

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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SEP 16 2013

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 Transfer 78632 in the Name of Pinnacle Great Plains Operating Co. LLC

2. Name of protestant Matt Gardiner

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

4. Service mailing address 234 S. 100 W., St George, UT 84770

5. Service telephone no. 435-632-7083 Email Address: mattgard@yahoo.com

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

see attached sheets

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

7. What would resolve your protest? denial of all or most of proposed transfer

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 11th day of September, 2013.

Matt Gardiner
Protestant

Protestant's Representative

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Idaho Code Section 42-222 in regards to the transfer of water rights states the following.

"The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, **provided no other water rights are injured thereby**, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates,"

I protest proposed water right transfer 78632 on the basis that my groundwater right and other water rights in the Bridge area near the proposed new wells will be injured by the transfer. The applicant seeks to transfer the point of diversion from one groundwater formation (the Upper Salt Lake formation) to another formation with better water quality. This transfer will place an additional burden upon the groundwater formation where the applicant seeks to drill 7 new wells which will be pumping from the same formation my well draws water from. These new wells will represent a new burden on the groundwater formation containing the higher quality water.

Prior to 1966 a lowering of water levels in wells, and the disappearance of springs and meadows in the Raft River Valley was noticed, and as a result the area was declared a critical ground water area. A report was prepared titled

"The Raft River Basin, Idaho-Utah, as of 1966: A reappraisal of the Water Resources and Effects of Ground-Water Development"

, which is available on the IDWR web-site. Way back then the higher mineral content of the water southwest of Bridge was well known as indicated on page 86 of that report as follows.

"A small zone of hot, sodium chloride type water is found southwest of Bridge. Dissolved solids there range up to 3,200 mg/l and the water in one deep well is at the boiling point."

The applicants who are owners of these wells should have known when buying the property recently that these wells produced water with a high mineral content, as it has been well known among the people of the valley for decades and a simple inquiry, or a quick taste of the water, would have made their due diligence very easy. It is useful to quote further from this report to make my point, pg 92

"It is obvious that the aquifers are not homogeneous, isotropic, and infinite in extent. Therefore, there will be lateral boundary effects that will increase the rate of water-level decline somewhat."

If the aquifers in Bridge were homogeneous, isotropic, and infinite in extent, then there would not be some wells with very high mineral and salt content and others with very different mineral content. The applicants are not currently pumping from the same water source I am pumping from and are having little effect upon my well currently, however, if the proposed new wells are drilled nearer my well, they will be pumping from the same water I am pumping from, and will draw down the levels of my well and the other wells currently pumping to the east of their old wells. The proposed amount of water to transfer is a large amount of water and will have definite and damaging effect on the current wells on the east side of Bridge. To quote from the report again, Pg 86

"Many of the wells in the basin yield water more than 5 degrees C warmer than the mean annual air temperature of the area. Except for the area near Bridge, where deep wells tap hot water in the upper part of the Salt Lake Formation,"

It is likely that the formation the salty wells are pulling water from is a completely different formation than the one the transfer proposes to pump from with the new wells, and that will have an impact on the

wells currently pumping from the less salty formation in Bridge, including my well in Bridge, Idaho. I would not be harmed as much by the drilling of 7 new wells pumping thousands of gallons a minute much closer to my well if the aquifers were homogeneous, isotopic, and infinite in extent in Bridge, Idaho, but they are not, and such a concentrated amount of pumping in one area of additional thousands of gallons a minute will have an effect on those of us already pumping in that same area. The high variance in mineral content itself from wells in one part of the area to wells in the other part, indicates a separate source of supply for the water, and if the part of the aquifer next to my existing well is impacted by 7 new high volume wells close by and in the same formation, it will cause an economic harm in both the short and long term as the water levels in the previously existing wells will be lowered at a much higher rate. One of the neighbors in Bridge had a well go dry this summer even before this proposed transfer, so the rate of decline is fast enough as it is, without these new wells making it worse. The cost of deepening wells, and putting in more column pipe and bigger motors on the pumps is prohibitive to operating a profitable farming operation as I know from my experience with other property a few miles north, in Malta. The meadows and springs that used to exist in Malta farther to the north in the valley have mostly disappeared, and there are still some sub-irrigated lands south of Bridge, including some on my property that will likely be impacted negatively if these new wells are allowed to be drilled and pumped at the volume levels indicated on the transfer application. This will have a direct and negative impact on the value of my farm both in the likely loss of some or eventually all of the sub-irrigation effect, and in the increased rate of dropping static water levels in deep irrigation wells causing me to more quickly lose the current levels of pumping in the existing wells. These costs are not insignificant and the more quickly the levels drop, the more expensive it is, as there is not enough time between equipment changes to produce enough profit to cover the cost of the equipment changes. I have recently had to spend nearly 1500 per acre to drill a new well, develop the well, and put in new mainline and move a pump because of the water level dropping causing increased sand and grit problems in the water on my property in Malta which is in another part of the critical groundwater area to the North of where this transfer will occur. If it were to be economically viable for the 7 new wells to be drilled, it would be at the expense of those of us with nearby farms and perhaps at the expense of all the farms to the North. The transfer is ill-advised, and we don't need further proof of the affect our neighbors can have on pumping levels in our wells, because we are already feeling it throughout the Raft River valley, this will only increase the speed at which the water levels drop in our wells at Bridge, and perhaps the transfer will have a significant effect even farther North down the valley, because the amount of water being planned for the proposed transfer is not an insignificant new burden on the aquifer with the better quality water. This is indicated by a IDWR report from 1994 as follows.

"Summary of Ground Water Conditions in the Raft River Area"
by Shane Bendixsen July 1994 page 14

"Increased usage to the south though, will only increase declines in the north by intercepting recharge. In the north central, declines averaging approximately 2 feet per year have been occurring since 1950."

This transfer, because of its size, and new burden on the formation containing less salts, will have some effect over time on the wells to the North, because the new wells proposed in the transfer will intercept the recharge of the wells to the North.

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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\$25.00 fee Receipted by AM # 5033522 Date 9-16-2013