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DEPARTMENT OF
WATER RESOURCES

COPY

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

In Re SRBA) Subcase No: 00-91013
) (Basin-Wide Issue 13)
Case No. 39576)
)
) OBJECTION RE: STATE OF IDAHO'S
) SECOND AMENDED MOTION TO
) INCLUDE SUBORDINATION
) LANGUAGE ON WATER RIGHTS
) AFFECTED BY THE SWAN FALLS
) AGREEMENT
)
)
)

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: B-4 Dairy, LLC
Address: 3751 S. 2400 E.
Jerome, Idaho 83338
Phone: 208.280.1821

Name & Address of Attorney, if any:

Robert E. Williams
P.O. Box 168
Jerome, Idaho 83338

Water Right Number for which I am objecting: 36-7732C

Please Check Applicable Box:

- ☒ I have reviewed the State of Idaho's *Second Amended Motion*.
- ☐ I wish to object to my water right not being included on the list of water rights on Attachment A.

☐ The reason(s) I believe my water right should be included on Attachment A are as follows: *

☒ I wish to object to my water right being included in the list of water rights on Attachment B.

☒ The reason(s) I believe my water right should not be included on Attachment B are as follows: * Substantial investment in the development of this water right was incurred prior to October 24th, 1984. Please see the *Affidavit of Donald F. Thibault* attached hereto as **Exhibit 1**.

☒ I have included proof with this *Objection* supporting that beneficial use was made under the right prior to October 25th, 1984.

Signature: _____

By: ROBERT E. WILLIAMS

Attorney for B-4 Dairy, LLC

Dated: _____

5/26/11

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of May, 2011, a true and correct copy of the foregoing was mailed with sufficient first-class postage to the following:

DIRECTOR OF IDWR
P.O. Box 83720
Boise, Idaho 83720

Faulkner Land & Livestock Co.
North Snake Ground Water District
Represented by:
Thomas J. Budge
PO Box 1391
Pocatello, ID 83204-1391

Basin and Range Resource
Interested Water Users
Jeff & Jackie Harper
Represented by:
Dana L. Hofstetter
608 W Franklin St
Boise, ID 83702

Idaho Ground Water Appropriators
Represented by:
Randall C. Budge
PO Box 1391
Pocatello, ID 83204-1391

United States Department of Justice
Environment & Natural Resources Division
550 W Fort Street, MSC 033
Boise, ID 83724

Burgess Canal, *et al.*
Represented by:
Jerry R. Rigby
Po Box 250
Rexburg, ID 83340-0250

Clear Spring Foods Inc.
Idaho Power Company
Represented by:
John K. Simpson
PO Box 2139
Boise, ID 83701-2139

City of Pocatello
Represented by: Josephine P. Beeman
409 W Jefferson St
Boise, ID 83702

STATE OF IDAHO
Office of Attorney General
Attn: Olive Strong / Shasta Kilminster-Hadley
P.O. Box 83720
Boise, ID 83720

SRBA DISTRICT COURT
P.O. Box 2707
Twin Falls, Idaho 83303-2707



Signature

ROBERT E. WILLIAMS
IDAHO STATE BAR NO. 1693
WILLIAMS, MESERVY & LOTHSPREICH, LLP
Attorneys at Law
153 East Main Street
P. O. Box 168
Jerome, Idaho 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
Case No. 39576

Subcase No. 00-91013
(Basin Wide Issue 13)

AFFIDAVIT OF
DONALD F. THIBAUT

STATE OF IDAHO)
 :SS
County of Jerome)

DONALD F. THIBAUT, first being duly sworn, deposes and says as follows:

1. In 1977 my wife and I were the owners of two hundred (200) acres of real property located in Gooding County, Idaho, within Township 8 South, Range 16 East Boise Meridian, Section 30.
2. On or about July 19th, 1977, my wife and I applied for a Water Permit under Application No. 36-7732, to appropriate 4.12 cfs of water from ground water for purposes of irrigation and watering livestock on the above-described real property.
3. Subsequently, on or about October 20th, 1977, the Application for Permit No. 36-7732

AFFIDAVIT OF DONALD F. THIBAUT

\\Server\share\data\B-4 Dairy, LLC (Ken Boer)\Affidavit of Donald F. Thibault.doc



was approved by the Idaho Department of Water Resources.

4. On or about November 1st, 1977, Dale Gilbert, at my request, completed the drilling of a well on the above referenced real property pursuant to the Water Permit that had been issued.

5. In 1978 as part of the development of the Water Permit I incurred and paid expenses for the drilling of a well and acquisition of a pump and motor in the approximate amount of \$6,000.00. In 1977 the total cost of the entire project to develop the water under Water Permit No. 36-7732 was \$20,000.00

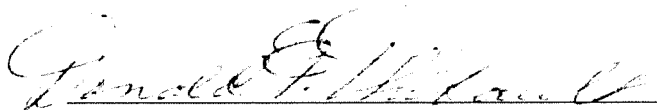
6. I was not able to apply water beneficially to the real property until 1988 because of uncertainties involving the Swan Falls litigation. I sold the real property and Water Permit No. 36-7732 to Dennis and Linda Boer in 1992.

7. It is my understanding that Water Rights Nos. 36-7732B, 36-7732C, and 36-7732D are now licenced and have been split from the original water I applied for under Water Permit No. 36-7732.

8. I further understand that Dennis Boer acquired full ownership of the real property and appurtenant water rights in a divorce, and subsequently sold the same to the current owner, B-4 Dairy, LLC.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 20th day of May, 2011.


DONALD F. THIBAUT

SUBSCRIBED AND SWORN to before me this 20th day of May, 2011.



Monica Brown
NOTARY PUBLIC
Residing at: 3000 W
My commission expires: 5-20-2013