

<u>Water Right No.</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Water Use(s)</u>	<u>Location</u>	<u>Number of Stock</u>	<u>Total Stock</u>	<u>Year</u>	<u>Number of Homes</u>
37 12832	5/31/1919	0.04	DOMESTIC, STOCKWATER	Home Place	584	584		
37 20858	1/1/1971	0.04	STOCKWATER	Home Place	1016	1600	1972	1
37 20859	1/1/1974	0.04	STOCKWATER	Home Place	1000	2600	1973	
37 20860	1/1/1975	0.04	STOCKWATER	Home Place	600	3200	1975	
37 12833	1/1/1977	0.17	DOMESTIC, STOCKWATER	Home Place	925	4125	1977	2
37 20861	1/1/1982	0.17	STOCKWATER	Home Place	975	5100	1982	
37 12831	1/1/1940	0.07	DOMESTIC, STOCKWATER	Buffalo Lot	150	150	1940	
37 20862	1/1/1992	0.07	STOCKWATER	Buffalo Lot	850	1000	1992	1

Created 02-13-2009 to document the historic use associated with the France feedlots.

RECEIVED

FEB - 6 2003

Department of Water Resources



FREDERICKSEN, WILLIAMS & MESERVY, LLP
ATTORNEYS AT LAW

117 South Adams Street
Post Office Box 168
Jerome, Idaho 83338-0168

EUGENE D. FREDERICKSEN
ROBERT E. WILLIAMS
JAMES C. MESERVY

JOHN B. LOTHSPICH, ASSOCIATE

TELEPHONE: (208) 324-2303

TELECOPIER: (208) 324-3135

E-MAIL FWMATTYS@NORTHRIM.NET

February 5, 2003

Clerk of the Court
Attn: Janet
Snake River Basin Adjudication
PO Box 2707 - 253 3rd Ave N
Twin Falls ID 83303-2707

Re: *Water Rights Nos. 37-12831; 37-12832; 37-12833; 37-20858; 37-20859; 37-20860; 37-20861 and 37-20862*

Dear Clerk:

Please find enclosed the SF5s for Water Rights Nos. 37-12831; 37-12832; 37-12833; 37-20858; 37-20859; 37-20860; 37-20861 and 37-20862. The filing of the enclosed SF5s effectively resolves the objections of Big Sky Dairy with regard to the partial decrees issued for Water Rights Nos. 37-12831; 37-12832 and 37-12833. Please see that the enclosed SF5s are appropriately filed. Thank you for your courtesies.

Very truly yours,

FREDERICKSEN, WILLIAMS & MESERVY

ROBERT E. WILLIAMS

REW/bsb

Encl.

cc: Nicolas Spencer
Carter Fritschle
Chuck Brockway, Jr.
Client

E:\bsbDocs\Data\Big Sky\srba\clerk 02 05 03.wpd

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	)	SUBCASE NO: 37-12831
	)	
	)	
Case No. 39576	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law; and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

The Director's Report for water right no. 37-12831 recommended only a portion of what was claimed under claim no. 37-12831. The balance of claim no. 37-12831 is being recommended as water right no. 37-20862 and an SF5 for 37-20862 is being filed herewith. Together, the SF5s of 37-12831 and 37-20862 resolve the claimant's objection to 37-12831. The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The only change made to the original recommendation is the addition of a combined use remark under the quantity element which links water right no. 37-12831 and 37-20862. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:

Robert E. Williams 01/15/03
Robert E. Williams Date
Attorney for Big Sky Dairy.

IDWR CONCURRENCE:

<u>Carter Fritschle</u> <u>1-30-03</u>		<u>Nicholas B. Spencer</u> <u>1-30-03</u>
Carter Fritschle Date		Nicholas B. Spencer (As to Form) Date
Adjudication Supervisor, IDWR		Attorney for IDWR

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-12831

NAME AND ADDRESS: BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.070 CFS

RIGHT NOS. 37-12831 AND 37-20862 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.07 CFS.

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

C4
NBS
new

PRIORITY DATE: 01/01/1940

POINT OF DIVERSION:

T05S R15E S21 SENESW Within GOODING County

PURPOSE AND

PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.070 CFS
DOMESTIC	01/01 12/31	0.040 CFS

PLACE OF USE: STOCKWATER Within GOODING County

T05S R15E S21 NESW

DOMESTIC Within GOODING County

T05S R15E S21 NESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS A PORTION OF OLD RIGHT NO. 37-4334.

