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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR

PERMIT NO. 95-17068,

in the name of Allen Carl Hyslop & Teresa Hyslop

## PROTEST

This protest is submitted on behalf of the Kootenai Environmental Alliance.

### A. Interests of Protestant

Kootenai Environmental Alliance (KEA) is a non-profit corporation incorporated in the state of Idaho, with a mission to conserve, protect and restore the environment with an emphasis on the Idaho Panhandle and the Coeur d'Alene basin. KEA has members and supporters who live, work and recreate in north Idaho and eastern Washington, including recreating on the Spokane River. KEA members rely upon the Rathdrum Prairie-Spokane Valley Aquifer as a source of water for drinking water supply and to serve the businesses where they work. KEA members participate actively in the current efforts to obtain a federally funded, comprehensive bi-state study of the Aquifer.

The Protestant and its members are and will continue to be adversely affected by water allocation and management decisions that diminish, over-allocate, or otherwise harm the Rathdrum Prairie-Spokane Valley Aquifer and hydraulically connected water resources, including the Spokane and Little Spokane Rivers.

## **B. Basis of Protest**

The Protestant protests a water permit application filed by Allen & Teresa Hyslop. Application No. 95-17068 seeks a total of 0.06 cfs of groundwater that would be withdrawn with this application, which is in excess of 38,700 gallons of water day. 0.04 cfs would be used for domestic use, which amounts to approximately 25,804 gallons of water per day, year-round. The remaining 0.02 cfs would be used for stock water for 50 head of mixed stock. The figure of 0.02cfs amounts to approximately 12,911 gallons of water per day year-round for the 50 animals, or in excess of 250 gallons per day per animal. In contrast to the figure of 250 gallons per day per animal, water use information from Idaho Department of Water Resources (IDWR) shows that cattle, other than dairy, use approximately 12 gallons per day per animal.

The application 95-17069 proposes to withdraw an additional 0.06 cfs of water from a source listed in the legal notice as: Rt. Fork Hauser Creek. The tributary is listed as Hauser Creek. This application is identical to 95-17068 in that 0.04cfs, 25,804 gallons per day, would again be used for domestic use. The remaining 0.02 cfs, 12,911 gallons of water per day would again be used for 50 head of mixed stock. Both applications, if approved would remove over 77,000 gallons of water per day, year round.

Both applications have the identical names and identical PO Box address. Pursuant to IC§42.111.3 multiple water rights for domestic uses or domestic purposes shall not be established or exercised in a manner to satisfy a single combined water use.

For a project of this size, more information will be required pursuant to IDAPA § 37.03.08.040.05. As the applicant provides that information to IDWR, and as more information becomes available through approved discovery processes, Protestants reserve the right to raise additional issues. The application as submitted are inadequate to meet the standards set forth in

controlling regulations and statutes and the applicant will not be able to meet its burden of proof under the law.

**(1) The project is contrary to the conservation of resources.**

The application is contrary to the conservation of water resources in Idaho, in contravention of IC §42-203A(5)(f), insofar as it proposes to withdraw 77,558 gallons of water per day from the Rathdrum Prairie-Spokane Valley Aquifer. The Applicants have neither promulgated nor implemented a water conservation plan to limit consumption at reasonable levels.

The .06 cfs (continuous, year-round) requested under application 95-17068 is not justified by a reasonable water balance. These quantities are excessive and wasteful and do not represent an appropriate water duty for the purposes set forth in the permit application. IC§42-1730 requires optimum use of our water resources which is dependent upon conservation. Water conservation alternatives are available to reduce the amount of water use contemplated by the Applicants. These alternatives should be considered by IDWR in its determination of beneficial use.

**(2) The project will harm the local public interest.**

Because of the hydraulic connections between the Rathdrum Prairie-Spokane Valley Aquifer and the Spokane River, the applicant's proposed use will deplete flows in the Spokane River, harming fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality.

Water quality is degraded in the Spokane River with respect to dissolved oxygen, temperature, and other flow-related parameters. Municipal sewage discharge contributes to water quality problems, including violation of water quality standards in Washington State. Withdrawal of water from the Rathdrum Prairie-Spokane Valley Aquifer in the quantity requested in the permit application will deplete flow in the Spokane River, further exacerbating water quality degradation.

The properties to be supplied by the proposed water withdrawal potentially include critical recharge areas for the Rathdrum Prairie-Spokane Valley Aquifer. The development of these properties may reduce recharge to the Aquifer and contribute to groundwater quality degradation.

The cumulative impacts of the proposed withdrawal, combined with other pending applications and existing water rights will lead to over-allocation of the aquifer, interference with other wells, impacts to the Spokane River and a variety of other potential ills, in violation of the local public interest.

Numerous water right holders in Washington State withdraw water from the Rathdrum Prairie-Spokane Valley Aquifer, including municipal water purveyors that supply virtually the entire population of the Spokane Valley and City of Spokane. The proposed withdrawals may interfere with the ability of Washington water right holders to access their water rights.

Ultimately, unlimited appropriations will lead to a “race to the bottom” of this finite, sole source aquifer, which will adversely affect citizens and businesses in both states. It is inappropriate for IDWR to grant this and other pending water right applications without full consideration of the impacts of such decisions on bi-state management of the Aquifer. Idaho must engage in water resource management planning that addresses these issues before approving new water right applications.

**(3) The requested permit would reduce the quantity of water under existing water rights.**

The Rathdrum Prairie-Spokane Valley Aquifer is hydraulically connected to the Spokane River. Pumping from the Aquifer influences the quantity and quality of water flowing in the Spokane River. The pumping of approximately 77,557 gallons per day (by a single user) may affect Spokane River flows in Idaho and reduce them below the levels set forth in the minimum flow water right. This would lead to a reduction in water available to prior water right users, in violation of Section 42.203A(5)(a).

IDWR has issued hundreds of water rights authorizing withdrawals from the Aquifer in the Rathdrum Prairie region. In addition, there are significant numbers of domestic wells, many drilled prior to March 1978. Water permits issued to the Applicants in the quantities requested will draw down the Aquifer, potentially causing adverse impacts to other water users.

These issues are of particular concern when the effects of this water permit are analyzed cumulatively with other pending applications and active permits and licenses.

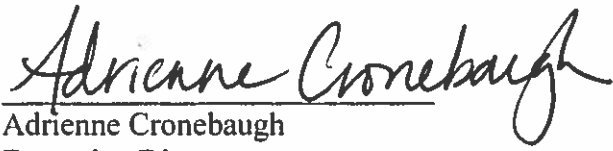
Finally, and as discussed in the "local public interest" section above, down-gradient water right holders in Washington State will be adversely affected by the pumping of water proposed in this application.

The applicant has offered no proposal to mitigate the impacts of its proposed water withdrawals.

### **C. Relief Sought**

For the foregoing reasons, Protestants request that a protest hearing be scheduled and that Allen & Teresa Hyslop for Water Permit Application No. 95-17068 be denied or conditioned to mitigate the harms and impacts identified above.

DATED this 15th day of October, 2015.

  
Adrienne Cronebaugh  
Executive Director

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of October, 2015, I served a true and correct copy of the within and foregoing document upon the party named below by depositing a copy of the same in the United States mail, postage pre-paid, at the post office a Coeur d'Alene, Idaho.

Allen & Teresa Hyslop  
PO Box 2978  
Post Falls, ID 83877

  
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Adrienne Cronebaugh  
Executive Director