

RECEIVED

MAR 24 2005

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources
Southern 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 for Transfer No. 71639 filed by Karen A. and William Arkoosh

2. Name of protestant:

**United States of America, acting through Department of the Interior
Bureau of Land Management, Idaho State Office
400 West "F" Street
Shoshone, ID 83352**

3. Protestant Representative for service:

Area Manager

4. Service mailing address:

**400 West "F" Street
Shoshone, ID 83352**

Doug Barum *Field office Manager, Acting*

5. Service telephone #:

Office: (208) 732-7272

Fax: (208) 732-7317

Email:

6. Basis of protest (including statement of facts and law upon which the protest is based):

**The Application for Transfer for the original and proposed Water Right Claim
#37-00059M has places of use (POUs):**

SESW, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SWSE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SESE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SWSW, Section 23, Township 05S, Range 16E, entirely describes Federal public land.

SESW, Section 23, Township 05S, Range 16E, entirely describes Federal public land.

SWNW, Section 27, Township 05S, Range 16E, entirely describes Federal public land.

**The Application for Transfer for the original and proposed Water Right Claim
#37-00327 has places of use (POUs):**

SESW, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SWSE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SESE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SWSW, Section 23, Township 05S, Range 16E, entirely describes Federal public land.

SESW, Section 23, Township 05S, Range 16E, entirely describes Federal public land.

SWNW, Section 27, Township 05S, Range 16E, entirely describes Federal public land.

**The Application for Transfer for the original and proposed Water Right Claim
#37-00329 has places of use (POUs):**

SESW, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

SWSE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.

*Receipt # 5027495
3/24/05
MB*

SESE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.
SWSW, Section 23, Township 05S, Range 16E, entirely describes Federal public land.
SESW, Section 23, Township 05S, Range 16E, entirely describes Federal public land
SWNW, Section 27, Township 05S, Range 16E, entirely describes Federal public land.

No authorization has been issued by the United States to conduct said use of Federal public land for irrigation.

It is my understanding that one cannot acquire a right by aid of trespass. *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931). The U.S. reserves the right to assert additional defenses and argument against the application for transfer at the hearing.

7. What would resolve your protest?

Amend the application for transfer to remove the places of use (POUs) describing Federal public land and discontinue the unauthorized use of Federal public land:

SESW, Section 22, Township 05S, Range 16E, entirely describes Federal public land.
SWSE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.
SESE, Section 22, Township 05S, Range 16E, entirely describes Federal public land.
SWSW, Section 23, Township 05S, Range 16E, entirely describes Federal public land.
SESW, Section 23, Township 05S, Range 16E, entirely describes Federal public land
SWNW, Section 27, Township 05S, Range 16E, entirely describes Federal public land.

I hereby, acknowledge that if I, or my designated representative, fail 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.

Protestant:

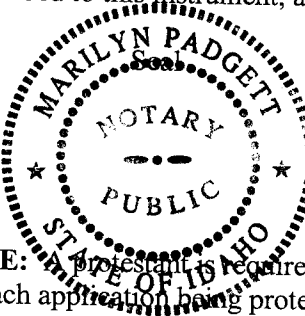
United States of America, acting through Department of the Interior
Bureau of Land Management, Shoshone Field Office
400 West "F" Street
Shoshone, ID 83352

Protestant Representative: Doug Barnum
Area Manager

Dated this 24 day of March, 2005 Acting

Doug Barnum Field Office
Area Manager Acting
Signature

On this 24 day of March 2005, before me MARILYN PADGETT, a notary public, personally appeared [redacted], personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.



Marilyn Padgett
Notary Public for the State of Idaho
Residing at: Shoshone, Idaho
My Commission Expires: 7-1-06

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.

CERTIFICATE OF SERVICE

I certify that on March ____, 2005, I served a true and correct copy of the foregoing **Protest of Application for Transfer #71639** upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

**Alan Merritt, Office Manager
Idaho Department of Water Resources, Southern Regional Office
1341 Fillmore Street, Suite #200
Twin Falls, Idaho 83301**

Copies to:

**Karen A. and William Arkoosh
US Highway 26
Gooding, Idaho 83330**

**Lin Pierron-Buck, Water Rights Assistant
United States of America, acting through Department of the Interior
Bureau of Land Management, Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709**

Enclosures:

Delegation of Authority

Lisa Taro

Person Serving Documents (print name)

Lisa Taro

Signature of Person Serving Documents

March 24, 2005

Date