CERTIFICATE OF MAILING

I certify that on February 5, 2003 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

United States Dept. of Justice
Environment & Nat'l Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

Robert E. Williams
Attorney for Big Sky Dairy
P.O. Box 168
Jerome, ID 83338



Signature of person or attorney mailing the form

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

SUBCASE NO: 37-20862

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law; and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

The Director's Report for water right no. 37-12831 recommended only a portion of what was claimed under claim no. 37-12831. The balance of claim no. 37-12831 is being recommended here as water right no. 37-20862. Together the SF5s of 37-12831, which is being filed herewith, and 37-20862 resolve the claimant's objection to 37-12831. The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/ OBJECTOR:



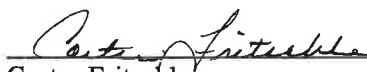
2/05/03

Robert E. Williams

Date

Attorney for Big Sky Dairy.

IDWR CONCURRENCE:



1-30-03

Carter Fritschle

Date

Adjudication Supervisor, IDWR



1-30-03

Nicholas B. Spencer (As to Form)

Date

Attorney for IDWR

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-20862

NAME AND ADDRESS: BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.070 CFS

RIGHT NOS. 37-12831 AND 37-20862 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.07 CFS.

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1992

POINT OF DIVERSION:

T05S R15E S21 SENESW Within GOODING County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

0.070 CFS

PLACE OF USE: STOCKWATER Within GOODING County

T05S R15E S21 NESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for
the definition of the rights or for the efficient administration of the water
rights as may be ultimately determined by the Court at a point in time no
later than the entry of a final unified decree. Section 42-1412(6), Idaho
Code.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS A PORTION OF OLD RIGHT NO. 37-4334.

Revised
01
NBS

CERTIFICATE OF MAILING

I certify that on February 5, 2003 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

United States Dept. of Justice
Environment & Nat'l Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

Robert E. Williams
Attorney for Big Sky Dairy
P.O. Box 168
Jerome, ID 83338



Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-12831
NAME AND ADDRESS: BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

SOURCE: GROUND WATER
QUANTITY: 0.070 CFS

TRIBUTARY:

RIGHT NOS. 37-12831 AND 37-20862 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.07 CFS.

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1940

POINT OF DIVERSION:

T05S R15E S21 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.070 CFS
DOMESTIC	01/01 12/31	0.040 CFS

PLACE OF USE: STOCKWATER Within GOODING County

T05S R15E S21 NESW

DOMESTIC Within GOODING County

T05S R15E S21 NESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS A PORTION OF OLD RIGHT NO. 37-4334.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-20862

NAME AND ADDRESS: BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.070 CFS

RIGHT NOS. 37-12831 AND 37-20862 ARE LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.07 CFS.

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1992

POINT OF DIVERSION:

T05S R15E S21 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

0.070 CFS

PLACE OF USE: STOCKWATER Within GOODING County

T05S R15E S21 NESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for
the definition of the rights or for the efficient administration of the water
rights as may be ultimately determined by the Court at a point in time no
later than the entry of a final unified decree. Section 42-1412(6), Idaho
Code.

