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Department of Water Resources
Eastern Region

BEFORE THE DIRECTOR OF THE DEPARTMENT OF
WATER RESOURCES OF THE STATE OF IDAHO

PETITION TO PROTEST

IN THE MATTER OF
APPLICATION FOR PERMIT TO
APPROPRIATE WATER,
RIGHT NOS. 21-7574 through 21-7580, IN THE
NAME OF THE STATE OF IDAHO

Henry's Fork Anglers, Inc. is a full service fly fishing retail store and guiding and outfitting business. We incorporated in Idaho in December of 1976 and opened for business in May of 1977. We currently employ 3 full time employees and 21 seasonal employees with an annual payroll of approximately \$300,000. Every year our customers come from all over the country as well as Japan, Europe and other parts of the world to fish the Henry's Fork of the Snake River. The Henry's Fork has long been considered one of the finest trout fishing streams in the world. In a recent survey conducted by Trout Unlimited the Henry's Fork was rated as the best trout stream in the country from over 550 rivers and streams with over 12,000 votes.

Our business is highly dependent on the section of the Henry's Fork and Fall River which would be impacted by this proposal. The fishery has vastly improved in recent years since the drought has ended. Many large brown and rainbow trout as well as native cutthroat trout are found below St. Anthony. In the years since we first opened our business we have become more and more dependent on the lower sections of the Henry's Fork due to increased fishing pressure in the Island Park area. We are also restricted with use days on the Targhee National Forest and the lower Henry's Fork is the only area which is not currently restricted and doesn't receive heavy fishing pressure. As the quality of the fishing has improved in this stretch, more and more anglers are finding the excellent fishing opportunities. I have been a resident of St. Anthony for the past 27 years and the community has struggled economically. The future of this community depends in part upon tourism and recreation. The excellent fishing below St. Anthony will help draw more people into this great community.

We believe that the proposed new appropriations from the Henry's Fork near St. Anthony and the Fall River near Chester will adversely affect the river and its fish and wildlife habitat. The proposed recharge diversions would severely deplete minimum streamflows during fall and winter months, thereby reducing the biological viability of the Henry's fork and Fall Rivers. During spring runoff period, the proposed diversions could reduce flood peaks by a significant amount. Spring peak flows are critical for fishery habitat formation and maintenance in this section of the Henry's Fork of the Snake River, significant reduction in the size of these flows will result in loss of islands, gravel bars and riparian vegetation. Reduced flows in the winter months could cause more ice build up reducing survival of overwintering trout.

The lower Henry's Fork below St. Anthony is the best place on the entire river to take our customers to view wildlife including trophy sized moose, whitetail deer, river otters, osprey and bald eagles. This stretch also provides some of the most scenic cottonwood bottomland in the entire region. To allow a diversion of more water than the average mean monthly flow for this part of the Henry's Fork is totally inconceivable. This would mean the river would be completely dewatered during all months of the year except May and June!

No scientific assessment of the biological impacts of recharge diversions on aquatic or riparian communities has been made. There are also little scientific data available to support this recharge effort. It is inappropriate to apply for these water rights before the necessary scientific studies have been conducted. I read in an earlier edition of the Post Register that more than 40% of downstream water users are currently pumping more water than their allocated water rights. Research should include ways to conserve current water available without additional diversions.

Approval of this water right application is not in "the local public interest" under IC 42-203A(5); that "the water supply itself is insufficient for the purpose for which it is sought to be appropriated" IC 42-203A(5); that the application has been made for "speculative purposes" IC42-203A(5); and that it is contrary to the conservation of the water resources in the State of Idaho IC42-203A(5). There is no doubt that in addition to the above concerns, my business will be extremely economically impacted .

We therefore request that the above water right applications be denied until the following issues are addressed:

1. An assessment of habitat conditions at the range of river flows that would result from the proposed diversions needs to be undertaken to provide an improved understanding of the potential impacts on the river's physical and biological attributes.
2. Scientific evidence should be provided to verify that the proposed diversions will recharge the targeted aquifers.
3. Scientific evidence should be provided to quantify the amount of expected recharge at different times of the year at different locations.
4. Safeguards must be provided that total diversions from a certain river reach will not exceed the amount deemed biologically acceptable.
5. Timing of occurrence of the recharge diversions should be clarified.

I recommend that the listed water rights applications are denied until further public comment and discussion occur. I request that a hearing be scheduled after the above mentioned scientific evidence is provided to consider the public impacts that these proposed water rights may have.

Dated July 30, 1998



Michael J. Lawson
President
Henry's Fork Anglers, Inc.
Protestant

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