

MAR 28 2022 *Dr*WATER RESOURCES  
WESTERN REGION

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: Amendment of Permit 63-32423, water right dated 2006
2. Name of protestant: Sharon Gerschultz
3. Protestant's Representative for service (If different than protestant) N/A
4. Service mailing address: 6074 W Echanove Drive, Boise, ID 83714, water right dated 1959
5. Service telephone no. 208-484-3800 (contact via email preferred)  
Email Address: [s\\_gerschultz@yahoo.com](mailto:s_gerschultz@yahoo.com)
6. Basis of protest (including statement of facts and law upon which the protest is based):

**ISSUE #1:**

- This request to add a third point of diversion (well) to the existing two wells for municipal water purposes would result in a 50% increase in diversion capabilities in a subdivision that is only about 15% complete.

- The capacity of this aquifer is unknown. The burden of proof to ensure no adverse impact to senior water right holders is on the applicant. The applicant cannot possibly demonstrate this until such time as the subdivision is complete and homes are occupied for a sufficient period of time to gauge normalized use.

- To allow a junior water right holder to deplete the aquifer until water levels reach an unacceptable level is wrong, and there will be continued opposition to additional points of diversion or any other applications or amendments that hasten this depletion.

- The Ada County Comprehensive Plan specifically calls for the following (in addition to other requirements), which this permit amendment request ignores:

\*Residential development is discouraged when adjacent to agricultural land. The properties adjacent to this development are primarily irrigated agricultural parcels, with a minimum size of 10 acres.

\*Environmentally sensitive areas are to be held to a higher level of scrutiny. This development has taken, and will continue to take, critical habitat for elk, deer, fox, birds (including birds of prey) and other species. This loss of habitat has resulted in the animals being pushed to neighboring properties and, in fact, we now see 80-90 head of elk in our field when food is blanketed with snow in the foothills. These elk used to winter in the fields adjacent to Dry Creek that are now covered with houses. We welcome these majestic animals but need groundwater to maintain field crops.

\* Per Goal 5.7(c), groundwater quality is to be protected. In order to protect groundwater quality and to facilitate cost-effective wastewater treatment and collection, residential developments with lot sizes smaller than five acres are to be served by urban public facilities.

**ISSUE #2:**

- This notification dated March 10, 2022 was sent to only 17 homeowners in the Dry Creek Valley. According to the IDWR agent I spoke with, IDWR "does their best to notify landowners with water rights near the application site". This was an inadequate disclosure process, to say the least, and the entire notification should be redone. The lack of due-diligence on this notification is deeply troubling.

- For example, there were only two homeowners on our street, Echanove Drive, who received notification, despite there being 8 other homes with water rights senior to the DC Water Co on this road. Similarly, most of the homes on McFarland Drive, Broken Horn and Dry Creek Road, many of whom are agricultural producers and depend on this aquifer, were not included in the mailing. Those neighbors I have spoken with who did not receive notice are also senior water rights holders, so excluding them was contrary to what the IDWR representative communicated. Moreover, all of them are deeply concerned about their water rights, and were not given proper notification of this amendment request.

7. What would resolve your protest?

**ISSUE #1:**

- Deny this amendment request and require the Dry Creek Water Company to abide by the existing permit with the existing number and types of diversion points.
- Ensure that senior water right holders are protected by any and all means possible, as required by law.
- In accordance with the Ada County Comprehensive Plan Goal 5.7(c), require Dry Creek Ranch / Dry Creek Water LLC to work with Suez or another urban provider for water service, helping to protect this aquifer from depletion by the huge Dry Creek Ranch community.

**ISSUE #2:**

- Perform required and thorough due diligence to notify all impacted landowners in the area. Note that protestants need not be a water rights holder, so a much broader notification is appropriate.
- Reissue the letter and mailing list and re-set the notice and protest dates.
- Carry-forward existing protests from the March 10 notification without requiring resubmission of protests or filing fees.

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 24th day of March, 2022.

 \_\_\_\_\_ Protestant

Sharon L. Gerschultz

CC: Dry Creek Water, LLC (via certified mail March 24, 2022)

Idaho Department of Fish and Game

FOR DEPARTMENT USE ONLY Received by LE Date 03/28/2022

Time 11:00 Am

\$25.00 fee Received by LE # W060241 Date 03/28/2022