

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: A36-10815  
Date Received: 9/01/1988  
Receipt No: S002020  
Received By: SEC

**COPY**  
**FOR YOUR FILES**  
**DO NOT RETURN**

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

1. Name: DAIRY WEST ASSOCIATES  
Address: P.O. BOX 95  
HAGERMAN, ID

208-837-6105

83332

2. Date of Priority: JAN 01, 1930

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 | of | 1/4 | of | 1/4 | Lot | County  |
|----------|-------|---------|-----|----|-----|----|-----|-----|---------|
| 07S      | 15E   | 34      | SW  |    | NE  |    | NE  |     | GOODING |

5. Description of diverting works:  
WELL AND PUMP

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 | 0.520  |      |        |

7. Total Quantity Appropriated is:  
0.520 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/ 800 DAIRY

10. Place of Use:

| Township | Range | Section | 1/4 | of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|-----|----|-----|-----|--------|-------|
| 07S      | 15E   | 34      | NE  |    | NE  |     | DOMEST |       |
|          |       |         | NE  |    | NE  |     | COMMER |       |

A36-10815

Page

1

Date: 09/01/88

**MICROFILMED**

**OCT 20 1994**



State of Idaho

County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 1st day

of September 19 88

Roxanne Storey  
Notary Public

Seal

Residing at Buhl, Id

My Commission Expires 6-30-94

POWER OF ATTORNEY

I, GLADE M. KNIGHT, hereby appoint my father, MAC J. KNIGHT, my true and lawful attorney (hereinafter called "my attorney") who is hereby authorized for me and in my name:

1. To act for and in my behalf with respect to all matters relating to the water rights, transfer, sale, or all other rights incident to ownership of certain real property (the "Property") located in Wendall, Idaho, and known as Dairy West, more particularly described as TOWNSHIP 7 SOUTH, RANGE 15, EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO, SECTION 34 E $\frac{1}{2}$  NE $\frac{1}{4}$ .

2. To enter into, make, sign, execute, acknowledge and deliver any note, deed of trust, or other document or instrument, that may, in the opinion of my attorney, be necessary or desirable in connection with the water rights, transfer, sale, or exercise of any right incident to the Property.

3. Without limiting the foregoing, generally to do, execute and perform any other act, deed, matter or thing that ought to be done, executed, and performed, or that, in the opinion of my attorney, ought to be done, executed or performed of every nature and kind whatsoever relating, directly or indirectly, to the matters set forth in paragraph 1 above, as fully and effectively as I could do, if personally present and acting.

I hereby certify and confirm all actions which may be taken by my attorney.

This power of attorney shall not terminate on disability of the principal.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 21<sup>st</sup> day of August, 1988.

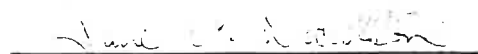


COMMONWEALTH OF VIRGINIA:

CITY/COUNTY OF Washington:

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of August, 1988, by Glade M. Knight.

My commission expires: LET COMMISSION EXPIRES JUNE 16, 1991

  
Notary Public

MICROFILMED

OCT 20 1994



AJ5811NP  
SELECTION FILE: SHAFF-BROWN-NOA6

IDAHO DEPARTMENT OF WATER RESOURCES  
SELECTION FILE CONTENTS

DATE: 05/13/93  
TIME: 11:57:12  
PAGE: 1

|           |           |            |            |           |           |           |           |           |           |
|-----------|-----------|------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|
| 36-00004  | 36-00047  | 36-00065   | 36-00066B  | 36-00067  | 36-00136A | 36-00136B | 36-00194  | 36-02046  | 36-02166  |
| 36-02178  | 36-07298  | 36-10033   | 36-10035   | 36-10169  | 36-10223  | 36-10446  | 36-10815  | 36-15094  | A36-00004 |
| A36-00047 | A36-00065 | A36-00065B | A36-00066B | A36-00067 | A36-00136 | A36-00194 | A36-02046 | A36-02166 | A36-02178 |
| A36-07298 | A36-10033 | A36-10035  | A36-10169  | A36-10223 | A36-10446 | A36-10815 | A36-15094 |           |           |

TOTAL RECORDS IN SELECTION FILE: 38

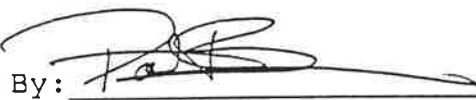
MICROFILMED  
OCT 20 1994

1 Hagerman Water Right Owners, Inc. and its individual members, the  
2 following individuals:

|    |                                  |              |
|----|----------------------------------|--------------|
| 3  | Alice A. & Paul J. Anderton      | ✓A36-10223✓  |
|    | Fay Coates and/or Fred Beckstead | ✓A36-07298✓  |
| 4  | Fay Coates and/or Fred Beckstead | ✓A36-00066B✓ |
|    | Fay Coates and/or Fred Beckstead | ✓A36-10169✓  |
|    | Fay Coates and/or Fred Beckstead | ✓A36-00065✓  |
| 5  | Fay Coates and/or Fred Beckstead | ✓A36-00067✓  |
|    | Dairy West Associates            | ✓A36-10815✓  |
| 6  | Michael J. Fleming               | ✓A36-15094✓  |
|    | Michael J. Fleming               | ✓A36-10446✓  |
| 7  | Salmon Falls Land & Livestock    | ✓A36-00194✓  |
|    | Salmon Falls Land & Livestock    | ✓A36-02046✓  |
| 8  | Salmon Falls Land & Livestock    | ✓A36-02166✓  |
|    | Salmon Falls Land & Livestock    | ✓A36-02178✓  |
|    | Salmon Falls Land & Livestock    | A36-00136B✓  |
| 9  | Salmon Falls Land & Livestock    | A36-00136A✓  |
|    | Salmon Falls Land & Livestock    | ✓A36-10035✓  |
| 10 | Salmon Falls Land & Livestock    | ✓A36-10033✓  |
|    | Spring Valley Ranch, Inc.        | ✓A36-00004✓  |
| 11 | Dixie Adamson                    | ✓A36-00047✓  |

12 Dated this 10 day of May, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ,  
14 CHARTERED

15 By:   
16 Patrick D. Brown  
17 Attorneys for Respondents  
18  
19  
20  
21  
22  
23



Hepworth,  
Nungester,  
& Lezamiz

INPUT: AJ\_SELECTION:SHAFF-BROWN-NOA6.SEL

TYPE OF ACTION: MODIFY

MODIFY ALL FIELDS FLAG: Y

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

STATE: ID ZIP: 833030389

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

PHONE NUMBER: (208) 734-7510

✓ 36-00004 SUCCESSFULLY CHANGED ON HOST  
✓ 36-00047 SUCCESSFULLY CHANGED ON HOST  
✓ 36-00065 SUCCESSFULLY CHANGED ON HOST  
✓ 36-00066B SUCCESSFULLY CHANGED ON HOST  
✓ 36-00067 SUCCESSFULLY CHANGED ON HOST  
✓ 36-00136A SUCCESSFULLY CHANGED ON HOST  
✓ 36-00136B SUCCESSFULLY CHANGED ON HOST  
✓ 36-00194 SUCCESSFULLY CHANGED ON HOST  
✓ 36-02046 SUCCESSFULLY CHANGED ON HOST  
✓ 36-02166 SUCCESSFULLY CHANGED ON HOST  
✓ 36-02178 SUCCESSFULLY CHANGED ON HOST  
✓ 36-07298 SUCCESSFULLY CHANGED ON HOST  
✓ 36-10033 SUCCESSFULLY CHANGED ON HOST  
✓ 36-10035 SUCCESSFULLY CHANGED ON HOST  
✓ 36-10169 SUCCESSFULLY CHANGED ON HOST  
✓ 36-10223 SUCCESSFULLY CHANGED ON HOST  
✓ 36-10446 SUCCESSFULLY CHANGED ON HOST  
✓ 36-10815 SUCCESSFULLY CHANGED ON HOST  
✓ 36-15094 SUCCESSFULLY CHANGED ON HOST  
✓ A36-00004 SUCCESSFULLY CHANGED ON HOST  
✓ A36-00047 SUCCESSFULLY CHANGED ON HOST  
✓ A36-00065 SUCCESSFULLY CHANGED ON HOST  
✓ A36-00065B SUCCESSFULLY CHANGED ON HOST  
✓ A36-00066B SUCCESSFULLY CHANGED ON HOST  
✓ A36-00067 SUCCESSFULLY CHANGED ON HOST  
✓ A36-00136 SUCCESSFULLY CHANGED ON HOST  
✓ A36-00194 SUCCESSFULLY CHANGED ON HOST  
✓ A36-02046 SUCCESSFULLY CHANGED ON HOST  
✓ A36-02166 SUCCESSFULLY CHANGED ON HOST  
✓ A36-02178 SUCCESSFULLY CHANGED ON HOST  
✓ A36-07298 SUCCESSFULLY CHANGED ON HOST  
✓ A36-10033 SUCCESSFULLY CHANGED ON HOST  
✓ A36-10035 SUCCESSFULLY CHANGED ON HOST  
✓ A36-10169 SUCCESSFULLY CHANGED ON HOST  
✓ A36-10223 SUCCESSFULLY CHANGED ON HOST  
✓ A36-10446 SUCCESSFULLY CHANGED ON HOST  
✓ A36-10815 SUCCESSFULLY CHANGED ON HOST  
✓ A36-15094 SUCCESSFULLY CHANGED ON HOST

