

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 96-9304)
In the name of Silver Leaf Ranch Homeowners Assn.)

PROTEST

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

A. Interests of Protestant

Kootenai Environmental Alliance (KEA) is a 501(c)(3) non-profit corporation incorporated in the state of Idaho, with a mission to protect and restore the environment with an emphasis on the Idaho Panhandle and the Coeur d'Alene basin. The KEA office is located at 408 Sherman, suite 301, Coeur d'Alene, ID. KEA mailing address is: Kootenai Environmental Alliance, P.O. Box 1598, Coeur d'Alene, ID 83816-1598.

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-Spokane aquifer (Aquifer) and other ground and surface water sources for drinking water supply and to serve the businesses where they work. KEA members actively participate in the current 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, including the instant application, that diminish, over-allocate, or otherwise harm the Aquifer and hydraulically connected water resources, including the Spokane and Little Spokane Rivers, and other ground and surface water sources.

B. Basis of Protest

Kootenai Environmental Alliance protests Application for Permit No. 96-9304 filed by Silver Leaf Ranch Homeowners Assn., which seeks 0.3 CFS (193,895 gallons per day) from groundwater for municipal purposes to supply water to a 24-lot subdivision. This protest is based on the criteria set forth in Sec. 42-203A, Idaho Code, and groundwater statutes, as more specifically set forth below.

The applicant has provided a water supply plan with the application. For a project of this size and complexity, 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 is 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 0.3 CFS. Silver Leaf Ranch Homeowners Assn. has neither

promulgated nor implemented a water conservation plan to limit consumption at reasonable levels as required by the Rathdrum Prairie Aquifer Ground Water Management Plan.

The Applicant requests 0.3 CFS to supply water for a 24-unit subdivision. This works out to approximately 8,079 gallons per day per unit under the application and 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.

(2) The proposed permits should not be granted until a study of the Rathdrum Prairie-Spokane Valley Aquifer is complete.

A bi-state study of the Rathdrum Prairie-Spokane Valley Aquifer is currently ongoing. The purpose of the study is to determine how much water is available from the Aquifer and the impacts of pumping on existing water users and local surface water resources such as the Spokane and Little Spokane Rivers. It is premature to grant water permits in the amount contemplated by the Silver Leaf Ranch Homeowners Assn. application until a comprehensive scientific study has established water availability for the region.

(3) Water supply is insufficient.

The impacts of this withdrawal have not been assessed, but could have adverse effects on neighboring wells as well as the Rathdrum aquifer and the flows of the Spokane River. The requested water withdrawal is within a Critical Recharge Area (CARA) for the aquifer. Water supply is insufficient pursuant to IC § 42-203A(5)(b). Recent studies indicate that the Aquifer is a finite resource that may be fully allocated. Groundwater withdrawals from the bi-state area may already exceed natural recharge within the basin. As a sole source aquifer, the Rathdrum-Spokane aquifer is an invaluable resource to the 500,000-plus citizens of the region who depend upon it for drinking water supply.

(4) The project will harm the local public interest.

The requested withdrawal could 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 in the quantity requested in the permit application, when considered cumulatively with all of the other withdrawals from all sources that recharge the aquifer, could deplete flows in the Spokane River and reduce them below the levels set forth in the minimum flow water right, further exacerbating water quality degradation.

The cumulative impacts of the proposed Silver Leaf Ranch Homeowners Assn. withdrawal, combined with other pending applications and existing water rights could lead to interference with other wells, impacts to the Spokane River and a variety of other potential ills, in violation of the local public interest. Idaho must engage in water resource management planning that addresses these issues before approving new and sizable water rights, including the instant applications.

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

The pumping of approximately 0.3 CFS could lead to a reduction of water available to senior water right users, in violation of Section 42.203A(5)(a). Many of those living in proximity to the proposed withdrawal site have single wells for domestic service and have never formally applied for a water permit. Though they are senior water right users, they do not have a permit because it has not been required and therefore lack proof of a priority date. This could be a problem if their water becomes adversely affected by the applicants' request should it be awarded.

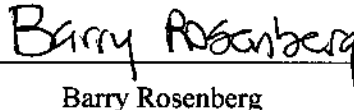
These issues are of particular concern when the effects of this water permit are analyzed cumulatively with other pending applications and active permits and licenses.

The applicant has offered no proposal in writing 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 Silver Leaf Ranch Homeowners Assn. Water Permit Application No. 96-9304 be denied or conditioned to mitigate the harms and impacts identified above.

DATED this 6th day of November 2006.



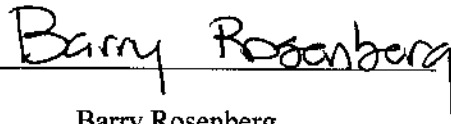
Barry Rosenberg
Executive Director
Kootenai Environmental Alliance

(208) 667-9093

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of November 2006, 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 in Coeur d'Alene, Idaho.

Silver Leaf Ranch Homeowners Assn.
P.O. Box 1902
Coeur d'Alene, ID 83814

A handwritten signature in black ink that reads "Barry Rosenberg". The signature is written in a cursive style and is positioned above a horizontal line.

Barry Rosenberg
Executive Director
Kootenai Environmental Alliance
(208) 667-9093