

**BEFORE THE BOARD OF ENVIRONMENTAL QUALITY
STATE OF IDAHO**

PETITION FOR RECATEGORIZATION OF A PORTION OF AN AQUIFER AT RISK)	Case Docket No. 0111-20-01
JANE MORGAN and DAVID SHULTS, Petitioners,)	ORDER DENYING PETITION FOR INITIATION OF RULEMAKING
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On November 19, 2020, Jane Morgan and David Shults (Petitioners) filed a Petition for Recategorization of a Portion of an Aquifer at Risk (Petition for Initiation of Rulemaking) pursuant to Idaho Code § 67-5230, IDAPA 58.01.23.800, and IDAPA 58.01.11.350. The Petitioner seeks the initiation of a rulemaking to define the Spokane Valley - Rathdrum Prairie Aquifer to include the Greenferry Water and Sewer District¹ drinking water wells.

The Board reviewed the Petition, and additional information provided by the Petitioners and the Idaho Department of Environmental Quality (DEQ), at the February 11, 2021, Board meeting. The Board also heard testimony from the Petitioners, DEQ staff, and Steve Tanner, Chairman of the Greenferry Water and Sewer District Board.

The Board does see one of its missions as protecting the groundwater of the state, particularly groundwater used for drinking water purposes. Therefore, the Board strongly supports and encourages DEQ staff to continue to work with the Panhandle Health District, Kootenai County, the Greenferry Water and Sewer District, and the Bayshore Estate developer to ensure protection of the Greenferry drinking water wells. The Board also encourages continued dialogue between DEQ and the Idaho

¹ In their Petition, Petitioners refer to Greenferry Water and Sewer District as Greensferry Water and Sewer District.

Department of Water Resources to ensure the agencies' policy and regulatory decisions do not conflict with each other for their respective stated purposes.

Based upon the information presented, the Board by unanimous vote passed a motion to deny the Petition. The Board's denial is based upon the following reasons.

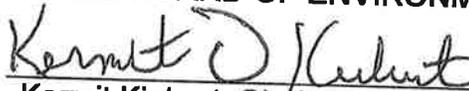
1. The Petition seeks to include the two Greenferry wells as part of the Rathdrum Prairie Aquifer. Inclusion of those wells does not necessarily include the Bayshore Estate development, which, based on the Board's understanding, is where Petitioners' concerns derive.
2. DEQ's groundwater quality rules do not include the one septic per five acre rule, which, based on the Board's understanding, is what Petitioners are seeking be applied to the Bayshore Estate development.
3. DEQ presented testimony that an approvable Level 2 Nutrient Pathogen study will provide the technical information necessary to determine what actions must be taken to allow development that also ensures protection of the Greenferry wells.
4. The information required under IDAPA 58.01.11.350.02 was not presented in sufficient detail to request DEQ initiate a negotiated rulemaking to recategorize, or redefine, the aquifer boundaries.

Upon completion of DEQ's review of the Level 2 Nutrient Pathogen Study, if the Petitioners have further concerns, the Board will entertain further discussion on this topic at its next regularly scheduled Board meeting.

This denial of the petition is a final agency action. Pursuant to Idaho Code §§ 67-5230, 67-5270 and IDAPA 58.01.23.801.02, any person aggrieved by the Order may seek review of the Order by filing a petition for judicial review in District Court within 28 days of the service date of this Order.

DATED THIS 22 day of February, 2021.

IDAHO BOARD OF ENVIRONMENTAL QUALITY


Kermit Kiebert, Chairman

Mark Bowen, Vice-Chair

Dr. John R. MacMillan, Secretary

Carol Mascarenas, Member

Nick Purdy, Member

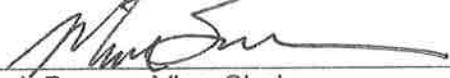
Beth Elroy, Member

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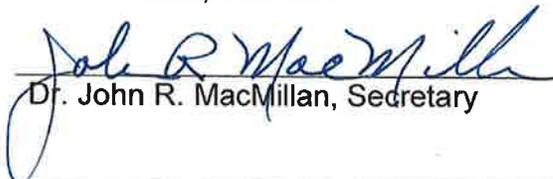
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