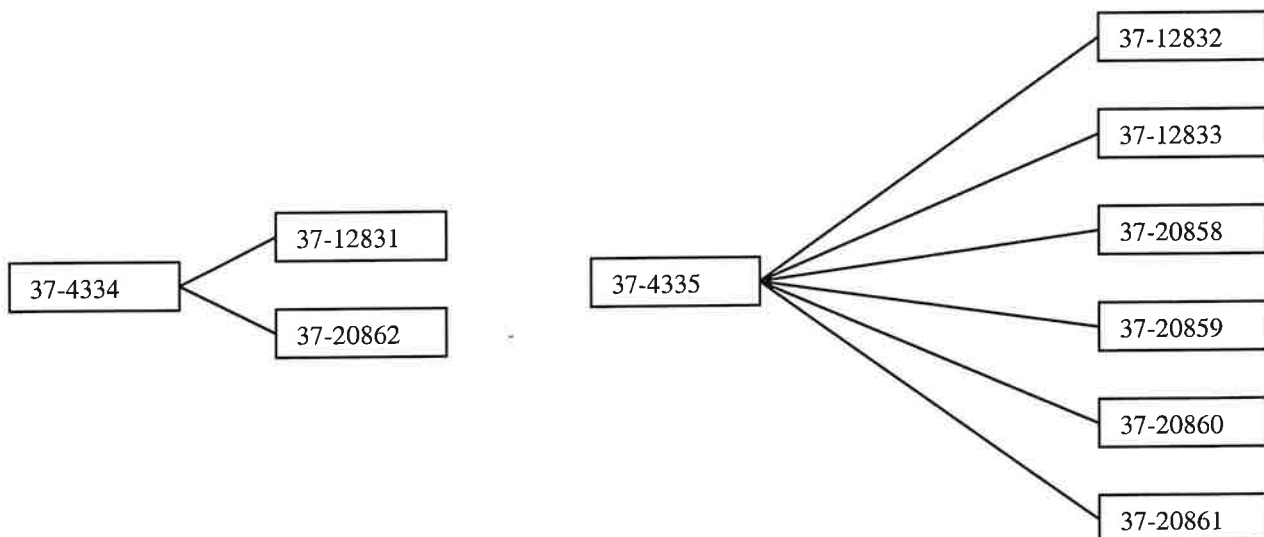
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS A PORTION OF OLD RIGHT NO. 37-4334.

France Inc. Livestock Numbers (Big Sky Dairy)

Year	Total Number of Animals in Both Feedlots	Total Number of Animals in Buffalo Feedlot	Total Number of Animals in Home Place Feedlot	Additional Water Right Required?
1971	1250	150	1100	Home Place 37-20858
1972	1800	200	1600	
1973	2050	200	1850	
1974	3100	200	2900	Home Place 37-20859
1975	3400	200	3200	Home Place 37-20860
1976	3600	200	3400	
1977	4300	175	4125	37-12833
1978	4100	200	3900	
1979	4500	275	4225	
1980	4700	300	4400	
1981	5100	300	4800	
1982	5400	300	5100	Home Place 37-20861
1983	6000	350	5650	
1984	5150	300	4850	
1985	4800	275	4525	
1986	5300	325	4975	
1987	5200	300	4900	
1988	5850	550	5300	
1989	6150	600	5550	
1990	6300	800	5500	
1991	6500	850	5650	
1992	6300	1000	5300	Buffalo Feedlot 37-20862
1993	6600	1050	5550	
1994	6800	1150	5650	
1995	6700	1300	5400	
1996	7050	1350	5700	
1997	7150	1350	5800	
1998	7400	1750	5650	
1999	7650	1850	5800	
2000	7350	1900	5450	



1-9-03

To: Rob Williams

From: Vern France

Re: Number of animals confined at the "bison facility" by year

1971 - 300	1981 - 600	1991 - 1700
1972 - 400	1982 - 600	1992 - 2000
1973 - 400	1983 - 700	1993 - 2100
1974 - 400	1984 - 600	1994 - 2300
1975 - 400	1985 - 550	1995 - 2600
1976 - 400	1986 - 650	1996 - 2100
1977 - 350	1987 - 600	1997 - 2100
1978 - 400	1988 - 1100	1998 - 3500
1979 - 550	1989 - 1200	1999 - 3700
1980 - 600	1990 - 1600	2000 - 3800

Rob,

These numbers are my best estimates but I believe they are close to what occurred. These numbers should be deducted from the numbers on page 2 of the letter I sent to you dated Oct. 20, 2002. The balance would then be the cattle that were confined at the main feedlot (Home place).

If I can be of further assistance, please call.

Best Regards,
Vern France

IDAHO STATE BAR No. 1693

PO Box 168

117 South Adams

Jerome ID 83338

Telephone: (208) 324-2303

Facsimile: (208) 324-3135

In Re: SRBA	)	A. Subcase 37-12831
	)	
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 this 27th day of November, 2002.


