

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 95-9362

In the name of Johnson Meadows Estates Water Association Inc.

Receipt #
NO 18046
PROTEST

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IDWR/North

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. The phone number is: (208) 667-9093.

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 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 Rathdrum Prairie-Spokane Valley 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 Rathdrum Prairie-Spokane Valley 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. 95-9362 filed by Johnson Meadows Estates Water Association Inc., which seeks 0.11 CFS or 71,095 gallons per day for municipal purposes. 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 0.11 CFS or 71,095 gallons of water per day from groundwater to supply 20 units, which amounts to approximately 3,555 gallons of water per day per unit (gpd/unit).

The 0.11 CFS requested under the application 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 project will harm the local public interest.

The cumulative impacts of the proposed Johnson Meadows Estates Water Association Inc. withdrawal, combined with other pending applications and existing water rights could lead to interference with other wells, impacts to Lake Coeur d'Alene and the Spokane River and a variety of other potential ills, in violation of the local public interest. The nutrient loading resulting from the proposed development, when considered cumulatively with all the other sources of existing nutrient loading around Lake Coeur d'Alene, adds to the potential of re-suspending toxic materials currently embedded in the sediments on the bottom of the lake. Idaho must engage in water resource management planning that addresses these issues before approving new and sizable water rights, including the instant applications.

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

The pumping of approximately 0.11 CFS could lead to a reduction in water available to senior water right users in violation of Section 42.203A(5)(a).

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 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 Johnson Meadows Estates Water Association Inc. Water Permit Application No. 95-9362 be denied or conditioned to mitigate the harms and impacts identified above.

DATED this 4th day of December 2006.

Barry Rosenberg

Barry Rosenberg
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December 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.

Johnson Meadows Estates Water Association Inc.
12875 S. Flicker Lane
Harrison, ID 83833

Barry Rosenberg
Barry Rosenberg
Executive Director