

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 27 2025

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. 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.

DEPT. OF WATER RESOURCES
EASTERN REGION

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☒ Transfer ☐ Exchange

No. 90098 in the name of F. James Whittaker

2. Protestant's Name: David Tomchak

Address: 1180 Merrett Dr. Idaho Falls, Idaho 83404

Telephone: 208-390-3017 Email: tomchak1@yahoo.com

3. Protestant's Representative: _____

Address: _____

Telephone: _____ Email: _____

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.

Criteria 3: Whittaker is seeking to move the point of diversion because of a low spill that they had with Bruce McConnel. Moving the water would allow Whittaker to transfer water to other areas that are not part of the structured water right.

Criteria 5: It is not in our local public interest to move the Whittaker point of diversion onto our private property, and dig a new, much larger ditch to contain the water, because it will likely dry up the historic, natural creek bed that runs through our property and Erickson's property. Thus, killing run.

Criteria 6: Allowing the historic creek bed to run dry does not support water conservation.

Criteria 7: Whittaker will have the ability to move water to other properties they own that are not in the prescribed irrigation area.

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

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

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.**



Protestant's or Representative's Signature

David Tomchak

Printed Name and Title (if applicable)

10-27-2025

Date

FORM IDAPA 37.01.01.001 (01/2015)

\$25.00 - Ct H - EOS1237 - 10/27/25

BASIS OF PROTEST EXPANDED TEXT

Criteria 3: Whittaker is seeking to move the point of diversion because of a law suit that they lost with Bruce McConnell. Moving the water could allow Whittaker to transfer water to other areas that are not part of the structured water right.

Criteria 5: It is not in our local public interest to move the Whittaker point of diversion onto our private property, and dig a new, much larger ditch to contain the water, because it will likely dry up the historic, natural creek bed that runs through our property and Erickson's property. Thus, killing natural habitat (i.e., trees, shrubs, fish, etc.) which grow along and in the creek bed. This will decrease the value of our property (and Erickson's property) and greatly reduce the enjoyment we have always had in the use of our property. Also, we have a historic well house located next to Erickson's point of diversion which would be greatly impacted by expansion of the ditch by Whittaker.

Criteria 6: Allowing the historic creek bed to run dry does not support water conservation.

Criteria 7: Whittaker will have the ability to move water to other properties they own that are not in the prescribed irrigation area.