Notary Public for Idaho
Residing at: Gooding, ID
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:

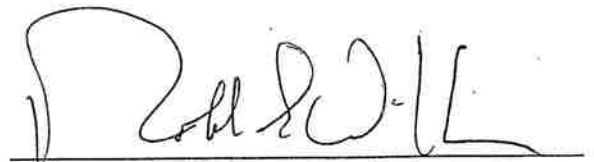
Name: Big Sky Dairy
Address: 1700 E 2428 S
Gooding ID 83330

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

FREDERICKSEN, WILLIAMS & MESERVY

ATTORNEYS AT LAW

117 South Adams Street
Post Office Box 168
Jerome, Idaho 83338-0168

EUGENE D. FREDERICKSEN
ROBERT E. WILLIAMS
JAMES C. MESERVY

JOHN B. LOTHSPICH, ASSOCIATE

RECEIVED
DEC - 4 2002
Department of Water Resources



TELEPHONE: (208) 324-2303
FAX/COPIER: (208) 324-3135
E-MAIL FWMATTYS@NORTHRIM.NET

December 3, 2002

Nicholas B. Spencer
Deputy Attorney General
Idaho Department of Water Resources
1302 North Orchard St.
Boise ID 83706-2237

Re: SRBA Subcase Nos. 37-12831, 37-12832 and 37-12833

Dear Nick:

Enclosed are copies of three (3) identical Affidavits of Vern France we have filed in the above-referenced matters today. After you have had a chance to review the affidavits, please call me so that we can discuss a potential resolution.

Very truly yours,

FREDERICKSEN, WILLIAMS & MESERVY

ROBERT E. WILLIAMS

REW/bsb
Encl.
cc: Client
D:\bsbDocs\Data\Big Sky\srba\spencer 12 02 02.wpd

RECEIVED

OCT - 8 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 37-12831
	)	
Case No. 39576	)	STANDARD FORM 1
	)	OBJECTION
	)	

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING:

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

Daytime Phone: 208.934.9072

Name & Address of Attorney:

Robert E. Williams
Fredericksen Williams & Meservy
PO Box 168
Jerome ID 83338

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

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

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es).

1. ☐ **Name and Address**
Should be:

2. ☐ **Source**
Should be:

3. ☒ **Quantity**
Should be: .44 cfs
.04 cfs

4. ☒ **Priority Date**
Should be: June 3, 1928

5. ☐ **Point(s) of Diversion**
Should be:

6. ☐ **Instream Flow Description**
Should be:

7. ☒ **Purpose(s) of Use**
Should be: Stock water/commercial - .44 cfs
Domestic - .04 cfs

8. ☐ **Period of Year**
Should be:

9. ☐ **Place of Use**
Should be:

10. **I object because:**

☐ This water right should not exist.

☒ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** These rights have been used in connection with a beef/buffalo feeding operation totaling several thousand head for many years, commencing substantially prior to 1987 and continuing through the present date. Present use

is for a dairy heifer feeding operation. The historical use of water, priority date, and animal numbers claimed will be verified by affidavits to be submitted at a later date.

F. VERIFICATION (Must be Completed)

State of Idaho)
)ss:
County of Jerome)

ROBERT E. WILLIAMS, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objection and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

[Handwritten signature]

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

October 7, 2002

[Handwritten signature]

NOTARY PUBLIC for *Idaho*

Residing at: *Gooding*

My Commission Expires: *3-5-2004*

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on *October 7*, 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:

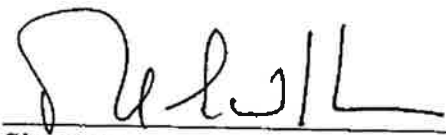
Name: Big Sky Dairy
Address: 1700 E 2428 S
Gooding ID 83330

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



Signature of Objector or attorney
mailing on Objector's behalf

06/17/2002

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-12831

NAME AND ADDRESS: BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.07 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1940

POINT OF DIVERSION:

T05S R15E S21 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS
STOCKWATER	01/01 12/31	0.070 CFS

PLACE OF USE: DOMESTIC Within GOODING County

T05S R15E S21 NESW

STOCKWATER Within GOODING County

T05S R15E S21 NESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

THIS RIGHT IS OLD RIGHT NO. 37-4334.

