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JUL 28 2023

Department of Water Resources
Eastern RegionSTATE 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.**

- Matter protested. Application for ☒ Permit ☐ Amendment of Permit ☐ Transfer ☐ Exchange
No. 74-16468 in the name of Ronald E. Byers
- Protestant's Name: Rohn & Lori Nelson (Joint Protestant)
Address: 3800 East Ruth Drive, Wasilla, AK. 99654
Telephone: (907) 982-5551 Email: fullcurl@mtaonline.net
- Protestant's Representative: _____
Address: _____
Telephone: _____ Email: _____
- 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.
Additional information is needed to determine whether approval of 74-16468, will reduce the quantity of water under existing rights.

The application 74-16468, is for 0.06 cfs, for irrigation of 2.3 acres, which exceeds the generic max rate per acre of 0.02 cfs. A diversion of 0.046 cfs is the maximum diversion allowed, without exceeding the generic max rate per acre.

The application, 74-16468, indicates that the POD is LWMP1 Old Location; however there is no point of diversion as the point indicated on Ron Byers Application for Permit - North Acres. POD LWMP1 Old Location is located on Pratt Creek Ranch. The application states that the shared POD is diverted with a standard flip down head gate with a wheel; however there is no head gate or measuring device installed at POD, LWMP1 Old Location. Diversion from Wimpey Creek to POD, LWMP1 Old Location, is conducted at "The Y" by manipulating the channel with a line of rocks in the stream bed, and no head gate or measuring device is installed at the location. This negates the ability to accurately quantify the amount of water being diverted from Wimpey Creek at either "The Y" or POD, LWMP1 Old Location.

The application, 74-16468, states that, currently, water right 74-210A covers the same POU of the application; however the POU depicted on application 74-16468, is an enlargement, and now includes the area, north of the parcel's east boundary, to its intersection with Wimpey Creek Road, and including that area that was not previously depicted as POU for water right 74-210A.

There currently is no ability to determine whether the water supply is sufficient for the purpose intended, due to there being no head gates or measuring devices installed. Without the ability to regulate and measure the amount of water being diverted at POD, LWMP1 Old Location it is not possible to accurately quantify, or regulate, the amount of water being diverted from Wimpey Creek.

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

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

It is my opinion that the fish propagation screen, LWMP1, should not be considered a point of diversion, and that POD, LWMP1 Old Location is the actual point of diversion from Wimpey Creek.

- ☒ 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.**

Rohn R. Nelson
Protestant's or Representative's Signature

Rohn R. Nelson
Printed Name and Title (if applicable)

07/24/2023
Date

\$25.00 fee received by CHD

FOR DEPARTMENT USE ONLY

Receipt # E049384

Date 7/28/23