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Rev. 04/2022 NOV 14 2023

Filing Fee: \$25.00

Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest under Sections 42-203A, 42-203C, 42-211, 42-222 or 42-240, Idaho Code. The Department will also accept a timely protest completed in a different format if it contains the same information requested on this form. Each protestant must provide a separate \$25 filing fee for each application protested. The Department's Rules of Procedure (IDAPA 37.01.01) require the protestant to **send a copy of the protest to the applicant**.

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☒ Transfer ☐ Exchange
No. 88581 in the name of City of Rexburg

2. Protestant's Name: Rexburg Irrigation Company

Address: 975 S. 5500 W., Rexburg, ID 83440

Telephone: _____ Email: _____

3. Protestant's Representative: Robert L. Harris, Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Address: P. O. Box 50130, Idaho Falls, ID 83405

Telephone: (208) 523-0620

Email: rharris@holdenlegal.com

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See Instructions for Filing a Notice of Protest for the relevant review criteria.

Please see attached.

(Additional pages may be attached to describe the basis of your protest.)

Identify any review criteria that are not a basis for your protest:

Local economy/watershed review criteria.

5. ☒ Check here if Protestant and Representative will accept service of documents by email at the email address(es) listed under Item #2 and #3 above.

I 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 properly notified, 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.**

Robert L. Harris
Protestant's or Representative's Signature

Robert L. Harris, Esq.
Printed Name and Title (if applicable)

11/14/2023
Date

\$25.00 fee received by CELH

FOR DEPARTMENT USE ONLY

Receipt # E049612

Date 11/14/23

4.

The Applicant's water rights are currently authorized and are delivered through the Rexburg Irrigation Company Canal System. Removing water rights from this system will injure the Protestant's water rights. Further, the proposed transfer will move one of the authorized points of diversion of the Applicant's water rights further upstream, and where it has a common priority date with the Protestant's water rights, this could result in injury to the water supply available to the Protestant. It is unclear whether ground water recharge is covered under the umbrella of municipal water use, and this transfer does not propose to amend the nature of use. The proposed diversion structure is large, and based on the initial design, could result in leaking at the gates, which would again injure the Protestant's water supply and rights. This transfer is also not in the local public interest and is contrary to the conservation of water resources within the state of Idaho.