



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

November 3, 2023

James Whittaker
PO Box 240
Leadore, ID 83464

RE: Untimely Protest of Application for Transfer 86758

Dear Mr. Whittaker:

On November 1, 2023, you filed a protest against Application for Transfer 86758. Your protest was not filed by the protest deadline and cannot be accepted. Enclosed is your original protest form. IDWR has requested a refund of your filing fee (\$25 - Receipt No. E049592). You should receive a refund check from the state in the coming weeks.

Application for Transfer 86758 was filed by Double Check Ranch (Double Check) on September 8, 2022. IDWR published notice of the application on September 22 and 29, 2022. The deadline for filing a protest was October 10, 2022, more than one year ago. No protests were filed. I approved Transfer 86758 on October 20, 2023.

I thought it might be helpful to address a few of your issues of protest in this letter. Your protest states that Transfer 86758 changed your water rights without your consent. The transfer only changed Double Check's portions of water rights 74-380B and 74-381B, covering 39.8 acres. Your portions of water rights 74-380B and 74-381B, covering 49.7 acres, remain unchanged. You were also concerned that IDWR did not publish notice of the application. As noted above, IDWR published notice in the Recorder Herald in September 2022. Finally, your protest asserts that the Snake River Basin Adjudication (SRBA) incorrectly amended water rights 74-380 and 74-381. The Department can correct some elements of a water right (point of diversion, place of use) through the application for transfer process. Other elements (source, quantity, priority date) cannot be corrected through an application for transfer. Feel free to contact our office if you need assistance preparing an application to change the point of diversion or place of use for any of your water rights.

Sincerely,

James Cefalo

Enclosure: Notice of Protest, Transfer 86758

07/2008

NOV 01 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment 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, and 42-222, 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 Transfer No. 86758 in the name of Double Check Ranch
2. Name of protestant James Whittaker
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address PO Box 240, Leadore ID 83464

5. Service telephone no. 208-303-0102 Email Address: fjwhitt@yahoo.com

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

1. Transfer of my water right with another entity without my consent is illegal.

2. IDWR is not following Idaho Code 42-222 or 42-203A. A notice has not been published.

3. SRBA incorrectly amended 74-0380. Shouldn't be an A & B 11/6/1908, 0.4 cfs Milk Creek 158 acres Double Check Ranch.

4. SRBA incorrectly amended 74-0381. Shouldn't be an A & B. IDWR attempting to cut water right 74-0381 from .30 cfs to .08 cfs & acreage from 90 to 50.

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

7. What would resolve your protest? Put the water decrees back as they are represented
in the green book. Please consider this protest also a petition for reconsideration.

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 1st day of November, 2023.

James Whittaker
Protestant

Protestant's Representative

Idaho Department of Water Resources Receipt

Receipt ID: E049592

Payment Amount	\$25.00	Date Received	11/1/2023	Region	EASTERN
Payment Type	Check	Check Number	1639		
Payer	FLOYD J WHITTAKER TSTEE GRNT				
Comments	Notice of Protest James Whittaker Transer # 86758 Double Check Ranch				

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	63103	0229	21		1155



Signature Line (Department Representative)