

FEB 11 HEARING RESULTS: DENIAL

As you know, our petition to the governor-appointed Board of Environmental Quality is based on the Ground Water Quality Rule 58.01.11. This rule ostensibly grants Greensferry Stakeholders the right to ask the State of Idaho for rulemaking that could lead to recategorization of our portion of the aquifer at risk in order to protect Greenferry Water and Sewer District wells from 57 septic tanks proposed by the Bayshore Estates development. Our petition states that **430,000 gallons of untreated septage per month** from these tanks would gravely threaten water quality of adjacent Greenferry water wells.

In our petition, we have presented impressive evidence that our wells are completed within the Spokane Valley-Rathdrum Prairie (SVRP) Aquifer, including the latest aquifer boundary data from both the Idaho Department of Water Resources (IDWR) and the U.S. Geological Survey. We explained that for the last three years, our water community has tried every effort to reason with DEQ and Panhandle Health District 1, the two regulatory agencies which ignore and contradict IDWR's extensive ground water studies and its latest aquifer boundary updates.

Even if this interagency argument is never settled and the state forever denies our water community SVRP Aquifer status, the Ground Water Quality Rule still allows us to petition for the recategorization of what DEQ refers to as our general resource aquifer (as opposed to the SVRP Aquifer). Regardless of nominal designation, Greenferry water is used for drinking and it deserves protection from sewage degradation.

On February 11, at the beginning of our hearing before the Board of Environmental Quality, Dave and Jane explained why we desperately need Idaho State intervention to save our water. **We told the Board about our distress over the rigid refusal of both DEQ and Panhandle Health District 1 to recognize the latest IDWR aquifer boundary data. We showed the Board historical documents in which both DEQ and Panhandle Health District 1 have themselves admitted that the Greenferry wells are completed within the SVRP Aquifer.**

From several comments made by Board members, we sensed some general empathy for our situation. But also attending were a number of staff from both DEQ and Panhandle Health, along with DEQ deputy attorney general Lisa O'Hara, who basically took over the machinery of the meeting. Because the Board consists of seven laymen unfamiliar with many of our technical issues, they relied upon these agency officials to instruct and guide them.

Despite massive evidence to the contrary, DEQ staff reiterated their intractable doctrine that insufficient evidence exists to place the Greenferry wells within the SVRP sole source Aquifer boundary. Ms. Jerri Henry of DEQ's State Drinking Water Division, repeatedly stressed that the

(outdated) 1978 aquifer boundary, adopted by both DEQ and Panhandle Health “many years ago,” remains “static,” for regulatory purposes.

Worse yet, DEQ’s attorney warned the Board that our bid for recategorization of our portion of the Aquifer could place the entire three hundred square mile SVRP Aquifer boundary under scrutiny and thereby possibly undermine protections in place afforded by the boundary. If that is the case, good legislative intentions codified in IDAPA 58.01.11 may turn out to be unworkable and therefore a hoax. Obviously, Greenferry wells should not be thrown under the bus with the lame excuse that to recategorize our wells might endanger protection of all other SVRP Aquifer water systems.

DEQ’s staff led the Board away from the petitioners’ purpose by asserting that there is a plan in place to assure protection of Greenferry wells. DEQ’s local staff enumerated their qualifications for overseeing the Level Two nutrient pathogen evaluation (NPE) which Greenferry Water and Sewer District requires the Bayshore Estates developer to conduct for assessment of septic pollution potential. We petitioners expressed dissatisfaction with sole reliance upon for this evaluation method because NPE provides opportunity for human error and manipulation, especially if DEQ does not require an independent review of results paid for by the developer.

Several hours of testimony and debate resulted in a decision by the Board to **deny our petition for initiation of rulemaking** that could lead to recategorization of our portion of the Spokane Valley-Rathdrum Prairie sole source aquifer at risk. Their denial listed four points:

1. Including the Greenferry wells in the SVRP Aquifer does not necessarily include the Bayshore Estates property. Our answer is that updated boundary maps produced by USGS and IDWR this century clearly show that the Bayshore Estates property and the Greenferry wells are inseparable within the SVRP Aquifer boundary. This is demonstrated by the 2005 USGS map shown to the Board by DEQ during its power point presentation. The Board also had access to an updated SVRP Aquifer boundary map recently produced by the Idaho Department of Water Resources, which, like the USGS aquifer boundary map, affirms that a large swath of territory, including the Bayshore Estates acreage adjacent to our wells, lies within the SVRP Aquifer boundary.