MICROFILMED  
OCT 20 1994

1 HEPWORTH, NUNGESTER & LEZAMIZ,  
2 CHARTERED  
3 133 Shoshone St. North  
4 P.O. Box 389  
5 Twin Falls, ID 83303-0389  
6 Telephone: (208)734-7510  
7 Attorneys for Claimant  
8 (PDB\21530SUP.NO6\crh)

9  
10 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
11 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

12 \* \* \* \* \*

13 In Re the General Adjudication )  
14 of Rights to the Use of Water )  
15 from the Snake River Basin )  
16 Water System )

Case No. 39576

17 The State of Idaho, ex rel. )  
18 R. Keith Higginson in his )  
19 official capacity as director )  
20 of the Idaho Department of )  
21 Water Resources, )

HAGERMAN WATER RIGHT OWNERS,  
INC. AND ITS INDIVIDUAL  
MEMBERS' SIXTH SUPPLEMENTAL  
NOTICE OF APPEARANCE

22 Petitioner, )

23 vs. )

United States; State of Idaho; )  
and all claimants to the use )  
of water from the Snake River )  
Basin Water System, )

24 Respondents. )

25 \* \* \* \* \*

26 COMES NOW the law firm of Hepworth, Nungester & Lezamiz  
27 and supplements its Notice of Appearance to add on behalf of



Hepworth,  
Nungester,  
& Lezamiz

SIXTH SUPPLEMENTAL NOTICE OF APPEARANCE - 1

**MICROFILMED**

**OCT 20 1994**

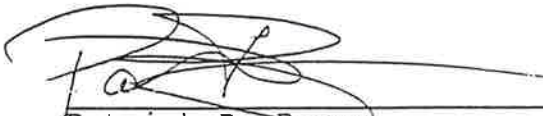
CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the respondents in this matter, certifies that he caused to be mailed a copy of the above and foregoing FIFTH SUPPLEMENTAL NOTICE OF APPEARANCE on the 10 day of May, 1993, to:

Snake River Adjudication (original)  
District Court  
P.O. Box 27070  
Twin Falls, ID 83303-0126

Chief, Natural Resources Division (1)  
Office of Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-4449

The United States Department of Justice (1)  
Environment and Natural Resources Division  
550 West Fort Street, Box 33  
Boise, ID 83734

  
Patrick D. Brown



Hepworth,  
Nungester,  
& Lezamiz

MICROFILMED

OCT 20 1994



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

October 3, 1990

AGG-10815  
DAIRY WEST ASSOCIATES  
P.O. BOX 95

HAEREMAN ID 83300

Dear Claimant(s):

In the past you submitted the claim(s) identified with the number(s) shown above your name and address at the top of this letter. You indicated on the claim(s) that the basis for establishing the water right(s) was Beneficial Use, meaning the water right was not previously confirmed by a decree, water right license or permit before you filed the claim(s).

The purpose of this letter is to request evidence supporting the priority date(s) you have claimed. The enclosed pamphlet describes what this means. While I encourage you to read all of the pamphlet, I direct your attention to the right-hand half of the pamphlet after you open it. There you will find two sections: What Kind of Evidence is Required, and Some Examples of Documents which May Be Evidence of the Priority Date. These sections tell you what must be submitted. The other sections tell you why the evidence is necessary and what the consequences of not submitting the evidence could be.

Please submit the requested evidence by November 1, 1990. When returning to the Department please reference all documents with the claim(s) identification number(s) listed above.

If you have questions not addressed by the pamphlet or need other technical assistance, please feel free to contact this office. For advice on your water right(s), please contact your attorney.

Sincerely,

Allen Merritt, P.E.  
Water Rights Supervisor

Enclosure

MICROFILMED  
FEB 07 1993



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

April 8, 1991

DAIRY WEST ASSOCIATES  
P O BOX 95  
HAGERMAN ID 83332

RE: Evidence of Priority - Snake River Basin Adjudication  
Claim #A36-10815

Dear Claimant(s):

Our records indicate that your claim(s) listed above, is based upon either a "Statutory Claim" or "Beneficial Use" of the water. For water rights of this type, the claimed "Priority Date" must be substantiated with supporting evidence. We previously requested this supporting evidence be submitted by November 1, 1990, and to date we have not received the requested documentation.

Before the Department can make a recommendation to the Court to decree the claim(s), some evidence of the priority date must be submitted. Again we are enclosing a brochure outlining the types of evidence you may submit, and a printout of your claim(s) for reference. We request that you submit your evidence of priority as soon as possible. **If we do not receive the requested documentation, your claim(s) will be recommended for disallowal due to lack of evidence supporting any priority date.**

Please submit the required evidence supporting the priority date(s) by April 23, 1991. Please reference the claim number on your correspondence. If you have questions or need other assistance please contact this office.

Sincerely,

*for Anna Baumgardner*  
Allen Merritt, P.E.  
Adjudication Section Supv.

Enclosure

MICROFILMED  
FEB 07 1993

From: DWR60::MERRITT 16-MAY-1991 10:24:45.11  
To: DWR03::STERLING  
CC: MERRITT  
Subj: A36-10815

I JUST GOT A PHONE CALL FROM FRANK KNIGHT INVOLVED WITH THIS PROPERTY.  
HE JUST GOT THE PROOF OF PRIORITY LETTER FROM HIS DAD AND WILL RESPOND TO  
THE LETTER AS SOON AS POSSIBLE. I'LL LET YOU KNOW WHEN WE GET SOMETHING.

ALLEN

MICROFILMED  
FEB 07 1993

POWER OF ATTORNEY

I, GLADE M. KNIGHT, hereby appoint my father, MAC J. KNIGHT, my true and lawful attorney (hereinafter called "my attorney") who is hereby authorized for me and in my name:

1. To act for and in my behalf with respect to all matters relating to the water rights, transfer, sale, or all other rights incident to ownership of certain real property (the "Property") located in Wendall, Idaho, and known as Dairy West, more particularly described as TOWNSHIP 7 SOUTH, RANGE 15, EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO, SECTION 34 E $\frac{1}{2}$  NE $\frac{1}{2}$ .

2. To enter into, make, sign, execute, acknowledge and deliver any note, deed of trust, or other document or instrument, that may, in the opinion of my attorney, be necessary or desirable in connection with the water rights, transfer, sale, or exercise of any right incident to the Property.

3. Without limiting the foregoing, generally to do, execute and perform any other act, deed, matter or thing that ought to be done, executed, and performed, or that, in the opinion of my attorney, ought to be done, executed or performed of every nature and kind whatsoever relating, directly or indirectly, to the matters set forth in paragraph 1 above, as fully and effectively as I could do, if personally present and acting.

I hereby certify and confirm all actions which may be taken by my attorney.

This power of attorney shall not terminate on disability of the principal.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 26<sup>th</sup> day of August, 1988.



COMMONWEALTH OF VIRGINIA:

CITY/COUNTY OF Carroll:

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August, 1988, by Glade M. Knight.

MY COMMISSION EXPIRES JUNE 18, 1991

My commission expires: \_\_\_\_\_

  
Notary Public

MICROFILMED  
FEB 07 1993

AJ0743NP  
(OD-124)

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIMS PROOF READING REPORT  
(REGIONAL)

07/21/97 10:14:18  
Page 1

Water Right Number - R36-15511

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

\*\*\* C - CURRENT OWNER \*\*\*

GUNNING

F F

1 - PO BOX 821

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-6390

GUNNING

IRENE

1 - PO BOX 821

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-6390

GUNNING

G C

1 - PO BOX 821

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-000-0000

GUNNING

SUSAN

1 - PO BOX 821

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-000-0000

+ - - Priority Date - - +  
03/24/1963

+ - - - Region - - - +  
17 SOUTHERN

+ - - - Stage - - - +  
J - BENEFICIAL USE

+ - - - Status - - - +

+ - - - - Source - - - - - +  
GROUNDWATER

+ - - - - Tributary - - - - - +

+ - - - - Point of Diversion - - - - - +  
Twn Rng Sec Tract Lot RFlg County

07S 15E 34 SW NE NE (47) GOODING

+ - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume

04 - STOCKWATER

01/01

12/31

0.150

16.00

10 - COMMERCIAL

01/01

12/31

0.040

4.50

+ - Total Div. Rate - + + - Total Div. Volume - +  
0.190 20.50

+ - Total Consumptive Use - + + - KW Usage - +  
0.0

+ - - - - Place of Use - - - - - +  
Twn Rng Sec Tract Lot Acres Code Description County

07S

15E

34

NE NE

04

STOCKWATER

(47) GOODING

07S

15E

34

NE NE

10

COMMERCIAL

(47) GOODING

Total Acres:

DO NOT FILE  
DRAFT

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIMS PROOF READING REPORT  
(REGIONAL)

Water right number - R36-15511

Prefix Translation: RESEARCH

+ - - Diversion Means - WELL, 7.5 HP PUMP, DAIRY BARN, STOCK TROUGHS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

[illegible]

EXP STOCKWATER FOR 400 MILKING COWS, COMMERCIAL USE FOR DAIRY BARN  
WITHOUT SPRINKLER EQUIPED HOLDING PEN.  
CLAIM 36-10815 FOR DOMESTIC USE ONLY ON SAME PROPERTY AND FROM  
SAME WELL.

+ - - - - - Old Water Right Numbers - - - - - +

## No Old Water Right Numbers Found

+ . . . . . Conditions of Approval . . . . . +

No Conditions of Approval found.

