

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 17 2008

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 APPLICATION No. 73968 FILED BY WILLIAM H JENKS
2. Name of protestant RICHARD & SHARON LUTKEHUS
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address See attached sheet
5. Service telephone no. _____ Email Address: _____
6. Basis of protest (including statement of facts and law upon which the protest is based)
POINT OF DIVERSION & CHANGE OF USE PROCEDURES:
"WILL NOT RESULT IN INJURY TO THE RIGHTS OF OTHER WATER USERS"
"IS CONSISTENT WITH CONSERVATION OF WATER RESOURCES"
SEE ATTACHED PROTEST LETTER
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? DENY THE APPLICATION

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 16 day of Nov., 2008.
Richard Lutehus Sharon Lutehus
Protestant

Protestant's Representative

FOR OFFICE USE ONLY

Fee: \$25.00

Receipt No. 5030541

Receipt by: J. Cooper

Date Received: 11/17/2008

PROTEST BY RICHARD & SHARON LUTKEHUS

3519 N 1400 E , Buhl, Idaho 83316

ATTACHMENT TO OFFICIAL D. W. R. PROTEST FORM

REASONS FOR PROTEST of proposed ground water transfer from an existing us approximately 7.25 miles S. of Kimberly, Idaho to a dairy site approximately 6.5 miles S. of Buhl, Idaho which is being requested by William H. and Janene Jenks.

1. There is a moratorium on new deep wells and water rights in our area due to the proven limited and fragile nature of ground water availability. We believe the ground water aquifer availability at sites located in the proximity of the proposed transfer site south of Buhl will be adversely affected for the present domestic and livestock uses in this area.
 - a. Ground water does not originate at the delivery point of deep water wells.
 - b. Ground water that is present in the Twin Falls County Volcanic and Sedimentary Aquifer is mobile, and its source is neither local nor static in nature.
 - c. It is evident that ground water throughout this area tends to move northerly towards the Snake River for it is one of the critical and major sources attributed to the flow and multiuse of the Snake River.
 - d. The very limited flow of Salmon Falls Creek water in the location west of the S. Kimberly and S. Buhl properties is fed by seepage from Salmon Falls Dam and run off from surface irrigation. Little if any Salmon Falls Creek water flow in this area is evident from ground water sources, and does not show evidence of a westerly flow of the ground water aquifer from south of Buhl, let alone from south of Kimberly.
 - e. Therefore, since the area of Salmon Falls Creek due west of the proposed transfer shows no evidence of a ground water resource, and since the property south of Buhl lies almost due west of the original Kimberly delivery point, it is apparent that a westerly transfer of a ground water right would be neither an adequate nor an appropriate resource to protect and prevent depletion of my neighbors and my present ground water resource and rights for domestic and livestock use.
 - f. We believe the proposed new well in this area should be viewed to be an inappropriate and illegal break of the present moratorium on new wells. In and of itself, any precedent of a previous such transfer does not prove the availability of S. Kimberly ground water to the S. Buhl area. The continued lowering of the ground water aquifer, especially since the early 90's, is cause for concern for all present water users, and we are sure for the D.W.R. as well.
2. We believe this proposed ground water transfer will be a causative factor in the added nitrate contamination of local domestic and livestock water users. It is the concern of this protestant that nitrate contamination from a major increase in size of the dairy operation at the Buhl site will cause health problems and injury to us as current users of domestic and stock water.
 - a. The increase of nitrate contamination of many domestic wells in the areas lying east, south, and west of Twin Falls has been established by respected sources including the Idaho State Department of Agriculture and is a source of concern for area residents in the proximity of this proposed ground water transfer.
 - b. Some local domestic wells have recently tested high in nitrates which has caused special action to be taken by the owners of these wells. The granting of a ground water transfer will allow a speculative large dairy that can further contaminate ground water in the area is of great concern to us and other local residents who have relied on ground water for domestic use.