2. DEQ’s groundwater quality rules do not enforce the five-acre rule which we have requested for well protection in our petition. This is extremely disconcerting since Panhandle Health District 1 (PHD) does enforce the five-acre rule for SVRP areas in North Idaho. Because PHD administers North Idaho ground water protection under contract with DEQ, this dichotomy makes little sense. DEQ could influence PDH to grant Greenferry wells and adjacent territory the five-acre rule, were DEQ not determined to stick by its “static” 1978 boundary designation that cheats our community out of adequate well protection. To prevent discrimination against

our water community, DEQ and PHD should work together to administer the five-acre rule since the latest IDWR boundary updates show our Greenferry water system lies within the SVRP Aquifer.

3. DEQ has presented testimony that a Level Two NPE study will provide technical information that can allow development while protecting Greenferry water wells. Our answer is that DEQ seems to want to keep its development cake while munching on our recategorization petition. Our only hope here is that the modeled NPE pollution-potential studies would be based on quality data and produce honest results that are realistic.

4. Information required of petitioners under IDAPA 58.01.11.350.02 was lacking sufficient detail for redefinition of the aquifer boundary. Our response is that, although we did provide basic answers to the requirements of this section, this nebulous excuse of “lack of detail” could be used against us, no matter how many volumes of geological information that we might submit. Both DEQ and IDWR have access to massive information on subsurface hydrogeological information that our community is not able to provide in minute detail. If DEQ and PHD were truly concerned about our water safety, this skimpy excuse would not have been dredged up to foil recategorization.

To its credit, the Board of Environmental Quality stated in its denial order that it encourages dialogue between DEQ and IDWR to ensure that policy and regulatory decisions do not conflict. But the Board took the easy way out with its rapid and abbreviated four-point denial, relying upon DEQ staff to assure reliable NPE modeling, although at this time it is unknown whether the developer plans to conduct this time-consuming and expensive study. Meantime, the Greenferry Water Board has informed the Bayshore Estates developer that water service cannot be extended until the District’s plan for infrastructure improvements is finalized.

The petitioners are disappointed with the outcome of our appeal for protection of Greenferry water via the recategorization process. **We feel a bit like chickens who complained to a fox about potential dangers to the henhouse.** We believe that certain agencies responsible for protecting our water resources are using myriad excuses to denigrate our area with substandard protection, compared to other SVRP communities. There is face to save and developers to appease. Most frustrating is that each regulatory agency involved with our water system claims on its website that its basic purpose is to protect Idaho water resources from degradation.

A community effort may be necessary again in 2021 to influence Kootenai County Commissioners to use their sovereign powers under Idaho State law to recognize current data clearly showing that our shallow wells lie within a very vulnerable aquifer, regardless of the old, outdated EPA boundary map. There is also the possibility of further opportunity to reason with

the Board of Environmental Quality, which stated that petitioners are welcome to approach it if and when the NPE study is completed.

We are happy that the Greenferry Water and Sewer District joined our efforts at the hearing to appeal for state recognition of our water as a sensitive resource. If the water board chooses to accept the results of an NPE level Two, those study results must be thoroughly peer reviewed to confirm zero degradation potential for Greenferry well water.

We also urge the District to reject any suggestion for installation of pretreatment septic tank systems requiring chemical additives, since this type of system is known to be difficult to maintain for continuous reliability and difficult to regulate for compliance purposes.

At this time we believe that concerned citizens and Greenferry Water District customers must remain vocal about our vital water protection issues and they must insist that the District and all regulatory agencies use every avenue available to protect our water system. We also urge Greenferry Water District to complete all vital infrastructure upgrades for existing customers before any new customers are served.