+ - - - Decree Plaintiff - - - +                      + - - - Decree Defendant - - - +                      + - Decree Date - +  
00/00/0000

+ - - - - - Comments - - - - - +

Date: 07/21/1997 User Id: DJONES Subject: CREATION OF CLAIM  
THIS CLAIM WAS CREATED PER ORDER FROM THE BENCH BY SPECIAL MASTER DOLAN DIRECTING IDWR TO SPLIT THE ORIGINAL CLAIM 36-10815.  
THIS PORTION REPRESENTS IDWR'S RECOMMENDATION FOR THE DAIRY STOCK AND COMMERCIAL USE ASSOCIATED WITH THE DAIRY OPERATION UP TO THE  
THE MANDATORY PERMIT DATE. CLAIM 36-10815 REPRESENTS THE DOMESTIC USE ONLY. EVIDENCE PROVIDED BY THE CLAIMANT SUPPORTS A  
TOTAL USE ON THE PROPERTY FOR ONE HOME AND 400 DAIRY STOCK UP TO 3/25/1963.

+ - - Audit Fields - - +  
07/21/97 DJONES

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 00/00/0000 | Old Judicial District   | -       |
| Claim Received Date  | - 07/21/1997 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - X777777    | Water District          | -       |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | - AND/OR     | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | -       |

**DRAFT**

**DO NOT FILL**

MEMORANDUM

TO: FILE 36-10815, GUNNING (VIA DAIRY WEST)  
FROM: Douglas Jones  
DATE: July 21, 1997  
RE: PROPOSED RECOMMENDATION TO SETTLE OBJECTION

\*\*\*\*\*

Review of the original claim, documentation provided by claimant, and a telephone conversation with one of the claimant's affiants (initiated by affiant at the request of claimant and in cooperation with pre-trial hearing discussions with claimant, attorneys (Honsinger & Brown), and Special Master Dolan) I have reached the following conclusions with regard to elements for this claim. Two alternatives are proposed; 1) Modify the original claim to reflect the pre-mandatory permit date development, or 2) Create a second claim for the extent of development beyond that present in 1930.

Alternative 1:

1. Claimant: F. F. & Irene Gunning  
PO Box 716  
Wendell ID 83355  
(208)536-6390
2. Priority: 3/24/1963
3. Source: Groundwater
4. Point of Diversion: T07S R15E 34 SWNE NE Gooding County
5. Diverting works: Well and 7.5hp pump
6. Uses:

|            |          |          |
|------------|----------|----------|
| Domestic   | 0.04 cfs | 1.2 afa  |
| Stockwater | 0.15 cfs | 16.0 afa |
| Commercial | 0.04 cfs | 4.5 afa  |
7. Total Quantity: 0.19 cfs 21.7 afa
8. Total Consumptive Use: N/A
9. Non-irrigation Uses: Domestic - 1 home with yard  
Stockwater - 400 head lactating dairy cows  
Commercial - Dairy barn without wash pen
10. Place of use: Domestic - T07S R15E 34 NENE Gooding County  
Stockwater - T07S R15E 34 NENE  
Commercial - T07S R15E 34 NENE
15. Basis of Claim: Beneficial Use
16. Remarks and Conditions:

Alternative 2:

36-10815:

Elements: Same as recommended

Remarks and Conditions:

Quantity: The quantity of water under this right shall not exceed 13,000 gallons per day.

General: The quantity of water decreed for this water right is not a determination of historical beneficial use.

New Claim:

1. Claimant: Same
2. Priority: 3/24/1963
3. Source: Groundwater
4. Point of Diversion: Same
5. Diverting works: Well and 7.5hp pump
6. Uses:

|            |          |          |
|------------|----------|----------|
| Stockwater | 0.15 cfs | 16.0 afa |
| Commercial | 0.04 cfs | 4.5 afa  |
7. Total Quantity: 0.19 cfs 20.5 afa
8. Total Consumptive Use: N/A
9. Non-irrigation Uses: Stockwater - 400 head lactating dairy cows  
Commercial - Dairy barn without wash pen
10. Place of use: Stockwater - T07S R15E 34 NENE  
Commercial - T07S R15E 34 NENE
15. Basis of Claim: Beneficial Use
16. Remarks and Conditions:

Quantity: In combination with 36-10815 the diversion rate shall not exceed 0.19 cfs nor 21.7 acre feet per year.

General: In combination with 36-10815 the non-irrigation use is limited to a total equivalent of 400 lactating dairy cows.

Explanatory: Right no. 36-10815 is also diverted through the point of diversion described above.

FILE NUMBER \_\_\_\_\_ Gunning 36-10815  
REVIEWER \_\_\_\_\_ D Jones

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE \_\_\_\_\_ 400  
NUMBER OF NONMILKING CATTLE \_\_\_\_\_ 0  
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;  
IF ANAEROBIC, ENTER ZERO \_\_\_\_\_ 0.0  
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) \_\_\_\_\_ 4  
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF  
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS \_\_\_\_\_ 2  
NUMBER OF MILKINGS PER DAY \_\_\_\_\_ 2

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS):

MILKING CATTLE @35 GPD/HD \_\_\_\_\_ 0.26  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* -- 0.26  
NONMILKING CATTLE @12 GPD/HD \_\_\_\_\_ 0.00  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.00  
TOTAL (BASED UPON ROUNDED NUMBERS) \_\_\_\_\_ 0.26

DIVERSION VOLUME (AFA):

STOCKWATER  
MILKING CATTLE @35 GPD/HD \_\_\_\_\_ 15.7  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* -- 16.0  
NONMILKING CATTLE @12 GPD/HD \_\_\_\_\_ 0.0  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.0  
TOTAL (BASED UPON ROUNDED NUMBERS) \_\_\_\_\_ 16.0

COMMERCIAL  
WASHING OF BULK TANK AND RELATED EQUIPMENT \_\_\_\_\_ 0.4  
PARLOR FLOOR AND MILKHOUSE FLOOR \_\_\_\_\_ 0.1  
CATTLE WASHING BASED UPON METHOD OF WASHING \_\_\_\_\_ 4.0  
TOTAL \_\_\_\_\_ 4.5

TOTAL DIVERSION VOLUME \_\_\_\_\_ 20.5

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER  
MILKING \_\_\_\_\_ 2.3  
NONMILKING \_\_\_\_\_ 0.0  
TOTAL \_\_\_\_\_ 2.3  
COMMERCIAL \_\_\_\_\_ 0.0  
TOTAL CONSUMPTIVE USE \_\_\_\_\_ 2.3

\* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.

THEORETICAL FLOW ESTIMATION WORKSHEET

REQUIRED PUMP INFORMATION

|                                | PUMP 1 | PUMP 2 | PUMP 3 |
|--------------------------------|--------|--------|--------|
| PUMP HORSEPOWER (HP) _____     | 7.50   | 0.00   | 0.00   |
| LIFT (FT) _____                | 150    | 0      | 0      |
| DISCHARGE PRESSURE (PSI) _____ | 40     | 0      | 0      |
| FRICTION LOSSES (FT) _____     | 0.0    | 0.0    | 0.0    |

CALCULATIONS

|                                     |       |      |      |
|-------------------------------------|-------|------|------|
| THEORETICAL FLOW RATE (CFS) * _____ | 0.19  | 0.00 | 0.00 |
| DIVERSION VOLUME (AFA) ** _____     | 138.0 | 0.0  | 0.0  |

\* PUMP EFFICIENCY WAS ASSUMED TO BE 70%.

\* DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE  
THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY  
DAY OF THE YEAR.

7/2 Telecon w/ <sup>T Jones</sup> Walt Stockholm

Veenstra bought from Mel Jaramillo  
in mid-'50s

Jaramillo had 50-60 head

In late 50's to early 60's Veenstra  
put up own barn and ran  
300 to 400 head

Veenstra later added calf project  
which increased total number  
of head at site.

Dairy West took over from Veenstra  
in the 70's and operated until  
buyout in 1986.

Dairy West operated a 3000-4000  
beef calf operation until  
lost to Farm Credit in early 90's  
to mid-'90's.

How many milk cows have there been  
on site maximum? Couldn't say exactly,  
but maybe 500.

7/2 Walt Stockham: 336-2010  
Dairy West

Veenstra 19 60's 300-400 ~~head~~ milkers

<sup>worked with</sup> Met Jarmila  
~~John Miller~~ early '50's 50-60  
head.

Veenstra Late '50's early '60's put up own  
barn 300-400 head  
Calf prog. added to number

Dairy West took over & operated  
until buyout then started  
3000-4000 beef calf operation

Lost in <sup>6 to mid</sup> early 90's to Farm Credit

Could not say how many but  
may be 500 - couldn't say for  
sure

lived there  
25 yrs  
Farm Credit  
before

# AFFIDAVIT

Sharon Mc Belt  
NOTARY PUBLIC

2/27/95

During the past three to three and one half years while I have been an employee of Frank J. Knight, working at Dairy West Wendell, Idaho as a herdsman, we had between three thousand to four thousand five hundred heifers and steers at any given time until the early fall of 1994 when the price of the animals started to fall. At that time we liquidated the animals and shut down the operation at Dairy West.

I certify the above statement is true and correct.

  
Shawn Lorcher  
2100 East 2950 South  
Wendell, Id 83355  
(208) 536-4618

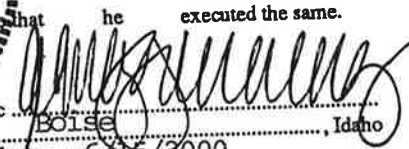
STATE OF IDAHO  
COUNTY OF ADA

} ss.

