

RECEIVED

DEC - 4 2002

Department of Water Resources

ROBERT E. WILLIAMS

IDAHO STATE BAR NO. 1693

FREDERICKSEN, WILLIAMS & MESERVY

PO Box 168

117 South Adams

Jerome ID 83338

Telephone: (208) 324-2303

Facsimile: (208) 324-3135

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re: SRBA

)

A. Subcase 37-12832

)

Case No. 39576

)

AFFIDAVIT IN SUPPORT
OF OBJECTION

)

)

STATE OF IDAHO)

:ss

County of Gooding)

VERN FRANCE, first being duly sworn, deposes and says as follows:

1. My name is Vern France. I currently reside at Gooding, Idaho. I make this affidavit on the basis of my own personal knowledge.
2. My parents, Earl and Alice France, originally settled on a fifty-six (56) acre parcel of real property northeast of Gooding, Idaho, in the spring of 1932. They established a livestock operation which included draft horses, dairy cows, sheep, hogs and chickens. When my parents purchased the original real property there was a windmill well present which provided water for the livestock. This windmill well was replaced in the early 1930s with a well located in the SWSWSE of Section 16, Township 5 South, Range 15

EBM. This well has been continuously referred to by my family as the "Home Place" well and is the point of diversion described in Water Right No. 37-12833.

3. The well connected with Water Right 37-12832 has been referred to by my family as the "Back up" well or "Feed Lot No. 2" well. This well is actually located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 5 South, Range 15 EBM, Gooding County, Idaho. It has been in place and used continuously since the early 1960s. It was connected to the Home Place Well by a mainline installed in 1969. Since that date the "Home Place" and "Back Up" Wells have been used jointly for all feeder cattle.
4. The well associated with Water Right No. 37-12831 has been referred to by my family members as the "Buffalo" well. Prior to 1958, the previous owner, Wilkins, used this well for feeder cattle. In 1958, members of my family purchased the Wilkins place and with it, the Buffalo Well. It was used by France, Inc., our family corporation, for feeder cattle from 1971 through 1988. Since 1988, through the date of the sale of the entire feeder operation to Big Sky Dairy, the well was used for one (1) home and for drinking water for approximately fourteen hundred (1400) head of buffalo in a feedlot. This well collapsed in 1989 and was re-drilled during that year.
5. My parents significantly expanded their farming and livestock operations during the latter part of the 1930s and the 1940s. By the early 1950s, the livestock operations on their property consisted of feeding 1500 to 3200 head of lambs, 200 to 300 head of cattle and 800 to 1000 head of hogs per year. In 1953, after a disastrous fire, the hog and lamb feeding operations were phased out and cattle operations were expanded to include a commercial cow herd and feed lot.
6. In 1956, France, Inc., was formed to own the family's livestock operations.

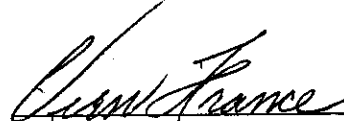
7. In 1971, I became more formally involved with France, Inc.
8. In 1971, the cattle feeding operations at our facility contained 1200 head of feeder cattle. The feeding operation was expanded during the 1970s and early 1980s to a capacity of 4800 head of feeder livestock.
9. In 1984, additional feeding pens were constructed and which allowed a one time capacity on the feedlots of 5500 head of feeder cattle.
10. In 1988, we commenced feeding bison on the real property as part of our operations. We began with 400 head in 1988, gradually expanding to 2200 head by the fall of 1999.
11. The SRBA claims that were filed with respect to Water Rights Nos. 37-12832 and 37-12833 were based on 12 gallons per day per head for 6,000 head of feeder livestock. The claim for Water Right No. 37-12831 was based upon 2,000 head of feeder buffalo at 12 gallons per day per head.
12. The SRBA claims originally filed with respect to quantity of water diverted, were accurate when filed and reflect the actual use of water from the wells described in the three (3) water rights set forth above, based upon actual historical, beneficial use for many years, as I have stated.
13. In 2001, France, Inc., and my wife and I, sold our entire farming operation, including all livestock and buffalo feeding operations, to Big Sky Dairy, an Idaho partnership, composed of Tony Visser, Russell Visser and Mike Bosma. The sale included all of our right, title and interest in Water Rights Nos. 37-12831, 37-12832 and 37-12833. Bit Sky now has a substantial heifer raising business on the property.
14. Since 1971, the feeding facilities on the France, Inc., property now owned by Big Sky Dairy, were utilized to full capacity during most years. During most years over that period of time, two (2) marketings of full corral capacity for livestock took place.

15. From my records, my best estimate of the total number of cattle and buffalo marketed from the corrals which were serviced by Water Rights Nos. 37-12831, 37-12832 and 37-12833, from 1971 through 2000, are as follows:

1971 - 2500	1980 - 9400	1989 - 12300	1998 - 14800
1972 - 3600	1981 - 10200	1990 - 12600	1999 - 15300
1973 - 4100	1982 - 10800	1991 - 13000	2000 - 14700
1974 - 6200	1983 - 12000	1992 - 12600	
1975 - 6800	1984 - 10300	1993 - 13200	
1976 - 7200	1985 - 9600	1994 - 13600	
1977 - 8600	1986 - 10600	1995 - 13400	
1978 - 8200	1987 - 10400	1996 - 14100	
1979 - 9000	1988 - 11700	1997 - 14300	

16. The table in Paragraph 15 further confirms that the amounts of water claimed under the above referenced water rights were accurate as to volume, based upon actual beneficial use.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


VERN FRANCE

Subscribed and sworn to before me t his 27th day of November,
2002.


Notary Public for Idaho
Residing at Bozeman, Idaho
Comm. Expires: 8-22-2003

CERTIFICATE OF MAILING

I certify that on December 3, 2002, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Big Sky Dairy
Address: 1700 E 2428 S
Gooding ID 83330

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise ID 83724



ROBERT E. WILLIAMS