WMD**POD Data****05S 15E 21 SENESW**

Legal Description	GPS Site ID	Diversion Name	Meas Option	POD
05S 15E 21 SENESW	A0006795	BUFFALO WELL		401621
Latitude 042:58:20.847 Longitude -114:40:59.476 GPS File C120820A			Waived (5)	
Comments MIGHT BE WAIVED; ESTIMATED SYSTEM CAPACITY .07 CFS				

Site Visits

Site Visit Date	Site Examiner	Reason	Change Date:
12/8/1997	CHODGES	Inventory	

Notes:

Stockwater = 0.07 cfs
 Domestic = 0.04 cfs

 Total = 0.07 cfs

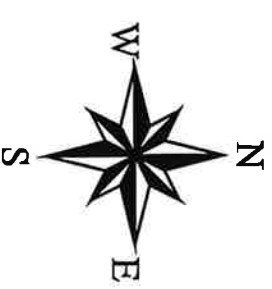
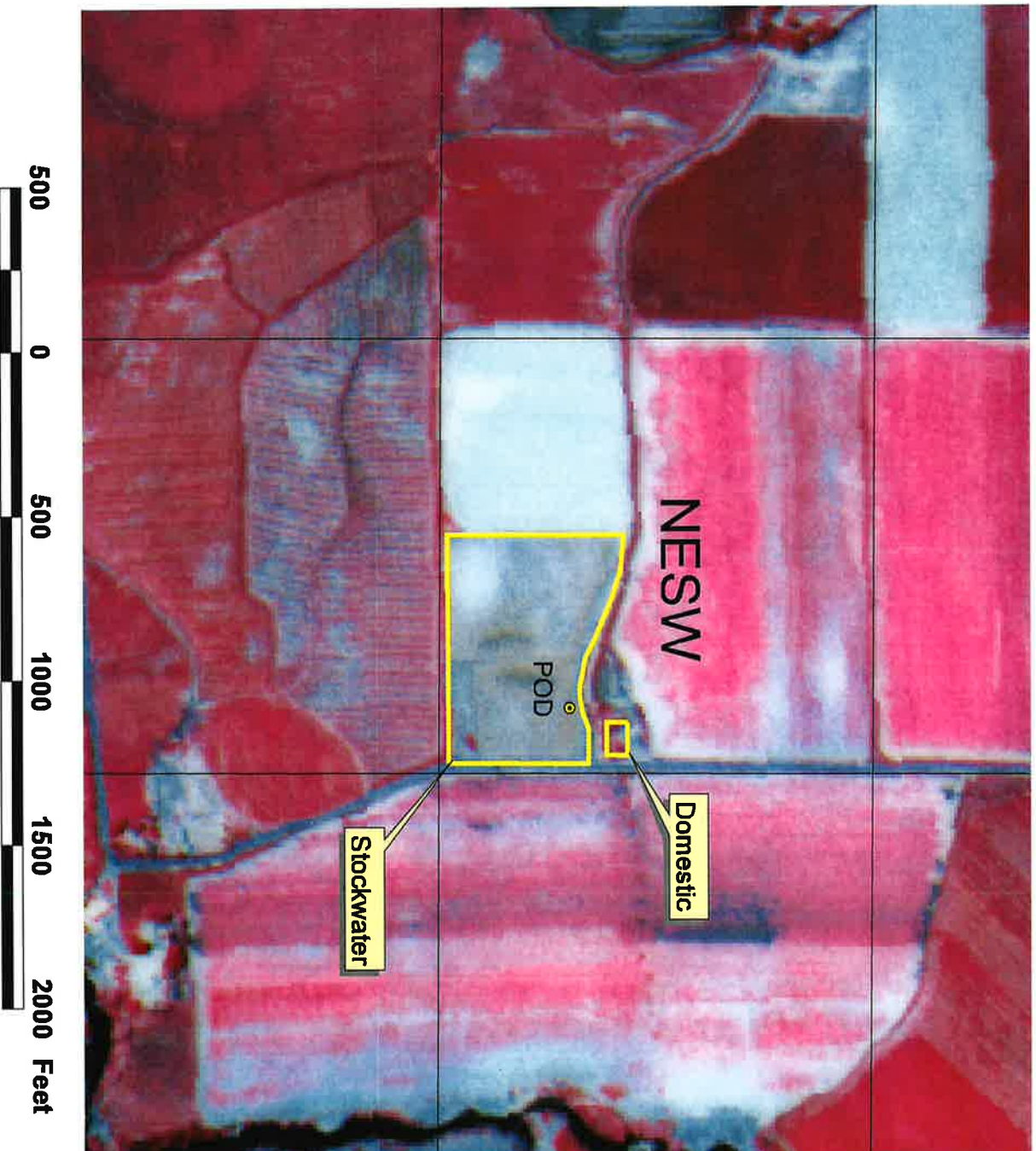
37-12831