1 On this 18th day of February in the  
year 1995, before me, a Notary Public, personally appeared

\*\*\*\*\*Shawn Lorcher\*\*\*\*\*

known and identified to me to be the person whose name subscribed to the within  
instrument and acknowledged to me that he executed the same.

Notary Public   
Residing at Boise, Idaho  
Comm. Exp. 6/15/2000

From: DWR06::dwr03::charlie 25-JUN-1997 15:26:56.  
To: DWR06::"djones@idwr.state.id.us"  
CC:  
Subj: 36-10815 - Gunning subcase

Doug:

Can you check in the claim file for this right and determine whether there is a well log from before 1963? If not, is there any way we can get one in a hurry? Perhaps we can establish well capacity at that time and thus foreclose any attempt to allege a greater quantity.

I have a copy of a well driller's report from 1/11/85 - but there must be an earlier well out there if they are alleging an earlier priority.  
Let me know.

Thanks. Charlie

- \* ✓-ed microfilm & paper file, no other logs
- \* Called Eaton Drilling - busy signal  
6/25/97 DJ



United States  
Department of  
Agriculture

Farm  
Service  
Agency

Idaho State FSA Office  
3220 Elder Street  
Boise, Idaho 83705-4711  
(208) 378-5650 Voice  
(208) 378-5678 Fax

RECEIVED

APR 08 1997

Department of Water Resources

April 7, 1997

Mr. Charles Honsinger  
Office of Attorney General  
Natural Resources Division, Water Resources Unit  
1301 North Orchard Street  
Boise, ID 83706-2237

Dear Mr. Honsinger:

Included is the contract for the Dairy Termination Program for Dairy West Associates as you requested in your letter of April 1, 1997.

The contract was submitted on February 21, 1986. It was approved on April 1, 1986 by John H. Giese, committee member for the Gooding County ASCS (currently FSA) Committee.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rush" followed by a stylized flourish.

Richard R. Rush  
State Executive Director

Attachments: Form CCC-312  
ASCS-304  
ASCS-866

Admin/blb

|      |  |
|------|--|
| CODE |  |
|------|--|

067

DATE \_\_\_\_\_

IDAHO STATE FSA

ASCS-304  
(02-03-86)U.S. DEPARTMENT OF AGRICULTURE  
Agricultural Stabilization and Conservation ServiceESTABLISHMENT OF MILK MARKETINGS  
AND DAIRY HERD COMPOSITION

7 CFR 1430.1 authorizes collection of the following data. The data will be used to determine eligibility for participation in the Dairy Termination Program. Furnishing this data is voluntary however, without it program participation cannot be granted. The data may be furnished to any agency responsible for enforcing the regulations governing this program.

1. NAME AND ADDRESS OF PRINCIPAL UNIT PRODUCER &amp; PHONE NO.

Dairy West  
P.O. Box 583  
Lewistown, Pa. 83333

SOC. SEC. NO.

54-1355085

Area Code/Phone No.

208-536-6305

2. UNIT NO.

1

3. UNIT NAME

Dairy West

4. STATE CODE

10

5. COUNTY CODE

047

6. CONTRACT NO.

45

7. UNIT TRACT NUMBERS

8. FACILITY LOCATION (Include tract number)

\* 1 1/2 miles East of Lewistown, Pa. 4 1/4 mi N

9. MDP UNIT

Yes ☐ No ☒

10. INTERESTS IN OTHER UNITS (MILK PRODUCTION)

\* NONE

11. INTERESTS IN OTHER UNITS (DAIRY CATTLE ONLY) Specify unit, type of arrangement, number and type of dairy cattle.

\* NONE

## SECTION A - BASE PERIOD MILK MARKETINGS

| CALENDAR 1985 |                  | JULY 1984 THROUGH JUNE 1985 |                  |
|---------------|------------------|-----------------------------|------------------|
| MONTH         | MILK MARKETINGS  | MONTH                       | MILK MARKETINGS  |
| January       | 206009<br>211740 | July 1984                   | 364659<br>345151 |
| February      | 209630<br>145051 | August                      | 297420<br>302392 |
| March         | 217291<br>198360 | September                   | 277075<br>247089 |
| April         | 236370<br>222590 | October                     | 262785<br>263478 |
| May           | 233180<br>248910 | November                    | 237287<br>235178 |
| June          | 273233<br>250249 | December                    | 224925<br>229467 |
| July          | 276980<br>301840 | January 1985                | 206009<br>211740 |
| August        | 254040<br>275110 | February                    | 209020<br>195051 |
| September     | 229290<br>228390 | March                       | 217291<br>198360 |
| October       | 203700<br>201610 | April                       | 236370<br>222590 |
| November      | 237325<br>185883 | May                         | 233180<br>248910 |
| December      | 160680<br>169300 | June                        | 273233<br>250249 |
| TOTAL         | 5,416,051        | TOTAL                       | 5,444,439        |

DO NOT COMPLETE Item 5 of this Section if producer has milk production interests in more than one unit. For multiple-unit producers the DTP preliminary base will be computed on ASCS-304-1. For single unit producers, Item 5 of this Section will be the lesser of the totals in Column 2 or the totals in Column 4.

5. DTP PRELIMINARY BASE

5,416,051

Lbs

54160.51

Cwt

## SECTION B - DAIRY HERD COMPOSITION

| DATE            | COWS | HEIFERS | CALVES |
|-----------------|------|---------|--------|
| January 1, 1985 | 473  | 100     | 104    |
| January 1, 1986 | 380  | 46      | 121    |

## SECTION C - PRODUCER CERTIFICATION

I hereby request that milk marketings be established for my unit. I certify that the information entered above is true and correct to the best of my knowledge and belief, and that it accurately shows the amount of milk I marketed during the base period and the dairy herd size and composition on the specified dates. In addition, listed on this form are all other units in which I have an interest in milk production or in dairy cattle.

PRODUCER'S SIGNATURE

Dairy West Ry. - Bryant J. Wilkes

DATE

2/21/86

## SECTION D - COC APPROVAL

1. REQUEST IS

APPROVED



2. COC SIGNATURE

Michael D. May

3. TITLE

CEO

DATE

2-24-86

ASCS 866 U.S. DEPARTMENT OF AGRICULTURE  
(02-07-86) Agricultural Stabilization and Conservation Service

## CHOICE OF PAYMENT OPTION

7 CFR 1430.1 authorizes collection of the following data. The data will be used to determine eligibility for participation in the Dairy Termination Program. Furnishing this data is voluntary; however, without it program participation cannot be granted. The data may be furnished to any agency responsible for enforcing the regulations governing this program.

|                                                                                                |                     |                                                        |
|------------------------------------------------------------------------------------------------|---------------------|--------------------------------------------------------|
| 1. NAME AND ADDRESS OF PRODUCER<br>Dairy West Associates<br>P. O. Box 583<br>Wendell, ID 83355 | 2. STATE CODE<br>16 | 3. COUNTY CODE<br>047                                  |
| 4. CONTRACT NO.<br>45                                                                          |                     | 5. UNIT NAME & NO. (Optional)<br>Dairy West Associates |

## CHOICE OF PAYMENT

|                               |                                   |                 |          |                                           |
|-------------------------------|-----------------------------------|-----------------|----------|-------------------------------------------|
| 6. Total DTP Contract Payment | CONTRACT BASE<br>49,160.51 / Cwt. | BID<br>\$ 15.50 | Per Cwt. | MAXIMUM CONTRACT PAYMENT<br>\$ 761,987.91 |
|-------------------------------|-----------------------------------|-----------------|----------|-------------------------------------------|

## 7. Producer Payment Shares

| PRODUCER<br>A         | PERCENT SHARE<br>B | PAYMENT SHARE<br>C | PRODUCER<br>D | PERCENT SHARE<br>E | PAYMENT SHARE<br>F |
|-----------------------|--------------------|--------------------|---------------|--------------------|--------------------|
| Dairy West Associates | 100%               | 761,987.91         |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
|                       |                    |                    |               |                    |                    |
| G. TOTALS             |                    |                    |               | 100.00%            | \$ 761,987.91      |

## 8. Possible Payment Options

| A. FIRST YEAR PAYMENT OPTION                                                                     | B. DELAYED PAYMENT OPTION                                                                                    |
|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Year 1 up to 80 percent<br>Years 2-5 4 equal annual payments <input checked="" type="checkbox"/> | Year 1: 0 percent<br>Year 2: up to 85 percent<br>Years 3-5: 3 equal annual payments <input type="checkbox"/> |

## 9. Producer's Choice of Payment: I request that my DTP payment be made in the following manner:

| YEAR 1        | YEAR 2       | YEAR 3       | YEAR 4       | YEAR 5       |
|---------------|--------------|--------------|--------------|--------------|
| 80 %          | 5 %          | 5 %          | 5 %          | 5 %          |
| \$ 609,590.33 | \$ 38,099.40 | \$ 38,099.40 | \$ 38,099.40 | \$ 38,099.38 |

SIGNATURE OF PRODUCER

DATE



4/14/86

10 REMARKS

\* Federal Land Bank - 36-1 - 2nd - 5th payment  
Please send all checks and correspondence to:

Glade M. Knight  
Knight Austin Corporation  
306 E. Main Street  
Richmond, VA 23219

\*Note: ~~Farmer's National Bank~~

rom: DWR03::CHONSING 11-MAR-1997 14:48:31.48  
To: DWR60::DJONES  
CC:  
Subj: Re: 36-10815, Gunning Operation

Doug,

In reply to your question about seeking information from either the city of Wendell, the mayor, or the city attorney, it is appropriate for IDWR, in the conduct of an ongoing investigation, to contact any and all persons it believes might have relevant information about a particular water right. Therefore, go ahead and contact either Mayor Rost or Craig Hobdey for information. I would suggest that the Mayor's information not be put in affidavit form at this time. Instead, a memorandum might be more appropriate.

