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DEPARTMENT OF  
WATER RESOURCES

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Attorneys for Unit A Association

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

**IN THE MATTER OF DISTRIBUTION  
OF WATER TO WATER RIGHT NOS.  
36-02356A, 36-07210, AND 36-07247**

**(Water District 120)**

**IN THE MATTER OF THE  
MITIGATION PLAN FILED BY A&B  
IRRIGATION DISTRICT**

**(Blue Lakes Delivery Call)**

**NOTICE OF PROTEST AND REQUEST  
FOR HEARING**

Protest Fee: \$25.00

COMES NOW, UNIT A ASSOCIATION, by and through its counsel of record, PERKINS COIE, LLP, and hereby submits the following Notice of Protest attached hereto as Exhibit A, regarding the Application for Approval of A&B Irrigation District's Mitigation Plan to Compensate Blue Lakes Trout Farm, Inc., submitted August 18, 2009.

A hearing on this matter is respectfully requested in accordance with Idaho Code § 42-222 and Rule 43 of the Idaho Department of Water Resources' Conjunctive Management Rules.

DATED: September 28, 2009

PERKINS COIE LLP

By: Robert A. Maynard  
Robert A. Maynard, ISB No. 5537  
Erika E. Malmen, ISB No. 6185

Attorneys for Unit A Association

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on September 28, 2009, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Procedure, to the following person(s):

A & B Irrigation District  
PO Box 675  
Rupert, Idaho 83350-0675

Hand Delivery  
U.S. Mail  
Facsimile  
Overnight Mail

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Travis L. Thompson  
Paul L. Arrington  
Sarah W. Higer  
BARKER ROSHOLT & SIMPSON LLP  
113 Main Avenue West, Suite 303  
PO Box 485  
Twin Falls, Idaho 83303-0485

Hand Delivery  
U.S. Mail  
Facsimile  
Overnight Mail

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

DIRECTOR OF IDWR  
PO Box 83270  
Boise, Idaho 83720-0098

Hand Delivery  
U.S. Mail  
Facsimile  
Overnight Mail

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>



Robert A. Maynard  
Erika E. Malmen

## **Exhibit A**

07/2008

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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.

Application for Approval of A&B Irrigation District's Mitigation Plan

1. Matter being protested to Compensate Blue Lakes Trout Farm, Inc., submitted August 18, 2009

2. Name of protestant Unit A Association

3. Protestant's Representative for service (If different than protestant)

Robert A. Maynard, Perkins Coie LLP

1111 West Jefferson Street, Suite 500  
PO Box 737

4. Service mailing address Boise, Idaho 83701-0737

5. Service telephone no. (208) 343-3434 Email Address: rmaynard@perkinscoie.com

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

Water proposed for use for mitigation is appurtenant to land owned and irrigated within A&B Irrigation District boundaries by Unit A Association members. Unit A Association members will be injured if this water is no longer available for storage and/or irrigation use on the appurtenant lands. Unit A Association reserves the right to amend this Protest to include other reasons as may be discovered through the course of this proceeding.

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

7. What would resolve your protest? Withdrawal of the Application, except for the enrollment of 121 acres of ground water acres in the Conservation Reserve Enhancement Program ("CREP") to which Unit A Association does not object.

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 28th day of September, 2009.

Protestant

Robert A. Maynard, Perkins Coie LLP  
Protestant's Representative

**NOTE:**

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

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**INSTRUCTIONS**

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. \_\_\_\_\_ in the name of \_\_\_\_\_" or "Application for Transfer No. \_\_\_\_\_ in the name of \_\_\_\_\_."
  2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
  3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
  4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
  5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
  6. Specifically describe the nature of the protest.
  7. Describe the relief being sought by the protestant.
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**FOR DEPARTMENT USE ONLY**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

\$25.00 fee Received by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_