7-16-1992



37-12831

T05S R15E
S21





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866 www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 8, 2002

37-12831
BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

RESPONSE DEADLINE
APRIL 12, 2002

Re: Evidence of Priority Date

Dear Claimant:

The Notice of Claim to a Water Right (claim) identified with the number shown above your name has been filed in the Snake River Basin Adjudication (SRBA). The claim indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. I will be conducting field examinations for the SRBA claims with a Ground Water source in your area in late March and early April. Since the priority date of a beneficial use right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to Idaho Department of Water Resources (IDWR). If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with IDWR in order to receive future mailings and to participate in the adjudication.

Enclosed you will find a computer printout of your claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: IDWR will recommend the SRBA Court decree the claim disallowed if no evidence of a priority date is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date by the date shown above, referencing all documents with the corresponding claim number. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129. If you have multiple claims that require evidence of priority date, the labels with the identification numbers of the additional claims are attached below. Please submit evidence of the priority date for each of your beneficial use rights. Also, if there are multiple claimants of the claim at the same address, the additional claimants are identified on the labels attached below.

Sincerely,

Carter Fritschle
Water Rights Supervisor
Adjudication Bureau

Enclosures

37-12832
BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

37-12833
BIG SKY DAIRY
1700 E 2428 S
GOODING ID 83330

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 37-12831
Date Received: 2/7/1989
Receipt No: S006237
Received By:

**COPY FOR
YOUR FILES**

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

BIG SKY DAIRY Phone: (208)934-4757

1700 E 2428 S
GOODING ID USA 83330

2. Date of Priority: 06/30/1928

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05S	15E	21	SE NE SW	GOODING	

5. Description of diverting works:

3 HP PUMP, WELL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
COMMERCIAL	1/01	12/31	0.44	
DOMESTIC	1/01	12/31	0.04	

7. Total Quantity Appropriated is:
0.48 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
05S	15E	21	NE SW NE SW	COMMERCIAL DOMESTIC	

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A37-12831
Date Received: 2/07/1989
Receipt No: 8006237-5007214
Received By: m

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: FRANCE, INC.
Address: 2050 E. 1500 S.
GOODING, ID

83330

208-934-5382
RECEIVED

2. Date of Priority: JUN 30, 1928

MAY 19 1989

3. Source: GROUNDWATER

Trib. to:

Department of Water Resources
Southern Region Office

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	15E	21	SE	NE	SW		GOODING

5. Description of diverting works:
3 HP PUMP, WELL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
COMMERCIAL	01/01	12/31	0.440		

7. Total Quantity Appropriated is:
0.480 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE S/2000 BUFFALO

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	15E	21	NE	SW		COMMER	
			NE	SW		DOMEST	

A37-12831

Page 1

Date: 03/14/89

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Frank Lee Date:
by Carol Thomas Date: 5/18/89

State of Idaho)
County of GOODING) SS.

Subscribed and sworn (or affirmed) before me this 10th day
of May 19 89

Patricia L. Pagan
Notary Public

Seal

Residing at HAGELMAN, IDAHO
My Commission Expires 10-20-93

Sent (LW)
↓

3/14/1989

VERN FRANCE
2050E 1500S
GOODING, ID 83330

DEAR VERN:

I'M REALLY HAPPY THAT ALL YOUR HARD WORK WITH YOUR
FEEDLOT/FARM/TRUCKING OPERATION WAS RECOGNIZED. YOU DESERVED
THE "HALL OF FAME" AWARD VERY MUCH, CONGRATULATIONS!

