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WATER RESOURCES
WESTERN REGION

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Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)
APPLICATION FOR TRANSFER)
NUMBER 69270 in the Name of)
RON HULME,)
Water Right Nos. 36-7044, 36-2676,)
36-7158)
_____)

NOTICE OF PROTEST

CLEAR SPRINGS FOODS, INC. ("Clear Springs Foods"), by and through its attorneys, Barker Rosholt & Simpson, LLP file its *Notice of Protest* to the approval of the above-numbered Application for Transfer filed by Ron Hulme. The basis for Clear Springs Foods' protest is as follows:

1. The proposed transfer will result in injury to Clear Springs Foods and other water right holders due to a further depletion in the already declining spring flow levels. The ground water to be withdrawn is hydraulically connected to the springs

supplying Clear Springs Foods' water right. Additional withdrawal of ground water will impact the spring levels and cause the water supply to be further limited. These withdrawals will also impact and further deplete the reach of the Snake River in this area. Allowance of such a transfer is contrary to previous orders issued by the Department of Water Resources;

2. The proposed transfer will additionally cause injury as it will have the same physical effect as a new appropriation since the point of diversion is proposed in a different response zone than the original, licensed well. At the original well, water that is not pumped from such well is tributary to the Snake River. Portions of the unpumped water will move into the aquifer but some will reach the Snake River and be unavailable as ground water within the Snake Plain Aquifer. The result is that the unpumped water will not likely reach the new well due to distance and the aquifer characteristics. The withdrawal of water at the new well is like a new appropriation. A new appropriation will injure other water rights that rely upon the limited supply of the aquifer and those water rights that are hydraulically connected to the aquifer. Approval of such a transfer is contrary to prior decisions by the Department;

3. The proposed transfer is not in the local public interest. The parent water right is being split into numerous, miniscule pieces. It is not in the public interest to permit the multiple splitting of water rights when such rights may then be difficult to administer and may result in over-appropriation of the limited water supply; and,

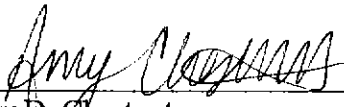
4. For such other and further reasons as may be set forth at the hearing on this matter.

This protest could be resolved by the following:

- (a) Sufficient hydrological analysis that the transfer is not essentially a new appropriation and will not injure Clear Springs Foods;
- (b) Proof and a condition, if the transfer is approved, that the acres to be dried up in order to provide water for the transfer are actually not being irrigated;
- (c) Submission of proof by the Applicant that the parent water right(s) is valid and has not been forfeited or abandoned;
- (d) Submission of evidence by the Applicant that water is not already being used for the same beneficial use and at the same location as proposed in the transfer;
- (e) Clarification, by the Department, of its policy regarding transfers of water rights into different response zones; and,
- (f) Other solutions that may be identified to resolve the issues raised herein and that may be raised at the hearing on this matter.

DATED this 15th day of October, 2001.

BARKER ROSHOLT & SIMPSON, LLP

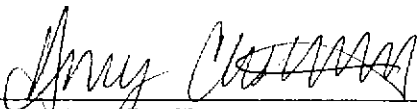
By: 
Amy D. Chestnut

CERTIFICATE OF MAILING

I hereby certify that on this 15th day of October, 2001, I served a copy of the foregoing NOTICE OF PROTEST, by depositing same in the United States mail, postage prepaid, in an envelope, addressed to the following:

Ron Hulme
2066 E 400 S
Hazelton, Idaho 83335

Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore St., Ste. 200
Twin Falls, Idaho 83301-3380


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