

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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APR 04 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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.

1. Matter being protested 2nd MITIGATION PLAN - IDAHO GROUND WATER APPROPRIATORS, INC. WITH RESPONSE TO THE RANGEN, INC. WATER DELIVERY CALL
2. Name of protestant BIG BEND IRRIGATION & MINING CO., LTD
3. Protestant's Representative for service (If different than protestant)
ALMER HUNTLEY, JR. PRESIDENT
4. Service mailing address 2721 S 900E HAGERMAN, ID 83332
5. Service telephone no. 208-421-1287 Email Address: PLS DEC HOTMAIL.COM
6. Basis of protest (including statement of facts and law upon which the protest is based)

SEE ATTACHED

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

7. What would resolve your protest? _____

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 3RD day of APRIL, 2014.

BIG BEND IRRIGATION & MINING CO., LTD
Protestant

ALMER HUNTLEY, JR. Almer Huntley, Jr.
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.

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.
-

FOR DEPARTMENT USE ONLY

Received by DM Date 4-4-2014 Time 12:35 PM
\$25.00 fee Received by DM # 5033932 Date 4-4-2014

BIG BEND IRRIGATION & MINING CO., LTD., P O BOX 334, HAGERMAN, ID 83332

April 3, 2014

Big Bend Irrigation & Mining Co., Ltd. (BBIM) hereby protests the Second Mitigation Plan Submitted By The Idaho Ground Water Appropriators, Inc. (IGWA) In Response to the Rangen, Inc. Water Delivery Call, as defined in the January 29, 2014, "Final Order Regarding Rangen, Inc.'s. Petition for Delivery Call: Curtailing Ground Water rights prior to July 13, 1962", which is on file with the Idaho Department of Water Resources.

It is the BBIM's opinion and belief that the referenced Second Mitigation Plan, submitted by the IGWA, is not a well thought out mitigation plan. It is simply a **flawed concept** of how to "appropriate" 9.1 cfs from a dwindling and precious **state owned resource providing water to one of its important fish hatcheries, the Hagerman Fish Hatchery (HFH), turning the 9.1 cfs over to a private group (IGWA),** transporting the 9.1 cfs of water via pumps and a 1.3 mile pipeline from the Upper Tucker Spring (UTS) to the Rangen Site in **order to satisfy a problem that is mainly caused by the IGWA members over-pumping the Eastern Snake Plain Aquifer (ESPA).**

The Upper Tucker Spring is the source of water for five adjudicated water users based on a total spring flow of about 118 cfs. At this point in time, it is estimated that the Upper Tucker Spring is flowing about 75.35 cfs. This is a reduction of 42.65 cfs from the original adjudicated amounts (118 cfs-75.35 cfs), a 36% reduction in flow from the Upper Tucker Spring.

Like virtually all of the springs in the Hagerman Valley, Upper Tucker Spring's decrease in its flow over the years is mainly due to the over-pumping of the ESPA. Recent figures received from IDWR reveal that the Hagerman Fish Hatchery (HFH) is only receiving 46.55 cfs via two pipelines leading directly from the spring into the facility. An additional 3 cfs water belonging to HFH is being transported by the BBIM canal to the state owned Bass Ponds located near the HFH, for a total of 49.55 cfs received from the Upper Tucker Spring. From an adjudicated right of 87 cfs, now reduced to 49.55 cfs, HFH has lost 43% of its water right from Upper Tucker Spring.

BBIM has recently recorded 18.6 cfs passing over our measuring weir at Upper Tucker Spring. This 18.6 cfs includes the 3 cfs of HFH water flowing by our canal to the Bass Ponds mentioned above, so that our real flow is 15.6 cfs. This flow drops when the pumpers start irrigating. In July, 2013, BBIM's flow from Upper Tucker Spring was reduced to 17.1 cfs. Take away the HFH 3 cfs conveyed to the Bass ponds, leaves a remaining flow of 14.1 cfs, a 30% reduction from our 20 cfs water right.