ENCLOSED PLEASE FIND YOUR AMENDED CLAIM FORMS. THE DIVERSION
RATE FOR CATTLE AND BUFFALO IS BASED ON 12 GALLONS PER ANIMAL
PER DAY. GENERALLY, WATER SYSTEMS ARE DESIGNED WITH A
MAXIMUM RATE OF FLOW WHICH CAN PRODUCE THE FULL PEAK DAILY
REQUIREMENT IN TWO HOUR TIMES. TO CONVERT THE ~GALLONS YOU
USE PER DAY TO CFS, THE FOLLOWING FORMULA WAS USED:

6,000 HEAD OF CATTLE, AT 12 GALLONS PER DAY PER HEAD,
USE ~72,000 GALLONS PER DAY.
THE RATE OF DIVERSION NECESSARY TO PRODUCE 72,000
GALLONS IN A 2 HOUR PERIOD IS:
 $72,000 \text{ GALLONS} / 2 \text{ HRS} \times 60 \text{ MIN} \times 450 \text{ GPM} = 1.33 \text{ CFS}$
THE RATE OF DIVERSION NECESSARY FOR 1 HOUSE = .04 CFS +
.02 CFS FOR EACH ADDITIONAL HOUSE ON THE SAME SYSTEM.
3 HOUSES REQUIRE .08 CFS.
TOTAL AMOUNT APPROPRIATED FOR THE FEEDLOT = 1.33 CFS,
WHICH WAS SPLIT EQUALLY BETWEEN THE 2 COMMERCIAL CLAIMS,
SINCE BOTH SUPPLY WATER TO THE SAME OPERATION.
TOTAL AMOUNT APPROPRIATED FOR DOMESTIC USE WAS .08 CFS
FOR 3 HOUSES ON A37-12833 AND .04 CFS FOR 1 HOUSE ON
A37-12832.

2,000 HEAD OF BUFFALO, AT 12 GALLONS PER DAY PER HEAD,
USE ~24,000 GALLONS PER DAY.
THE RATE OF DIVERSION NECESSARY TO PRODUCE 24,000
GALLONS IN A 2 HOUR PERIOD IS:
 $24,000 \text{ GALLONS} / 2 \text{ HRS} \times 60 \text{ MIN} \times 450 \text{ GPM} = .44 \text{ CFS}$
THE RATE OF NECESSARY FOR 1 HOUSE = .04 CFS.
TOTAL AMOUNT APPROPRIATED FOR COMMERCIAL CLAIM A37-12831
= .44 CFS FOR THE FEEDLOT AND .04 CFS FOR THE HOUSE.

THE FEE FOR A COMMERCIAL CLAIM IS \$50 PLUS \$100 PER CFS.
TOTAL CHARGED PER CLAIM IS:

A37-12831	= \$50 + \$44 (.44 CFS)	= \$ 94.00
A37-12832	= \$50 + \$70.50 (.705 CFS)	= \$120.50
A37-12833	= \$50 + \$70.50 (.705 CFS)	= \$120.50

TOTAL	\$335.00
ALREADY PAID \$25 DOMESTIC FEE ON EACH	- 75
TOTAL DUE	\$260.00

ENCLOSED PLEASE FIND 2 SETS OF AMENDED CLAIM COPIES. KEEP ONE SET OF COPIES FOR YOUR RECORDS AND RETURN THE 2ND SET SIGNED AND NOTARIZED WITH A CHECK FOR THE BALANCE DUE. IF YOU HAVE ANY QUESTIONS VERN, PLEASE CONTACT ME AT 734-3578.

SINCERELY,

LORI WHITE
WATER AGENT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that France, Inc.
(Name of Claimant)
Rt. 1 Box 223 Gooding, Idaho 83330 Telephone No. _____
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) January 1, 1940

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>0.11</u>	Use <u>stockwater</u>	Period of Use From <u>1/1</u>	To <u>12/31</u>
Quantity	<u>0.04</u>	Use <u>domestic</u>	Period of Use From	To <u>12/31</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 0.15 TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21 Twp. 5S Rge. 15E B.M., County of Gooding
 Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. 6" x 180' well with 1.5 HP pump

