

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.

1. Matter being protested Application for Amendment of Permit No. 63-32423

2. Name of protestant Allison Gilbreath

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

4. Service mailing address 14874 N Broken Horn Rd, Boise, ID 83714

5. Service telephone no. 208-577-6237 Email Address: gilbreaths@gmail.com

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

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

7. What would resolve your protest?
Please see attached

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 22nd day of March, 2022

Allison Gilbreath
Protestant

N/A
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.
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FOR DEPARTMENT USE ONLY

Received by LE Date 03/24/2022 Time 11:30 AM
\$25.00 fee Received by LE # W090233 Date 03/24/2022

March 22, 2022

Idaho Department of Water Resources (IDWR)
Western Regional Office
2735 W Airport Way
Boise, ID 83705-5082
USPS certified mail: 7006-2150-0000-5570-7238

cc: Dry Creek Water Co, LLC
729 S Bridge Way Pl
Eagle, ID 83616-6096
USPS certified mail: 7020-1810-0001-0029-5190

Re: Protest to Dry Creek Water Co. LLC's amendment to permit 63-32423

Dear IDWR:

This letter provides additional information regarding the Notice of Protest of Dry Creek Water Co. LLC's amendment to permit 63-32423 by Allison Gilbreath, water right #63-3160B, with priority date 06/29/1959:

Q6 – Basis of Protest:

- 1) Per Idaho Code §§ 67-6511 and 67-6535(1) developments must consider land use impacts to aquifers and align with the **Ada County Comprehensive Plan**, which currently states, but is not limited to, these examples which contradict and/or haven't been abated by the applicant:
 - a. Planned Communities must provide analysis of site and regional impacts from the proposed development and demonstrate how undue impacts to surrounding areas will be mitigated
 - b. Goal 2.4c: Environmentally Sensitive Areas: A higher level of scrutiny will be placed upon development proposals adjacent to these areas to minimize impacts upon them
 - i. The area in question is considered higher risk due to elevated wildfire danger
 - ii. The area in question is part of the Boise River Wildlife Management Area, which includes deer and elk winter range; development adjacent to or in close proximity to State and Federal Rangelands is to minimize impacts on the managed resources within these areas
 - c. Goal 2.5: Continue to support the agricultural industry and preservation of agricultural land in rural, unincorporated parts of Ada County. Residential development is discouraged adjacent to these uses.
 - d. Goal 2.5c: Preserve the irrigation capability and water rights of the land

- e. Goal 2.7a: Impacts on neighboring properties. Property owners should not use their property or leave it in a manner that negatively impacts the surrounding neighborhood. Property owners acknowledge and expect that Ada County will preserve private property rights and values by enforcing regulations that will prevent and mitigate against incompatible and detrimental neighboring land uses
 - f. Goal 5.2: Conserve and protect the County's groundwater and surface waters
 - g. Goal 5.2c: Limiting the density and intensity of land uses in areas proposed to be served by new individual wastewater treatment systems and where shallow water tables and aquifers exist
 - h. Goal 5.7c: In order to protect groundwater quality require all new residential development with lot sizes smaller than five acres to be served by urban public facilities
- 2) Per the Ground Water Act Amendment of 1953 and Idaho Code §§ 42-226 and 42-239 prior ground water appropriations are to be protected and allowed to maintain reasonable pumping levels. In addition, IDWR has the responsibility to protect ground water from depletion and is obligated to protect senior ground water rights.
- a. As was clarified in *Parker v. Wallentine*, 103 Idaho 506, 511, 650 P.2d 648, 653 (1982), we have protection of our historic pumping levels, as our water right was decreed in 1959. And we are not the only household in the area with senior rights.
- 3) Idaho Code § 42-222 appears to have been violated as there was arbitrary and capricious notification of this applicant's proposal, e.g. many households in the area impacted received a letter about this matter from IDWR, but others, including me, did not.
- 4) IDWR's very own hydrologist and Idaho Water Supply Committee chair David Hoekema recently stated, when commenting on the driest March-July stretch in Idaho in 96 years, "There is growing concern among water managers that Idaho may be entering into a multi-drought period."ⁱ
- 5) There has not been sufficient time to evaluate the impact of the recent surge in population in the Treasure Valley and to properly assess the effect on the aquifer. Just look at what happened in California: Thousands of persons in the Central Valley had their wells go dry, and in fact, the ground collapsed and sank up to two feet in certain areas.ⁱⁱ Thinking they were resolving the issue, the California Legislature passed a series of laws in 2014 to mitigate. Two years later, the reports of dry wells continued and even worsened for many folks, e.g. 2700 wells were projected to dry up this past year, with another 1000 wells expected the following year.
- a. Per Joe Karkoski, one of California's State Water Resources Control Board's deputy directors: "The scope is much larger than I think anything we heard about before... We're hearing from counties that we didn't hear from during the last drought."ⁱⁱⁱ

- b. Per former California state senator Fran Pavley: “We don’t know when the next drought will come. So when this passed in 2014, I think most of us thought it would probably be plenty of time...Apparently not.”^{iv}

Q7 - What would resolve your protest?

- 1) Extend the deadline for protests and adequately re-message the applicant’s proposal to all affected homeowners and businesses
- 2) Increase transparency of the current well-monitoring by IDWR in the area
- 3) Deny the applicant’s request and ask them to work with City of Eagle/Suez Water for any future water needs versus approving permits for additional wells in this area. As the City of Eagle has expressed interest in acquiring other adjacent foothills communities, such as Avimor, the applicant, which lies within that annexation pathway, should approach the City of Eagle and utilize the existing Suez Water urban public facility instead of burdening and endangering the aquifer and current homeowners with additional wells.

Regards,



Allison Gilbreath
14874 N Broken Horn Rd
Boise, ID 83714

ⁱ As quoted by: Katie Terhune & Katija Stjepovic, Fallout from Idaho’s record-setting drought could last years, KTVB.com, (2021) Retrieved on 3/22/22: <https://www.ktvb.com/article/weather/severe-weather/idaho-drought-water-year-snowpack-irrigation-report-years/277-50cedbfa-781c-426f-aba8-d8207f508838>

ⁱⁱ Rachel Becker, California enacted a groundwater law 7 years ago. But wells are still drying up – and the threat is spreading, Cal Matters, (2021). Retrieved on 3/22/22: <https://calmatters.org/environment/2021/08/california-groundwater-dry/>

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