

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

RECEIVED
DEC 20 2004
Department of Water Resources
Southern Region

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 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 Proposed change to a water right Applic. No. 71132 from Timothy P. Deeg.
2. Name of protestant Warm Creek Irrigation Co.
3. Protestant's representative for service (If different than protestant)
Violet Isaak, secretary, and Duane Isaak, president
4. Service mailing address 3298 So. Isaak Loop, Am. Falls, ID 83211
5. Service telephone no. 208-226-2618 or 208-226-2130
6. Basis of protest (including statement of facts and law upon which the protest is based)
Proposed change will injure existing water rights. Proposed change is not in local public interest. Refer to additional reference pages added to this protest: Final Order of Applic. for Transfer No. 5120 of water right No. 41-07034 in the name of Timothy P. Deeg, "Findings of Fact" No. 11 on page 4.
(additional pages may be attached to describe the nature of the protest)

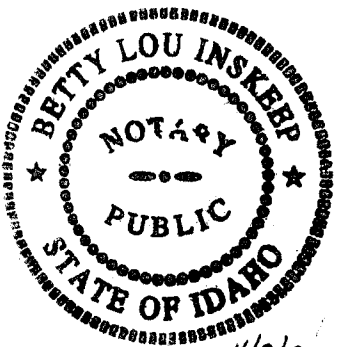
7. What would resolve your protest? Show proof that the drilling and increase from another well will not affect Warm, Cold, and Little Creeks water users. Show proof that on page 8 of the final order No. 6 has been done (of Final Order noted above).

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 16TH day of December, 19 2004.

Warm Creek Irrigation Co.
PROTESTANT

Duane A. Isaak Pres., Violet Isaak, secretary
PROTESTANT'S REPRESENTATIVE



11/3/2010

Receipt # 5027233
12/20/04
CHe

e. Well Driller Reports (well logs) in the department's files.

8. The Deeg irrigation well (Deeg well) is located in the SWSE Section 6, T9S, R31E, B.M. The well was drilled during the summer of 1992 and was first used on 348 acres during the 1993 irrigation season. The Deeg well is 939 feet deep and is cased with 18 inch diameter casing which is perforated at depths of 210 feet to 330 feet, 450 feet to 490 feet and from 516 to 716 feet. The static water level in the well averages about 475 feet below land surface. The water level in the well when it is pumping at times exceeds 500 feet below land surface.

9. On February 8, 1997, the department logged the Deeg well using a down-hole video camera and a temperature probe. A small amount of water was observed dripping into the hole at about 261 feet and at 298 feet, about 5 to 10 gallons per minute (gpm) was observed running down the slotted liner. The static water level was measured at 458 feet below land surface and the bottom hole temperature was 60.8 degrees F.

10. Other water rights diverted from the Deeg well include 41-07030, 41-07071, 41-07076 and 41-07081. The department conducted a field examination in connection with permit Nos. 41-07076 and 41-07081. Measurement by the department of the Deeg well in 1997 shows that the total diversion capacity from the well is 6.68 cfs.

11. The applicant stated that it is not his intent to increase the total diversion capacity from the Deeg well if transfer No. 5120 is approved.

12. The applicant owns and uses a domestic well which is located about 700' from his irrigation well. The domestic well is about 400' deep with a static water level of about 200' below land surface. Measurements show that this domestic well is not affected by the pumping of Deeg's irrigation well.

13. License No. 41-07034 authorizes the irrigation of 91 acres. The applicant does not plan to irrigate more than 91 new acres at the new place of use if transfer No. 5120 is approved.

14. Richard Nelson who owns the land to which water right license No. 41-07034 is appurtenant, last irrigated the land in 1989. During 1990, 1992, 1994 and 1996, Nelson raised dry-land wheat on the property. During 1991, 1993, 1995 and 1997, Nelson placed land under the license in the Acreage Conservation Reserve (ACR) set aside program. The ACR set-aside program is similar in some respects to the Conservation Reserve Program set aside (CRP) in that a certain portion of farmed land is idled for a given period of time.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Transfer No. 5120 of water right license No. 41-07034 is **APPROVED** subject to the following conditions and limitations:

1. The change authorized by this transfer shall be accomplished within one (1) year of the date of the final order in this matter.

2. Approval of this transfer does not preclude the opportunity for the review of the validity of the water right in the ongoing Snake River Basin Adjudication.

3. Prior to the diversion of water under this right, the right holder shall provide a means of measurement acceptable to the department which will allow determination of the rate of diversion and annual volume of water pumped from the well.

4. The authorized season of use is from April 1 to October 31 of each year.

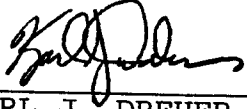
5. The maximum rate of diversion of water under this right when combined with water right Nos. 41-07030, 41-07071, 41-07076 and 41-07081 shall not exceed a total combined rate of 6.68 cfs nor more than 4.0 acre feet per acre per year at the well.

6. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.

7. Failure to comply with the conditions of this transfer is cause for the director to rescind approval of the transfer.

IT IS FURTHER hereby ORDERED that the protests of Harold and Steve Isaak are **SET ASIDE** for failure to appear at the time and place set for hearing and will not be further considered by the department.

Signed this 15th day of May, 1998.



KARL J. DREHER
Director