

Receipt # E024720

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Department of Water Resources
Eastern Region

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

In the matter of Application for Transfer
Number 5360,

Water Right Number 22-00146.

WATER RIGHT No. 22-00146

NOTICE OF PROTEST

COME NOW Boyd Smith and Jill Smith, interested individuals, by and through their attorneys of the law firm of Hopkins Roden Crockett Hansen and Hoopes, PLLC, and in the accordance with the provisions of Idaho Code Section 42-222 et. sec, hereby protest the Application For Transfer relating to water right number 22-00146 filed by on or behalf of James Klausmann or Jacklyn Klausmann or Jeffrey Klausmann, (hereinafter referred to collectively as Klausmann) a true and correct copy of which Application For Transfer is attached hereto for ease of reference. This Notice of Protest is based upon the following:

NOTICE OF PROTEST- 1

1. Boyd Smith and Jill Smith (hereinafter referred to as Smiths) are the owners of that certain water right identified as water right number 22-11960. Smiths' water right is identified as a right to 3.2 cfs of irrigation water flowing from a source identified as "Driggs Springs and Swamp" with a priority date of May 11, 1900 all as is more particularly set forth in the profile report attached hereto for ease of reference.

2. Smiths' water right flows from that certain unnamed creek, commonly referred to as the Driggs Springs. The Application For Transfer referred to hereinabove proposes that the source for water claimed by Klausmann under water right number 22-00146, which water is presently diverted from Wood's Creek shall be diverted from the unnamed creek which flows through property owned by Smiths and supplies the Smiths' water right. The Application referenced above calls for a transfer not only of the point of diversion but a transfer of source as well.

3. The stream which produces water to satisfy the water right of Smiths runs only sufficient water to fill the Smiths' priority water right. Any further diversion by Klausmann or any other water user would substantially deplete the flow of water through the stream which provides water to the Smiths' property. The impact on the flow through the stream would deprive the Smiths of the water with which to fill their priority water right.

4. Klausmann apparently intend to utilize the water for purposes of establishing a wetland on their property. The transfer contemplated in the above-

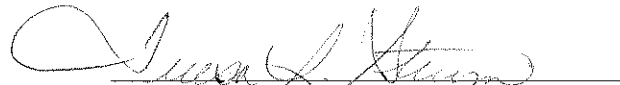
referenced Application For Transfer constitutes an expansion of the water right held by Klausmann which expansion will detrimentally impact the prior water right of the Smiths.

5. The proposed change is not consistent with the conservation of water resources within the State of Idaho.

6. The proposed change is not in the local public interest as is defined in section 42-203 A(5) of the Idaho Code.

Respectfully Submitted this 8th day of January, 1999.

HOPKINS RODEN CROCKETT
HANSEN & HOOPES, PLLC



Teresa L. Sturm