As to the other issue, regarding participation in the Dairy Termination Program and whether it may be construed as abandonment/forfeiture, I will send you a letter clarifying IDWR's position within the next week.

Thanks

Charlie

4/8/1997 10AM 36-10815

4000-5000 dairy heifers

Knight - owner Dairy West.

① Contract

② Use since ~~19~~ 87

③ Use before '63

Raguel Braga

Gwen Rost  
536-2115

Dairy in 60's  
Several hundred  
House burnt  
down 196

Copy of DJ's  
Log Book

Fm Crystal - GWDist boundaries

TO ASCS (CFSA) Gail  
(50) 10 yr Started '86 - '91  
Dairy West 534

Call back on Monday So add'l info  
so Gail can check propriety of info dissem.  
→ # cows in '86 (484 cows heifers)  
342 46 96

1/13 To CFSA Gail 934-8472

1/14

"  
Since '93

"

"



# FARM PROGRAM FACT SHEET

## Dairy Termination Program

United States Department of Agriculture • Agricultural Stabilization and Conservation  
February

### WHOLE HERD DISPOSAL

The Dairy Termination Program gives the dairy producer the opportunity to terminate milk production and dispose of his whole herd by selling for slaughter or export the female dairy cattle in which he has a financial interest.

### INCENTIVE PAYMENT

The incentive to terminate production is a payment based on the producer's history of milk marketings and his offered bid to cease this production.

### SIGNUP

From February 10 through March 7, 1986, dairy producers may submit bids to enter into a contract.

### CONTRACT PERIOD

Herd disposition will take place over an 18-month period. Program payments will be made over a five-year period beginning after disposition of the herd. The contract cannot be withdrawn by the producer after it has been accepted by CCC.

### PRODUCER RESPONSIBILITY

- if a producer's bid is accepted, the producer may not:
  - engage in the production of milk for commercial sale for 5 years.
  - acquire or retain any interest in dairy cattle or the production of milk.
  - acquire any milk production facility that becomes available because of the Dairy Termination Program.
  - make available any milk production facility to any person for the purpose of producing milk.

The producer may sell milk production equipment such as bulk tanks or milking machines with no restrictions.

### BID BASIS

Those interested in participating in the program may submit a dollars-per-hundredweight-milk bid, based on their base period milk marketings, as adjusted if appropriate. They must offer evidence of the size and composition of their dairy herds (cows, heifers and calves) for 3 dates: January 1, 1985; January 1, 1986; and on the date that the bid is submitted.

### MILK BASE

The producer's base period milk marketings will be the lesser of the commercial milk marketings in two 12-month periods--the one beginning July 1984, the other beginning January 1985. Bids will be evaluated based on production during the base period and not on prospective production; there will be no upward adjustments. However, changes in the size and composition of a producer's dairy herd may result in a reduced contract base. For example, the preliminary base will be adjusted by reducing the base for any dairy cattle that were transferred off the unit for purposes other than slaughter or export on or after January 1, 1986.

-more-

## DISPOSAL PERIODS

Producers submit bids for one or more of the following "disposal" periods:

April 1 - August 31, 1986  
September 1, 1986 - February 28, 1987  
March 1 - August 31, 1987

Disposal periods represent the times during which producers contract to dispose of their female dairy cattle through either slaughter or export.

## SALE AND SLAUGHTER

Dairy cows and bred heifers sold by milk producers for slaughter must be slaughtered within 15 days of the date of sale, but not later than the final day of the contract disposal period. Other dairy cattle such as unbred heifers and calves sold for slaughter must be slaughtered within six months from the date of sale, not later than the final day of the contract disposal period--except that for the initial disposal period, slaughter must occur no later than September 30, 1986.

## CERTIFICATION

The contracting producer's dairy cattle must be graded as specified by USDA.

With the sale of the cattle, the producer must certify the following information on forms provided by the county ASCS office: head of cattle by type (cows, heifers and calves); date of sale, weight and price received.

Certifications must be signed by the seller, the buyer and the slaughterer or exporter of the dairy cattle.

## PAYMENTS

Successful bidders will have several options for the timing of cash payments:

- equal annual payments. Or,
- no payment for the first year. Thereafter, the producer has the option of equal annual payments, or a payment not to exceed 85 percent of the total amount for the second year, with the remainder of the payment made equally in annual payments. Or,
- payment in the first year not to exceed 80 percent. Thereafter, the remainder paid in equal annual installments.

JAN 21 1997

This version of CCC-312 is designed by a word processor for exhibit purposes only. Use printed version of CCC-312 distributed by State Offices.

Department of Water Resources

|                       |                                                                                                                                       |                                   |      |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------|
| CCC-312<br>(02-05-86) | U.S. DEPARTMENT OF AGRICULTURE<br>ASCS<br>Commodity Credit Corporation<br>CONTRACT TO PARTICIPATE IN THE<br>DAIRY TERMINATION PROGRAM | Form Approved - OMB No. 0560-0124 |      |
|                       |                                                                                                                                       | 1. State Name                     | Code |
|                       |                                                                                                                                       | 2. County Name                    | Code |
|                       |                                                                                                                                       | WISCONSIN                         | 55   |
|                       |                                                                                                                                       | DANE                              | 25   |
|                       |                                                                                                                                       | 3. Contract No.<br>1              |      |

NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a): The authority for requesting the information to be supplied on this form is the Agricultural Act of 1949, as amended, the Commodity Credit Corporation Charter Act, and the regulations promulgated thereunder (7 CFR Part 1430) and the Internal Revenue Code (26 USC 6109).

THIS CONTRACT is entered into between the undersigned producer(s) (referred to as "Producer"), and the Commodity Credit Corporation (referred to as "CCC") for the units specified below and on Form ASCS-304. Prior to the execution of this form CCC-312 by the County Committee, such form shall be considered an offer.

|                                                                                                                                       |                                       |                                           |                |                           |
|---------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------|----------------|---------------------------|
| 4. Principal Producer (Name, address, & phone number, including area code)<br><br>David White<br>Rt. Box 114<br>Dairyville, WI. 53705 | 5. Preliminary Base                   | 7. Disposal Periods and Bids              | BIDS           | Stop Milk-<br>ing (Month) |
|                                                                                                                                       | 1,547,989 lbs.                        | Disposal Period 1<br>04/01/86 to 08/31/86 | 7A<br>\$3.00   | 7B<br>May                 |
|                                                                                                                                       | 15,479.89 cwt.                        | Disposal period 2<br>09/01/86 to 02/28/87 | Bid:<br>\$4.00 | Sept.                     |
|                                                                                                                                       | 6. Contract Base<br>1,527.989 lbs.    | Disposal period 3<br>03/01/87 to 08/31/87 | Bid:           |                           |
| SSN 521-61-0536 9                                                                                                                     | (608) 521-6851<br>Area Code/Phone No. | 15,279.89 cwt.                            |                |                           |

## 8. Present Dairy Herd Composition for Contract Units

| Unit No. | Unit Name     | Cows | Heifers | Calves | Unit No. | Unit Name | Cows | Heifers | Calves |
|----------|---------------|------|---------|--------|----------|-----------|------|---------|--------|
| A        | B             | C    | D       | E      | F        | G         | H    | I       | J      |
| 1        | Tall Oaks     | 73   | 20      | 19     | 4        |           |      |         |        |
| 2        | Silver Spring | 44   | 12      | 10     | 5        |           |      |         |        |
| 3        | Harvest Moon  | 23   | 13      | 13     | 6        |           |      |         |        |

## 9. Dairy Cattle Interests on Other Units (Unit, type, and numbers)

|                                    |        |     |    |    |
|------------------------------------|--------|-----|----|----|
| Jim Brown Unit 1/4 Interest in Cow | TOTALS | 140 | 45 | 42 |
| Mike Smith Unit 11 Leased Cows     |        |     |    |    |

## 10. The producer agrees:

- A That all persons required to be party to the Contract as specified in paragraph 2 of the Appendix have signed the Contract.
- B That all dairy cattle on the bid date on any unit, with respect to which the Producer . . .
- C That neither the Producer nor . . . . .
- D That during the . . . . .
- E That the eligibility . . . . .

## 11. CCC agrees to:

- A Compensate the Producer . . . . .
- B That such payment . . . . .

## 12. The Producer and CCC agree:

- A That the Contract shall be effective when executed by the County Committee.
- B That they shall comply with all terms and conditions of this Contract and Appendix.
- C That the Appendix is incorporated as a part of this Contract.
- D That the Producer may not withdraw the offer to enter into the Contract after March 7, 1986.

