

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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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 Transfer # 73968
2. Name of protestant Linda J. Bernier
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address 1323E 3500N, Buhl, ID 83316
5. Service telephone no. (208) 543-9397 Email Address: Linda-bernier@leavitt.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? Deny the 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 17th day of November, 20 08.
Linda Bernier
Protestant

Protestant's Representative

FOR OFFICE USE ONLY

Fee: \$25.00

Receipt No. 5030535

Receipt by: SG

Date Received: 11/17/08

NOTICE OF PROTEST ATTACHMENT
TRANSFER #73968
PROTESTANT: LINDA J BERNIER

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Transfer #73968 proposes a ground water transfer from an existing use about 7.25 miles South of Kimberly, ID to a dairy site approximately 6.5 miles South of Buhl, ID. The request has been made by William H and Janene C Jenks. The basis of my protest is as follows:

1. The dairy farm to which the transfer would be made is directly south of my property. I hold grave concern for the purity of water for my household use for my resident family, grandchild and my livestock. As I understand from professional hydrological as well geological studies of the past, the waste created by the intended use of the water will flow directly toward my property. It is my fear that drainage will contaminate my household water use. To allow the transfer and later find my fear substantiated by high nitrate and/or positive ecoli testing would be an immediate tragedy and extremely difficult to correct. Allowing the negative effect on children at a later date is not an appropriate guide to weigh water contamination risks. Additional water used as proposed will greatly increase the amount of risk of contamination of my household water.
2. The depth of available water in my area is changing already and should be protected responsibly. I know of at least 2 wells nearby that had to drill deeper as they had gone dry. As I recall, this was in the 1980's. Water that was once available was no longer there. The amount of water this transfer would take from our resource would not be transferred to the source just because the right to use it was transferred. The water from the Kimberly area does not replenish the water taken from the property to which the water right has been proposed South of Buhl. Therefore, South of Buhl, we will have less of an already depreciating, valuable resource and the unused water from the Kimberly area will provide aquifer replenish advantages in that area, but not ours.
3. Having been raised in this area as a child, and my father having owned the farm to which this transfer request refers to South of Buhl, I know that the ground is prevalent in rock. In personal experience, the rate at which irrigation water would seep was alarming in just trying to move it from one part of the farm to another. The geological structure is not adequate for normal controls of increased animal waste as this transfer would allow. A transfer of a water right does not dictate controls for the use of the water and does not depict the high leaching tendency of the ground that would absorb the water waste. Therefore, allowing this transfer provides this intended user, as well as any unknown in the future, to have access to water with no restraint and quite possibly no knowledge of the additional risk to ground water that exists because of the geological structure.

In summary, the transfer must be denied to responsibly protect an already depreciating aquifer as the transfer does not provide a source for a recharge of the additional water draw. Additionally, we have a responsibility to protect the health of current children in the area as well as those in the future as the excess waste risk to them would not be controlled.