



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

February 17, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Richard L Appleton
Elmore County Coalition Against CAFOS and Dairies
2700 W 36th S
Mountain Home ID 83647

RE: Application for Transfer #71617 Broken Arrow Farms

Dear Mr. Appleton:

On January 21, 2005 the Idaho Department of Water Resources (IDWR) received a protest from your organization related to the above described transfer. The protest document was received timely before the January 24th deadline.

IDWR has completed a review of the protest, and would like to address specifically #6 "Basis of Protest" and #7 "Resolution of your protest." The response to #6 is a general statement regarding the ground water concerns and levels in the Mountain Home area. The #7 response is also a general statement asking for suspension of all agriculture to commercial transfers in the Mountain Home area. IDWR's Water Appropriation Rule IDPA 37.03.08.040.03.iii states the following:

General statements of protest (blanket protests) against appropriation for a particular class of use or from a particular source of water will not be considered as valid protests by the director.

A protest must be specific to the application and address issues directly related to one or more of the following criteria that IDWR is required to consider under Idaho Code (IC) 42-222:

1. Will the proposed transfer injure other water rights?
2. Will the proposed transfer constitute an enlargement of the original water right use?
3. Is the proposed transfer in the public interest? That is; interests that the people in the area directly affect by a proposed water use have in the effects of such use on the public water resource.
4. Is the proposed use contrary to conservation of water resources within the state?

If you plan to clarify your protest related to the above criteria, please submit a written clarification at the scheduled prehearing conference on February 25th. If you choose not to, IDWR will return your protest and fee.

Should you have any questions, please contact me at the Western Regional Office, 334- 2190.

Sincerely,

John Westra

Enclosure; cc: B. Smith

RECEIVED

JAN 21 2005

WATER RESOURCES
WESTERN REGION

State of Idaho
Department of Water Resources

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 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: Application for transfer #71617 in the name of Broken Arrow Farm.

2. Name of protestant: Elmore County Coalition Against CAFOs and Dairies (E.C.C.C.D.)

Richard L. Appleton, Spokesman. (See attached list of protestants).

3. Protestant's Representative for service (If different than protestant):

Richard L. Appleton, Spokesman

4. Service Mailing address: 2700 W. 36th S., Mountain Home, Idaho 83647

5. Service telephone number: (208) 587-5577

6. Basis of Protest (including statement of facts and law upon which the protest is based): The Expanded Natural Resources Interim Committee Mountain Home Working Group (Draft Attached), as well as the Idaho Statesman (Special water section - January 16, 2005 edition) both quote studies made by the IDWR. "The Mountain Home aquifer is out of balance, the Idaho Department of Water Resources has found.

Ground water pumping withdraws more water annually than natural and human-caused seepage returns to the aquifer, an annual deficit of 30,000 acre-feet. Ground water levels have declined as much as 70 feet during the past 35 years in an area roughly encompassing the city of Mountain Home, Mountain Home Air Force Base and surrounding agricultural lands. A panel has made recommendations for more research, monitoring and programs to reduce pumping."

7. What would resolve your protest? Suspension of all agriculture to commercial water transfers using large quantities of water until the aquifer shows signs of recovery.

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 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 21 day of January, 2005

Protestant Richard L. Appleton

Protestant's Representative _____

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. 71617 in the name of Broken Arrow Farm."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
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FOR DEPARTMENT USE ONLY

Received by DB Date 1-21-05 Time 1:00 pm
\$25.00 fee Received by DB # W032538 Date 1-21-05