## 13. Listed below are the signatures of the Producers who share in the proceeds of the dairy termination payments made under the Contract.

|                                                                                                 |                                                    |                                             |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------------------|
| 14. A. Producer's Name and Address<br><br>David White<br>Rt. 1 Box 114<br>Dairyville, WI. 53705 | B. Share                                           | C. SSN/Tax ID No.                           |
|                                                                                                 | 91.5                                               | 521-61-0536 9                               |
| 15. A. Producer's Name and Address<br><br>Jim White<br>Rt. 1 Box 114<br>Dairyville, WI. 53705   | D. Signature<br>/s/ David White                    | Date<br>2/28/86                             |
|                                                                                                 | B. Share                                           | C. SSN/Tax ID No.                           |
|                                                                                                 | 8.5                                                | 521-59-0261 8                               |
|                                                                                                 | D. Signature<br>/s/ Jim White                      | Date<br>2/28/86                             |
| 16. Accepted Bid<br>\$3.00                                                                      | 17. Required Disposal Period<br>4/01/86 to 8/31/86 | 18. Maximum Contract Payment<br>\$45,839.67 |
| 19. CCC Representative's Signature<br>/s/ Joe Thomas                                            | Title<br>County Committee                          | Date<br>3/28/86                             |

AJ0743NP  
(OD-124)

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIMS PROOF READING REPORT  
(REGIONAL)

02/05/97 10:34:55  
Page 1

Water Right Number - 36-10815

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

\*\*\* A - ATTORNEY \*\*\*  
BROWN

PATRICK D

1 - HEPWORTH NUNGESTER LEZAMIZ  
2 - 133 SHOSHONE ST N  
3 - PO BOX 389  
City- TWIN FALLS State- ID Zip- 833030389  
Phone - 208-734-7510

\*\*\* C - CURRENT OWNER \*\*\*  
GUNNING

F F

1 - PO BOX 716  
2 -  
3 -  
City- WENDELL State- ID Zip- 83355  
Phone - 208-536-6390

\*\*\* D - DIR RPT OWNER \*\*\*  
DAIRY WEST ASSOCIATES

1 - PO BOX 95  
2 -  
3 -  
City- HAGERMAN State- ID Zip- 83332  
Phone - 208-837-6105

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +  
01/01/1930 ERROR IN REGION J - BENEFICIAL USE

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +  
GROUNDWATER

+ - - - - Point of Diversion - - - - - +  
Twn Rng Sec Tract Lot RFlg County

07S 15E 34 SW NE NE (47) GOODING

+ - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume

43 - DOMESTIC 01/01 12/31 0.040

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.040 0.0

+ - - - - Place of Use - - - - - +  
Twn Rng Sec Tract Lot Acres Code Description County

07S 15E 34 NE NE 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - WELL AND PUMP

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - NONE

"DO NOT FILM"

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIMS PROOF READING REPORT  
(REGIONAL)

Water right number - 36-10815

Prefix Translation: WATER RIGHT

+ - - - - Remarks - - - - -  
No Remarks found.

+ - - - - Old Water Right Numbers - - - - -  
No Old Water Right Numbers Found

+ - - - - Conditions of Approval - - - - -  
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +      + - - - - Decree Defendant - - - +      + - Decree Date - +  
00/00/0000

+ - - - - Comments - - - - -

Date: 03/19/1992 User Id: MERRITT Subject: DISALLOWED  
EVIDENCE OF PRIORITY NOT SUBMITTED. USE EXCEEDS 13,000 GAL/DAY.  
Date: 03/19/1992 User Id: MERRITT Subject: COPIED FROM REMARKS  
UNDER DAIRY HERD BUY-OUT AT FILING.  
Date: 09/29/1992 User Id: MERRITT Subject: NOTICE OF ERROR (NOE) FILED BY ATTORNEY COLEMAN IN NAME OF  
DAIRY WEST ASSOC.  
Date: 10/22/1992 User Id: CHRISTEN Subject: RESPONSE TO NOE  
EVIDENCE OF PRIORITY DID NOT SUPPORT A DAIRY OPERATION. FURTHER, CLAIMANT STATES THAT THE DAIRY OPERATION IS WITHIN THE BUY-OUT  
PROGRAM AND HAS NOT OPERATED FOR THE LAST SEVERAL YEARS. EXACT DATE NOT CLEAR.  
DOMESTIC USE APPEARS TO HAVE EXISTED FOR SOME TIME, THEREFORE I RECOGNIZE THAT USE ONLY. RECOMMEND RIGHT FOR DOMESTIC USE.  
KKC 10-22-92.  
Date: 03/18/1996 User Id: TFAWCETT Subject: OWNERSHIP CHANGE  
OWNERSHIP CHANGED PER SF3 REC'D 2/29/96.  
Date: 02/05/1997 User Id: DJONES Subject: NAME AND ATTORNEY CHANGE  
OWNERSHIP WAS CHANGED, PER SF-3 FORWARDED FROM THE COURT, FROM FARM CREDIT SERVICES TO FF GUNNING. ATTORNEY PAT BROWN WAS  
RE-ENTERED AS ATTORNEY, PER NOTICE OF APPEARANCE AND ORDER FROM THE COURT ACCORDING TO CHARLIE HONSINGER, DEPUTY ATTY GENERAL.

+ - - Audit Fields - - +  
02/05/97 DJONES

+ - - - - Adjudication Rights Dates and Flags Area - - - - -

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 11/02/1992 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 04/29/1993 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 09/09/1993 | Verified Date         | - 00/00/0000 | Old Judicial District   | -       |
| Claim Received Date  | - 09/01/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - S002020    | Water District          | -       |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | -            | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | - C     |

"DO NOT FILM"

DISTRICT COURT  
SNAKE RIVER BASIN ADJUDICATION  
STATE OF IDAHO

RECEIVED

FEB 04 1997

Department of Water Resources  
Southern RegionDANIEL C. HURLBUT JR.  
PRESIDING JUDGE  
(208) 736-2011  
FAX: 208-736-2121SRBA CHAIRMAN  
P.O. BOX 1787  
TWIN FALLS, IDAHO 83403-2787

Date: 2/4/97

TO:

Doug Jones @ IDWR Southern Region

RE:

36-10815

Telephone:

FAX:

736-3037

FROM:

SNAKE RIVER BASIN ADJUDICATION

Telephone: 208-736-3011

FAX: 208-736-2121

NO. OF PAGES INCLUDING COVER SHEET 10

MESSAGE Hi Doug - Here is the SF3 and attachments for the  
above water right. Good luck!

Tiffany

THIS FACSIMILE MAY CONTAIN CONFIDENTIAL INFORMATION THAT IS PROTECTED BY THE IDAHO COURT ADMINISTRATIVE RULES. IT IS INTENDED FOR THE USE OF THE INDIVIDUAL(S) NAMED ABOVE. IF YOU ARE NOT THE NAMED RECIPIENT OR AN EMPLOYEE RESPONSIBLE FOR DELIVERING THE FACSIMILE, YOU ARE INSTRUCTED NOT TO DELIVER, DISTRIBUTE OR COPY THIS FACSIMILE, NOR SHOULD YOU DISCLOSE ITS CONTENTS OR TAKE ANY ACTION IN RELIANCE ON THE INFORMATION IT CONTAINS. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY THE COURT IMMEDIATELY BY TELEPHONE TO ARRANGE THE RETURN OF THE TRANSMITTED DOCUMENTS TO US. THANK YOU.

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

STANDARD FORM 3

(Check Appropriate Box)

☐ NOTICE OF CHANGE IN ADDRESS

OR

☒ CONSENT TO SUBSTITUTION OF  
PARTY

### INSTRUCTIONS FOR USE

This form is to be used to provide notice of a change in address of a party or to substitute a party whose water right was recommended in a director's report. *The filing of Standard Form 3 cannot result in a contested matter and a hearing will not be scheduled.* If completed as directed, the form will be accepted by the court and no further orders will issue. Standard Form 3 shall not operate to excuse compliance with the statutory requirements of I.C. § 42-1409(7) (1986) where a water right recommendation is not before the court.

This form has been adopted by the court in Re SRBA, Twin Falls County Case 39576, *SRBA Administrative Order 1 Rules of Procedure* (amended 6/21/93), Section 4Ac(3), which may be consulted for further information.

A party may copy or reproduce the standard form. The text of the form must be on the front and back of each page, exactly as it appears here. Follow the instructions on the form or it will not be accepted for filing. The Verification and the Certificate of Mailing must be completed.

Standard forms may be obtained from the Idaho Department of Water Resources or the SRBA Court.

### CHANGE IN ADDRESS

You must use this form to advise the court and parties of any change in your address during the pendency of the SRBA.

You must provide a copy of the completed form to each party or if the party is represented by an attorney you must serve the attorney in every subcase in which you are a party.

No hearing will be held and no further order will issue from this court.

My name is \_\_\_\_\_

I am the claimant of \_\_\_\_\_

(insert each water right number)

I have filed an objection/response to the following water right(s) \_\_\_\_\_

(insert each water right number)

My new mailing address is \_\_\_\_\_

My phone number is: Work \_\_\_\_\_ Home \_\_\_\_\_

(Go to Page 4)

### CONSENT TO SUBSTITUTION OF PARTY

This form may only be used if a water right number is included as a "recommendation" in a director's report. *This form cannot be used for water rights that are not in a director's report or when portions of a water right are involved (i.e. where a water right is split).* You must use this form to substitute a new party into the SRBA.

You are to provide a copy of the completed form to every party in each subcase in which the new party is to be substituted. If the party is represented by an attorney you must serve the attorney. Because this is a "consent" form, it is a stipulation that there is no disagreement between the prior claimant/seller and the new claimant/purchaser that the prior claimant/seller has transferred all interests in the water right. No hearing will be held and no further order will issue.

