

11/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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MAR 20 2006
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, 42-222 and 42-224, 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 Ed Rosa Water Transfer # 12468
2. Name of protestant Martin & Carolyn Elxapure
3. Protestant's Representative for service (If different than protestant)

4. Service mailing address P.O. Box 466 Garding Idaho 83330
5. Service telephone no. 208-934-8355
6. Basis of protest (including statement of facts and law upon which the protest is based)
SEE attached paper

(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? No 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 20 day of March, 20 06.
Carolyn Elxapure Martin Elxapure
Protestant

Protestant's Representative _____

3/21/06
JR
R# 50 28484

MAR 20 2006

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Rosa Water Protest #72468

1. Other rights could be injured by this transfer as there are already water quality issues in the area that he proposes to transfer to.
2. The proposed transfer will constitute an enlargement of use as he or the previous owner has hardly used the existing well at all for the last 5-6 years. Have him prove use for the last 5 years. See attached pictures, the back of the place has not had any water for years, it's dried up and in weeds only. Notice the dead animal carcass in the picture which has been there for the better part of the year. The last 2 years when he did use the water, he would turn it on and let it run for a full week in one location, see the picture of the pond right by the well head. Does this use constitute beneficial use, when many wells in the immediate area have gone dry and needed to be deepened, or redrilled with the drought conditions. Ask him to see his proof of use.
3. It's my understanding that when an agricultural use is converted to a commercial use and used year around that the volume is reduced. Therefore he would not have enough for the 44 acre feet that he needs to operate the dairy.
4. The previous owner was trying to burn his weeds from not irrigating a couple years ago, it got away from him and we had to call the fire department out to save our house. The place needs the water to keep from being a fire threat. There are several nice homes in the area.
5. His own yard and trees are more acreage than a domestic well should water, therefore he needs this deep well to water his own yard.
6. He has fenced us away from the well. He wanted to build a fence, we were concerned about getting to the mainline to irrigate, he said if that were the problem he would build it on his side of the mainline. We come home one day and the fence is on our side of the mainline. He didn't want to move the fence and offered to move the mainline which has leaked ever since he moved it, but now we would have to go on his property to get to the well. The well is approximately 30 years old, why should he walk away from the pump and motor, it could need major repair at any time and he is 49% owner. He sure would not care if he did not have water coming out of it anymore. We feel he cannot walk away from this responsibility.
7. The burden of proof is on the applicant, let him prove he will not be a detriment to either location with his proposed transfer.