BBIM has an adjudicated flow of 20 cfs from Upper Tucker Spring. Our right of 20 cfs minus 15.6 cfs equals a drop in flow of 4.4 cfs, or a 22% reduction in flow. BBIM is not being compensated with water for the 3 cfs passing over our weir and carried by our canal to the Bass ponds by the Hagerman Fish Hatchery, nor has there been any reduction in the 3 cfs due to the spring's reduced flow.

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Also, during the early spring and before irrigation begins, BBIM, being a good neighbor, lends the hatchery about 3 cfs to help alleviate their shortage of water. This has been on-going for several years.

BBIM does not have the flow figures, but the other Upper Spring water users also have decreased flows. Using an estimated 25% reduction in the water rights adjudicated to the Salmon Falls Land and Livestock Co. (10.4 cfs), Idaho Power Co. (3.21 cfs) and Idaho Department of Transportation (.16 cfs), which total 13.77 cfs, there is an estimated reduction of at least 3.44 cfs (25% of 13.77 cfs).

Since HHF is only receiving at the facility 46.55 cfs and borrowing 3 cfs from BBIM in the early spring to help it meet its requirements, indicates that HFH is chronically short of water to operate its facility.

Thus, there is absolutely no sense to this Second Mitigation Proposal which will remove 9.1 cfs (21% of their present flow) from the Hagerman Fish Hatchery that is already short of water, to provide IGWA water for the Rangen Call.

What are the alternatives for the Hagerman Fish hatchery with the proposed expanded shortage of water, only 37.45 cfs (46.55 cfs – 9.1 cfs)? One solution might be to reduce the quantity of fish produced. A drastic solution might be to close the facility. Both of these solutions are highly unlikely to happen. With the Upper Tucker Springs flow dropping every year, the water supply to the HFH will only become more desperate.

BBIM believes that there will be SEVERE INJURY to the BBIM and their Upper Tucker Spring water rights if the proposed Second Mitigation is implemented. Severe Injury may also occur to the other Upper Tucker Spring water users.

Where will the Hagerman Fish Hatchery make up 9.1 cfs or more of water taken from them to satisfy the Rangen Call?

Since no plan to replace the 9.1 cfs for the Range Call has been presented, BBIM is of the strong opinion and belief that the State of Idaho plans to confiscate BBIM and the other Upper Tucker Spring water rights holders' water rights to compensate for the 9.1 cfs water loss to the Hagerman Fish Hatchery if this very flawed scheme is allowed to happen.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of April, 2014, the above and foregoing document was served on the following by providing a copy of the April 3, 2014 Notice of Protest by the Big Bend Irrigation & Mining co., Ltd. regarding the Second Mitigation Plan filed by the Idaho Ground Water Appropriators, Inc. in the manner selected.

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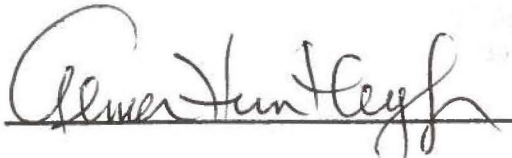
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Almer Huntley, Jr., President Big Bend Irrigation & Mining Co., Ltd.

Idaho Department of Water Resources Receipt

Receipt ID: S033932

Payment Amount \$25.00 Date Received 4/4/2014 12:39 PM Region SOUTHERN
Payment Type Check Check Number 1154
Payer BIG BEND IRRIGATION & MINING COMPANY
Comments NOTICE OF PROTEST AGAINST IGWA'S 2ND MITIGATION PLAN
Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	64103	0229	21		1155

Meline
Signature Line (Department Representative)

BIG BEND IRRIGATION
& MINING COMPANY
PO BOX 334
HAGERMAN, ID 83332-0334

92-372/1231

1154

DATE

4/3/14

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