"Prior claimant/seller" means any person who, pursuant to I.C. §§ 42-1409(2), (3) and (6) (1986), filed a notice of claim asserting the right to the use of water or on whose behalf the

right to the use of water was asserted. "New claimant/purchaser" means any successor in interest of the "prior claimant/seller," whether the interest is acquired by purchase, gift, inheritance or other means.

A *Consent to Substitution of Party (Substitution)* must be signed by the prior claimant/seller and the new claimant/purchaser. The Substitution shall be filed by the new claimant/purchaser.

I am the new claimant/purchaser of A36-10815  
(insert each water right number)

My name is F.F. & Irene Gunning

My address is P O Box 716 Wendell, ID 83355

My phone number is: Work \_\_\_\_\_ Home 536-8390

The name and address of the prior claimant/seller who I wish to be substituted for are:  
Farm Credit Bank of Spokane (Dairy West Assoc.)

P O Box 308, Twin Falls, Idaho 83303-0308

Kim Heringer  
Signature of prior claimant/seller

F.F. Gunning  
Signature of new claimant/purchaser

If an attorney is filing this form on behalf of a water right claimant or party in the SRBA, the attorney must complete the following information, in addition to the information required above.

Attorney name Harry De Haan 317 6th Ave. N, Twin Falls, ID 83301

Attorney of record for F.F. & Irene Gunning  
(Identify party/claimant)

Attorney address and phone number: 317 6th Ave. N, T.F. ID 83301  
(208) 733-0731

- ☐ I have filed a *Notice of Appearance* for the party on whose behalf I am filing this form.
- ☐ A *Notice of Appearance* accompanies this form indicating which party and water rights I represent.

## VERIFICATION

(To be completed for either a *Notice of Change in Address* or for *Consent for Substitution of Party*)

State of Idaho

County of Twin Falls

F.F. Gunning, being first duly sworn, upon oath, deposes and says:  
(Insert name of party/claimant filing form)

That I am the person or entity filing this form, that I am a water right claimant or party or their successor in interest, defined by I.C. §§ 42-1401A(1), (7) or (10) (1986); that the water right number I am asking the court to substitute a party on is a water right in a director's report filed with the court and that I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

F.F. Gunning  
Signature of person filing form

BY: H. Debb  
Attorney signing in representative capacity

Subscribed and sworn to before me on January 10, 1996  
(Insert Date)

Janet R. Peterson  
Notary Public for Idaho  
Residing at Eller, Idaho  
My Commission expires: 1/23/97

## INSTRUCTIONS FOR MAILING

Mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. FAX filings will not be accepted by the SRBA Clerk of the Court.

*You must sign the Certificate of Mailing to show that you followed these steps.*

## CERTIFICATE OF MAILING

I certify that on January 10, 1996, 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. A Change of Address was served on each party, or if they are represented by an attorney you must serve the attorney, in each subcase in which you are a party, at the following address(es):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 3. A Consent to Substitution of Party was served on the prior claimant/seller, or if they are represented by an attorney you must serve the attorney, at the following address(es):

Farm Credit Bank of Spokane (Dairy West Assoc.)  
P O Box 308  
Twin Falls, ID 83303-0308

## 4. A Consent to Substitution of Party was served on each party to each subcase, or if they are represented by an attorney you must serve the attorney, in which the prior claimant/seller is a party at the following address(es):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 5. One copy to:

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P. O. Box 44449  
Boise, Idaho 83711-4449

## 6. One copy to:

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort Street, Box 33  
Boise, Idaho 83724

  
\_\_\_\_\_  
Signature of person or attorney submitting the form

AUG 1 1996

APR 11 1996

Jeffrey E. Rolig, Esq.  
 ROLIG & PETERSON  
 102 Main Ave. South, Suite 6  
 P.O. Box 2749  
 Twin Falls, Idaho 83303-2749  
 Telephone: (208) 733-5500

Attorneys for Plaintiff

153642  
 STATE OF IDAHO COUNTY OF GOODING  
 Filed for record at the request of Rolig & Peterson  
45 min past 16 o'clock A of this 10  
 of April 1993 9.00  
 JOHN A. MYERS Recorder  
 By Deputy Solis Deputy

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

FARM CREDIT BANK OF SPOKANE, a  
 corporation, successor by merger  
 to the Federal Land Bank of  
 Spokane,

Plaintiff,

vs.

Case No. 22103

CERTIFICATE OF SALE

DAIRY WEST REAL ESTATE  
 ASSOCIATES, a Virginia limited  
 partnership, a/k/a Dairy West  
 Associates, a Virginia limited  
 partnership, and formerly known  
 as and successor by amendment  
 to DAIRY WEST ASSOCIATES, a  
 partnership consisting of Glade M.  
 Knight, Ben T. Austin III and  
 and George Dean Ellsworth;  
 GLADE M. KNIGHT and KATHLEEN N.  
 KNIGHT, husband and wife;  
 BEN T. AUSTIN III and NORMA J.  
 AUSTIN, husband and wife; GEORGE  
 DEAN ELLSWORTH and HELEN  
 ELLSWORTH, husband and wife;  
 FLORENCE G. KOSLOW; DAIRY WEST  
 CATTLE ASSOCIATES LIMITED  
 PARTNERSHIP, a Virginia limited  
 partnership; FRANK J. KNIGHT;

KATHY JOHNSON; and NORTHWEST  
FARM CREDIT SERVICES, ACA,

Defendants.

Under and by virtue of a Judgment and Decree of Foreclosure filed in the above-entitled Court in said action on the 15th day of January, 1993, and under the authority of a Writ of Execution duly issued out of said Court, attested on the 23rd day of June, 1993, and to me, the undersigned, directed and delivered, as Sheriff of Gooding County, State of Idaho, whereby I was commanded to sell the property in said Decree, and herein described according to law, and to apply the proceeds of sale in satisfaction of the judgment in said action, amounting to \$150,310.54, plus interest as specified in said Decree.

I, JIM JAX, Sheriff of Gooding County, do hereby certify that I duly sold the said property hereinafter described on the 23rd day of July, 1993, at 10:00 a.m. of said day, at public auction, according to law, after due and legal notice given, on the steps of the County Courthouse of Gooding, Idaho, Gooding County, to Farm Credit Bank of Spokane for \$150,310.54, said party being the highest bidder and that sum the highest bid therefor.

That the said real property is situate in the County of Gooding, State of Idaho, and is particularly described as follows:

Township 7 South, Range 15, East of the Boise  
Meridian, Gooding County, Idaho

Section 34: E½NE¼

Together with all water and water rights used upon or appertenant to said property, however evidenced, and particularly 80 shares of stock in North Side Canal Company.

Together with any and all tenements, hereditaments and appertenances thereunto belonging or used in connection therewith.

That said property was by order of the Court sold in one parcel; that the highest price bid therefore was \$150,313.54, which sum was the whole price paid for the same.

WITNESS My hand this 21st day of July, 1993.

JIM JAX  
Gooding County Sheriff

By: [Signature]  
Chief Deputy

STATE OF IDAHO )  
County of Gooding ) ss.

On this 6th day of August, 1993, before me, the undersigned, a Notary Public in and for said State, personally appeared Steve Spence, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]  
NOTARY PUBLIC FOR IDAHO  
Residence: Gooding  
My Commission Expires: 3.1.99

Nick

RECEIVED

COPY

JAN 11 1996

Department of Water Resources  
Adjudication Bureau

RECEIVED

JAN 10 1996

OFFICE OF THE  
ATTORNEY GENERAL

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

STANDARD FORM 4

Case No. 39576

MOTION TO FILE A LATE  
NOTICE OF CLAIM

INSTRUCTIONS FOR USE

This form is to be used to file a late notice of claim in a reporting area where the director's report has been filed and is made a part of *SRBA Administrative Order 1, Section 4A* (amended June 21, 1993), which may be consulted for further information.

A motion for premission to file a late notice of claim requires you to certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.

You may copy or reproduce this form. If you do, the text must be on the front and back of each page exactly as it appears here. Fill out the form completely and attach all fees or the court will not accept the motion for filing. The Verification and Certificate of Mailing must be completed. Check each box to verify you have followed the instructions.

☐ I have read the *SRBA Administrative Order 1, Rules of Procedure* (amended June 21, 1993).

☐ I have read *SRBA Administrative Order 10 Order Governing Procedures in the SRBA for Domestic and Stock Water Uses* (dated March 22, 1995).

My name is F. F. & Irene Gunning

My address is P.O. Box 716  
Wendell, Idaho 83355

My phone number is: Work \_\_\_\_\_ Home 536-6390

I am an attorney representing F. F. & Irene Gunning

My name is Harry De Haan

My address is 317 6th Ave. North Twin Falls, ID 83301

My phone number is (208) 733-0731

The water right number I want to file a late notice of claim for is A 36-10815

☒ I did not file a notice of claim to the use of water in the SRBA because:

Claim was filed by previous owner, Frank J. Knight  
dba Dairy West Associates. Not followed through with  
change of ownership. Dairy West applied for a domestic  
& commercial claim. ISWR only granted the domestic portion.

☐ I filed a notice of claim and elected to defer judicial proceedings on my domestic or stock water use. I desire to reinstate my notice of claim for domestic or stock water use.