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

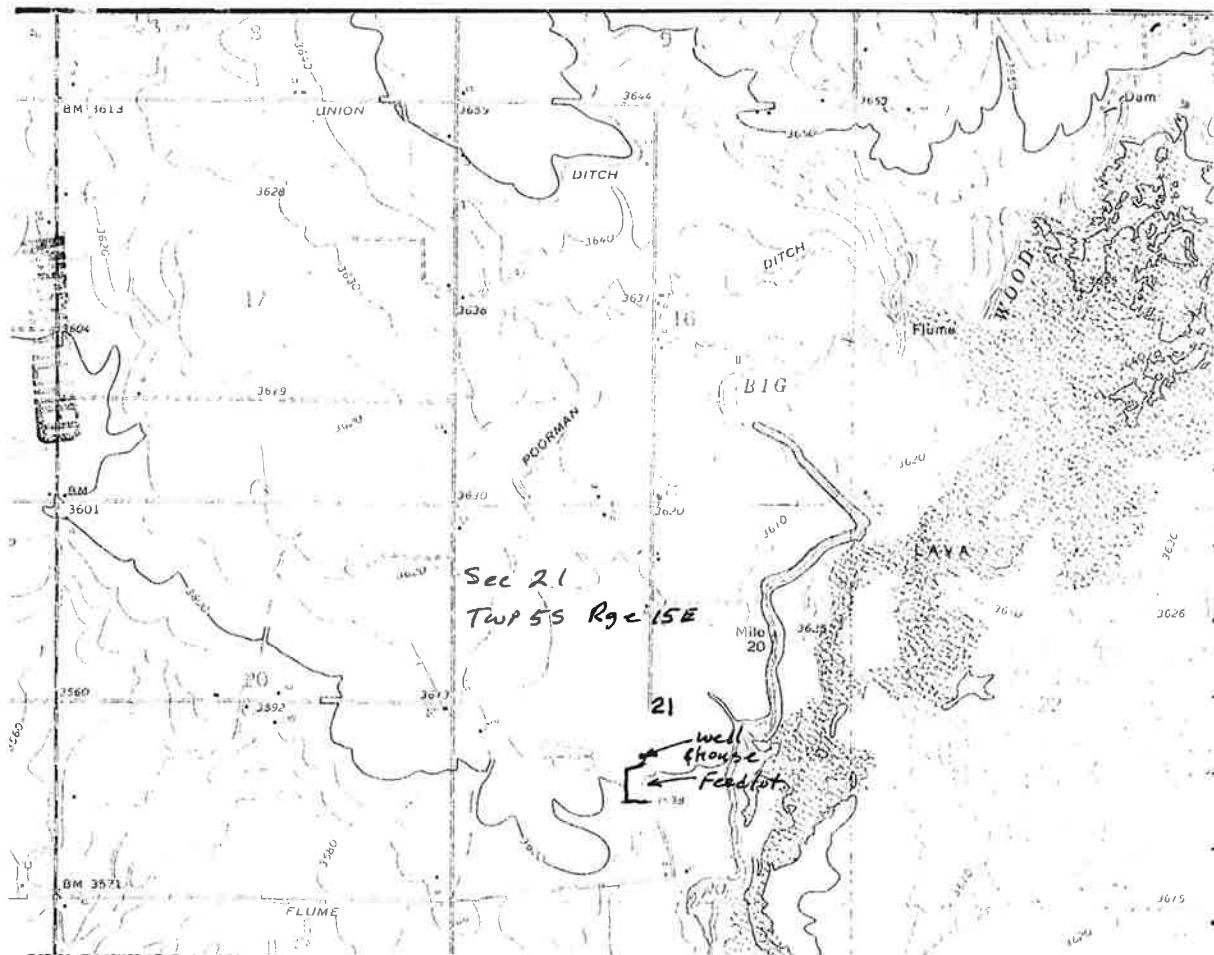
No. of acres

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Domestic for 1 home
Stockwater for 500 beef cattle

NOTE: Include here the type and number of stock watered: _____

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Twin Falls,) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Francis, Inc. by John Francis
(Claimant)

Sworn to before me this 23 day of May, 19 83.

Mary A. Newell
Notary Public
Residing at Shoshone, Idaho 83352

My commission expires life

FOR DEPARTMENT USE ONLY
Received by [Signature] Date 5/23/83 Exception filed by: _____ Date _____
Prelim. check by [Signature] Date 6-1-83 Forwarded to claimant by: _____
\$30.00 fee received by Mary A. Date 5-23-83 421385
Published in Shoshone County Reader
Dates 6/29/83 7/16/83