

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 95-9324)
Syringa Water & Sewer Co. Inc.)

PROTEST

Receipt # N017359
2/6/06
RECEIVED
FEB 06 2006
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 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 83814. 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 as a source of water for drinking water supply and to serve the businesses where they work. KEA members recreate on the Spokane River and also 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 and yearly total allocation, 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.

B. Basis of Protest

The Protestant protests a water permit application filed by Syringa Water & Sewer Co. Inc. Application No. 95-9324 seeks 2.0 cfs or 1,290,630 gallons per day, year-round, for municipal use. 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 1,290,630 gallons of water per day from Lake Coeur d'Alene. Syringa Water & Sewer Co. Inc. has neither promulgated nor implemented a water conservation plan to limit consumption at reasonable levels.

The 2.0 cfs (continuous, year-round) requested under the application is not justified by a reasonable water balance. According to the Applicant there are 20 existing units and 21 new units. It is not clear how many units that this application will serve, the 21 new units or 41 total units. If this request will service 41 units, it works out to 31,527.56 gallons per day per unit. These quantities are excessive and wasteful and do not represent an appropriate water duty for the purposes set forth in the permit application. Water conservation alternatives are available to reduce the amount of water use contemplated by Syringa Water & Sewer Co. Inc. These alternatives should be considered by IDWR in its determination of beneficial use.

(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 Syringa Water & Sewer Co. Inc. application until a comprehensive scientific study has established water availability for the region.

(3) Water supply is insufficient.

Water supply is insufficient pursuant to IC § 42-203A(5)(b). Recent hydrogeologic studies indicate that the Rathdrum Prairie-Spokane Valley 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. Lake Coeur d'Alene is hydrologically connected to the Aquifer. As a sole source aquifer, the Rathdrum Prairie-Spokane Valley Aquifer is an invaluable resource to the 500,000-plus citizens of the region who depend upon it for drinking water supply.

Pursuant to IC § 42-226, IDWR must determine whether allocated water rights exceed future average annual recharge to the Aquifer. Idaho has not yet assessed how much water has been allocated under existing water rights or how much water is available for future allocation and use. Until such an analysis is accomplished, it is appropriate to assume that water supply is not sufficient to fulfill the withdrawals proposed under the permit application protested herein, and that the proposed permit will lead to mining of the Rathdrum Prairie-Spokane Valley Aquifer in violation of Idaho law.

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

Because of the hydraulic connections between the Rathdrum Prairie-Spokane Valley Aquifer, Lake Coeur d'Alene and the Spokane River, the applicant's proposed use will 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 from Lake Coeur d'Alene in the quantity requested in the permit application will deplete flow in the Spokane River, further exacerbating water quality degradation.

The cumulative impacts of the proposed Syringa Water & Sewer Co. Inc. withdrawal, combined with other pending applications and existing water rights will lead to over-allocation of the aquifer, interference with other wells, impacts to the Spokane River and a variety of other potential ills, in violation of the local public interest.

Numerous water right holders in Washington State withdraw water from the Rathdrum Prairie-Spokane Valley Aquifer, including municipal water purveyors that supply virtually the entire population of the City of Spokane Valley and City of Spokane. The proposed Syringa Water & Sewer Co. Inc. withdrawals may interfere with the ability of Washington water right holders to access their water rights.

Ultimately, unlimited appropriations will lead to a "race to the bottom" of this finite, sole source aquifer, which will adversely affect citizens and businesses in both states. It is inappropriate for IDWR to grant this and other pending water right applications without full consideration of the impacts of such decisions on bi-state management of the Aquifer. 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 Rathdrum Prairie-Spokane Valley Aquifer and Lake Coeur d'Alene are hydraulically connected to the Spokane River. Pumping from the Aquifer influences the quantity and quality of water flowing in the Spokane River. The pumping of approximately 1,290,630 gallons per day may affect Spokane River flows in Idaho and reduce them below the levels set forth in the minimum flow water right. This would lead to a reduction in water available to prior 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.

Finally, and as discussed in the "local public interest" section above, down-gradient water right holders in Washington state will be adversely affected by the pumping of water proposed in this application.

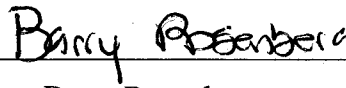
The applicant has offered no proposal to mitigate the impacts of its proposed water withdrawals.

(6) There is no indication that the amount of water requested will be put to use in the near future, thus it raises the question whether the application is made in good faith or for delay or speculative purposes.

C. Relief Sought

For the foregoing reasons, Protestants request that a protest hearing be scheduled and that Syringa Water & Sewer Co. Inc. Water Permit Application No. 95-9324 be denied or conditioned to mitigate the harms and impacts identified above.

DATED this 3rd day of February 2006.



Barry Rosenberg
Executive Director
Kootenai Environmental Alliance
P.O. Box 1598
Coeur d'Alene, ID 83816-1598
(208) 667-9093
barry@kealliance.org

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February, 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 a Coeur d'Alene, Idaho.

Syringa Water & Sewer Co. Inc.
P.O. Box 168
Coeur d'Alene, ID 83816-168

Barry Rosenberg
Barry Rosenberg
Executive Director
Kootenai Environmental Alliance
P.O. Box 1598
Coeur d'Alene, ID 83816-1598
(208) 667-9093