, this protest is being filed in hopes that it will lead to an inclusive, collaborative process which will meet the needs of Grand Teton Canal Company shareholders while addressing the concerns of other water users in the area who could potentially be affected by the proposed transfer.

FTR is protesting the application on the grounds that it is not in the local public interest because it does not provide adequate protection to area water users against injury caused by the transfer of water to storage use from agriculture.

The transfer application provides only a vague outline of how additional pond storage might be mitigated to “ensure that storage does not result in a net increase in depletion to the water supply” (quote from transfer application) but neglects to address any potential effects on recharge to the shallow aquifer. Surface water and groundwater in Teton Valley are closely linked, and changes in water use within Grand Teton Canal Company (such as a shift from agricultural use to pond storage) could impact other water users who rely heavily on return flows and springs (ex. Cache Canal).

Given the amount of water involved in the transfer (10 cfs) and the amount of land that could potentially be dried up for mitigation (500 acres), a more robust system of review and mitigation must be in place to protect area water users from injury.

It is important to note that FTR is not opposed to the idea of additional flexibility for canal company shareholders in their water use, provided adequate safeguards are in place to protect other water users from injury, including those outside the Grand Teton Canal Company service area.

#7 – What would resolve your protest?

FTR believes in the collaborative process and would welcome the opportunity to meet with the applicant and other stakeholders to discuss their needs and our concerns in an open and cooperative manner.

Our protest could potentially be resolved by the development of a pond review and mitigation process which considers the interaction between groundwater and surface water and ensures that other water users (including adjacent water users outside the Grand Teton Canal Company service area) are not injured by additional pond storage in the Grand Teton Canal Company area. Alternatively, our protest could potentially be resolved by a reduction in the amount of water involved in the transfer or limits to the size, distribution, and rate of development of storage ponds.