

RECEIVED

JUL 27 2004

DEPARTMENT OF
WATER RESOURCES

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, 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 #37-20613 in the name of 4 Brothers Dairy - Fitzgerald Brothers Shoshone, Id
2. Name of protestant Henry Blake and Janene Buckway
3. Protestant's Representative for service (If different than protestant) _____
4. Service mailing address 585 N 250 W Shoshone
5. Service telephone no. 1-208-886-2726
6. Basis of protest (including statement of facts and law upon which the protest is based)
First in time - First in Right - we have an 1894 well and don't want to lose it. Applicant claims plans to transfer rights from Dietrich to North Shoshone and then drill a 26 inch well to service 17,000 animals. Historic trends indicate a well pumping over a million gallons a day will negatively impact the aquifer & neighboring wells
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? Deny the transfer or prohibit the drilling of a deep well of sufficient size to service the number of animals proposed

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 25 day of July, 2004
Henry Blake Buckway
Protestant

Protestant's Representative

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JUL 29 2004

Department of Water Resources
Southern Region

11/99
Protest #
37-20613

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.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
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FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Time _____

\$25.00 fee Received by M # C074634 Date 7-27-04

Protest to transfer Number 37-20613

Basis of Protest

Our protest is based on our First in Time water well permit and the applicant's publicly stated plans to use the transferred water rights to drill a 26-inch well servicing as many as 17,000 animals. Simply transferring the "right" does not automatically make that much water available.

Please Consider:

- I. First in Time –First in Right laws covering existing wells and the potential impact of a well of this size on existing water users.
- II. Current water use issues including the "Call" for water made by water users in the Hagerman Valley earlier this year and the potential turn off order that call engendered for wells as far north as Lincoln County; existing State limits on wells for other than domestic use; drought conditions in the region including the number of years Lincoln County has been declared a drought disaster zone; and the number of Lincoln County domestic wells that have had to be deepened in the past 10 years, which would seem to document a declining aquifer.
- III. Historic water use issues in Lincoln County including the so-called "Dietrich Decree" which clearly indicate water has always been in short supply in this area. Increasing the pressure on a limited resource simply limits the resource further and negatively impacts everyone already relying on the resource.