

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: tjb@racinelaw.net

BOISE OFFICE

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE

477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

*ALSO MEMBER WY & IL BARS
**ALSO MEMBER UT BAR
***ALSO MEMBER CO BAR
†ALSO MEMBER D. C. BAR
‡ALSO MEMBER MO BAR
‡ALSO MEMBER IL BAR
‡ALSO MEMBER WA BAR

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN**
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN***
RICHARD A. HEARN, M.D.†
DAVID E. ALEXANDER†‡
LANE V. ERICKSON**
PATRICK N. GEORGE**
SCOTT J. SMITH
STEPHEN J. MUHONEN
BRENT L. WHITING
JUSTIN R. ELLIS
JOSHUA D. JOHNSON‡
JONATHAN S. BYINGTON
DAVE BAGLEY
CAROL TIPPI VOLYN‡‡
THOMAS J. BUDGE
CANDICE M. MCHUGH***

March 30, 2007

Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, ID 83270-0098

RECEIVED
APR - 5 2007
Department of Water Resources
Eastern Region
RECEIVED
APR 09 2007
Department of Water Resources
Eastern Region

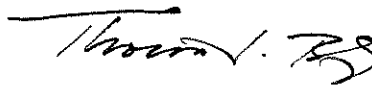
Re: Notice of Protest

To whom it may concern:

Please find enclosed herewith an Original and one (1) copy of Notice of Protest by Friends of Moody Creek relating to the Application for Exchange of Water in the name of DKJ Farms, LLC. Also please find enclosed herewith the accompanying \$25.00 filing fee. Please file the original and return to me the copy thereof conformed stamped.

Please call if you have any questions regarding this Notice of Protest.

Sincerely,



THOMAS J. BUDGE

TJB:ha

Enclosures

c: Jerry Rigby, Attorney for DKJ Farms, LLC

Petition to Intervene

November 26, 1999

RECEIVED

APR - 5 2007

RECEIVED

APR 09 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources
Eastern Region

Department of Water Resources
Eastern Region

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, 42-222 and 42-224, 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 Application of Exchange of Water in the name of DKJ Farms, LLC
2. Name of protestant Friends of Moody Creek, c/o James Wood, PO Box 610, Rexburg, ID 83340
3. Protestant's Representative for service (If different than protestant)
Thomas J. Budge, Racine, Olson, Nye, Budge & Bailey, Chtd.
4. Service mailing address P.O. Box 1391, Pocatello, ID 83204-1391 (*Please serve all documents upon Protestant and Protestant's representative.)
5. Service telephone no. 208-232-6101
6. Basis of protest (including statement of facts and law upon which the protest is based)
See Attachment A

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Denial of proposed exchange.

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 30th day of March, 2007.

Protestant

Thomas J. Budge
Protestant's Representative

* Note: Received in State office on 4/5/07 - will be "petition to intervene" 4/9/07 SC

Attachment A

BASIS OF PROTEST

The Friends of Moody Creek protest the Application for Exchange of Water in the name of DKJ Farms, LLC, on the following grounds:

1. The proposed exchange contravenes the local public interest. The proposed exchange will result in the dewatering of Moody Creek, which is critical spawning and rearing habitat for Yellowstone Cutthroat Trout in the lower Teton River. The Idaho Department of Fish & Game lists Yellowstone cutthroat trout at a species of "greatest conservation need." (See enclosed letter from Cal Groen, Director of the Idaho Fish & Game, dated February 13, 2007). The Friends of Moody Creek are adamantly opposed to the proposed exchange because it critically threatens the viability of Yellowstone cutthroat trout in Moody Creek.

2. The proposed exchange risks injury to vested water rights owned by members of the Friends of Moody Creek, including the following.

James Wood (under the name of Son Rise, Inc.):
22-13557 stock water right (.02cfs)
22-13558 stock water right (.02cfs)

George Brown:
22-1004 domestic well adjacent to Moody Creek (.02 cfs)
22-10005 from Moody Creek (.02 cfs)

David Wood (under the name Seth Wood Farms)
22-4094 domestic (.04 cfs)

Leila Lewis:
22-10908 stockwater (.02 cfs)

3. The proposed exchange requires a stream channel alteration permit pursuant to Idaho Code § 42-3801, et seq., which was enacted to protect streams "against alteration for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, or water quality." I.C. § 42-3801.

FRIENDS OF MOODY CREEK

James Wood
Lyn Wood
Dr. George Brown
Dr. George Brown Jr.

Corey Wood
Erin Wood
Daniel Claunch
Jennifer Claunch

Rob Smith
Sally Smith
Jim Smith
Rita Smith

Steve Wood
Darlene Wood
Kim Summers
Ross Parkinson
Ruby Parkinson
Nathan Ashcraft
David Wood
Susie Wood
Phil Olsen
Pat Olsen
Kirk Shirley
Manette Shirley

John Bowen
John M. Wood
Richard S. Wood
Bud Summers
Doug Yates
Donna Yates
Bart Webster
Joann Webster
Teddie Wood Porter
Dean Brown
Diane Brown
Brad Parkinson

Jim Wilson
Annette Wilson
Joe Morgan
Jeri Morgan
Brian Hymas
Jay Fred Smith
Sharon Smith
Keith Lewis
Mike Lewis
Leila Lewis