I am providing legal and factual documentation for my claimed use of water. The documents I am providing are: (You must describe the documents and attach a readable copy.)

You do not have to fill this out if you are reinstating a notice of claim for domestic or stock water use but you must attach a copy of your notice of claim.

---

---

---

I have attached:

- ☐ A fully completed notice of claim (available from the Idaho Department of Water Resources (IDWR)).
- ☐ A claim filing fee for a domestic and stock water use. IDWR may charge this fee pursuant to I.C. §42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: *State of Idaho Department of Water Resources* in the amount of \$ \_\_\_\_\_.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock water use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: *State of Idaho Department of Water Resources* in the amount of \$ 137.<sup>2</sup>.
- ☐ For those claimants who did not previously file a notice of claim, a court appearance fee in the amount of \$65.00 in the form of a check made payable to: *SRBA*. Persons filing a motion for late notice of claim do not become a party or claimant in the SRBA simply by filing this motion.

Follow these instructions regarding the hearing on this motion.

1. Contact the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on April 16, 1996

(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

**VERIFICATION**  
(Must be completed)

State of Idaho

County of Blaine Falls

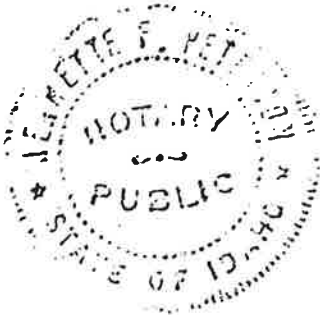
F. F. Gunning, being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

That I am the person or entity filing this motion and I have read the motion, know its contents and that the statements are true to the best of my knowledge and belief.

F. F. Gunning  
Signature of person filing form

By: \_\_\_\_\_  
Attorney signing in representative capacity

Subscribed and sworn to before me on January 2, 1996  
(Insert Date)



Jeanette A. Peterson  
Notary Public for Idaho  
Residing at: Piler, Id.  
My Commission expires: 1/23/97

## INSTRUCTIONS FOR MAILING

Mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. FAX filings will not be accepted by the SRBA Clerk of the Court.

*You must sign the Certificate of Mailing to show that you followed these steps.*

## CERTIFICATE OF MAILING

I certify that on Jan. 4, 1996, 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. One copy to:

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P. O. Box 44449  
Boise, Idaho 83711-4449

3. One copy to:

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort Street, Box 33  
Boise, Idaho 83724

(s) Harry Lee Gawn Jr.  
Signature of person or attorney mailing the form



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

22-Oct-1992

DAIRY WEST ASSOCIATES  
PO BOX 95  
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIM 36-10815.

Dear Mr Knight

After reviewing the affidavit submitted by Walter Stockham Jr. I am still unable to recommend this claim for commercial use. The affidavit indicates farmstead needs and uses, and watering of livestock. This does not identify a dairy use or its extent.

Rather than recommending the right for disallowal I have recommended it as a valid right for domestic purposes as I feel that the home did exist at the claimed priority date. Domestic rights include lawn/garden irrigation up to 1/2 acre, incidental stockwater, and other minor uses associated with a home.

If you still do not agree with the IDWR recommendation to the court, you may file an objection with the court after you receive the final recommendation of your water right. The objection process will be explained when you receive the final recommendation of your water right.

Sincerely

Kelly K Christensen  
Sr Water Resource Agent

COPY

MICROFILMED  
FEB 07 1993

Water Right Number - A36-10815      Prefix Translation:      ADJUDICATION CLAIM      Old (D) Number - .

+ - - - - Last Name - - - - +      + - First Name - - +      + - - - - Address - - - - - +

\*\*\* A - ATTORNEY \*\*\*      PATRICK D      1 - HEPWORTH NUNGESTER LEZAMIZ  
BROWN      2 - 133 SHOSHONE ST N  
3 - PO BOX 389      State- ID Zip- 833030389  
City- TWIN FALLS      Phone - 208-734-7510

\*\*\* C - CURRENT OWNER \*\*\*      1 - PO BOX 95  
DAIRY WEST ASSOCIATES      2 -      State- ID Zip- 83332  
3 -      City- HAGERMAN      Phone - 208-837-6105

+ - - Priority Date - - +      + - - Region - - - +      + - - Stage - - - +      + - - Status - - - +  
01/01/1930      ERROR IN REGION      J - BENEFICIAL USE

+ - - - - Source - - - - - +      + - - - - Tributary - - - - - +  
GROUNDWATER

+ - - - - Point of Diversion - - - - - +  
TwN    Rng    Sec    Tract    Lot    RFlg    County  
07S    15E    34    SW NE NE      (47) GOODING

+ - - - - Water Use - - - - - +  
Code      Description      Period From    Period To      Diversion Rate    Diversion Volume  
43 - DOMESTIC      01/01      12/31      0.040  
10 - COMMERCIAL      01/01      12/31      0.520

+ - Total Div. Rate - +      + - Total Div. Volume - +      + - Total Consumptive Use - +      + - KW Usage - +  
0.520      0.0

+ - - - - Place of Use - - - - - +  
TwN    Rng    Sec    Tract    Lot    Acres    Code    Description      County  
07S    15E    34    NE NE      10    COMMERCIAL      (47) GOODING  
07S    15E    34    NE NE      43    DOMESTIC      (47) GOODING

Total Acres:

+ - - Diversion Means - WELL AND PUMP

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME; STOCKWATER, 800 DAIRY CATTLE

+ - - Other Rights for Same Use - NONE

COPY

COPY

| RIGHT<br>NUMBER     | NAME & ADDRESS                                                                                                                                                                                                                                                        | PRIORITY<br>DATE | PURPOSE OF USE             | PERIOD OF USE<br>FROM TO       | MAXIMUM<br>QUANTITY | BASIS OF CLAIM |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------------------|--------------------------------|---------------------|----------------|
| SOURCE: GROUNDWATER |                                                                                                                                                                                                                                                                       |                  |                            |                                |                     |                |
| 36-10613            | A N AMBROSE<br>P O BOX 247<br>WENDELL ID 83355                                                                                                                                                                                                                        | 01/01/1930       | STOCKWATER<br><br>DOMESTIC | 11-01 04-01<br><br>01-01 12-31 | .02<br>.04          | CFS<br>CFS     |
|                     |                                                                                                                                                                                                                                                                       |                  |                            | TOTAL QUANTITY:                | .04                 | CFS            |
|                     | NON-IRRIGATION-USES:<br>DOMESTIC 1 HOME WITH LAWN, LIVESTOCK 50 RANGE<br>POINT OF DIVERSION:<br>T08S R15E S02 SWSNW<br>PLACE OF USE: STOCKWATER<br><br>T08S R15E S02 SWNW<br>PLACE OF USE: DOMESTIC<br><br>T08S R15E S02 SWNW<br>REMARKS: PARCEL NO. RP 08S15E023600. |                  |                            |                                |                     |                |
| 36-10644            | A N AMBROSE<br>P O BOX 247<br>WENDELL ID 83355                                                                                                                                                                                                                        | 01/01/1930       | DOMESTIC                   | 01-01 12-31                    | .04                 | CFS            |
|                     |                                                                                                                                                                                                                                                                       |                  |                            | TOTAL QUANTITY:                | .04                 | CFS            |
|                     | NON-IRRIGATION-USES:<br>DOMESTIC 4 HOMES WITHOUT LAWNS (CULINARY USE ONLY)<br>POINT OF DIVERSION:<br>T08S R14E S17 SWSESE<br>PLACE OF USE: DOMESTIC<br><br>T08S R14E S17 SWSE SESE<br>REMARKS: PARCEL NO. RP 08S14E177205.                                            |                  |                            |                                |                     |                |
| 36-10815            | DAIRY WEST ASSOCIATES<br>PO BOX 95<br>HAGERMAN ID 83332                                                                                                                                                                                                               | 01/01/1930       | DOMESTIC                   | 01-01 12-31                    | .04                 | CFS            |
|                     |                                                                                                                                                                                                                                                                       |                  |                            | TOTAL QUANTITY:                | .04                 | CFS            |
|                     | NON-IRRIGATION-USES:<br>DOMESTIC, 1 HOME<br>POINT OF DIVERSION:<br>T07S R15E S34 SWNENE<br>PLACE OF USE: DOMESTIC<br><br>T07S R15E S34 NENE                                                                                                                           |                  |                            |                                |                     |                |

COPY

## WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

[illegible]

1 STATE OF IDAHO )

2 COUNTY OF GOODING )

SS. ~~TESTIMONY~~ CORRECTED AFFIDAVIT

3  
4 WALTER STOCKHAM JR. being first duly sworn, deposes and  
5 says:

6 1. That he is and has been familiar with a farm near  
7 Wendell, Idaho described as the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  Section 34,  
8 Township 7 South, Range 15 East of the Boise Meridian, Gooding  
9 County, State of Idaho.

10 2. That he has been familiar with said farm since 1947  
11 to the present time.

12 3. From the time the undersigned became familiar with the  
13 said farm to the present time there has been located thereon a well  
14 in operation for the use of the owners of said farm for their  
15 general farmstead needs and uses, both for domestic water, for  
16 watering of their dairy livestock, steers, heifers, calves and  
17 for irrigation of the yard and garden.

18  
19  
20 Walter Stockham Jr.  
21 WALTER STOCKHAM JR.

22  
23 SUBSCRIBED and SWORN to before me this 27 day of  
24 December, 1995.

25  
26 Jan. E. Baker  
NOTARY PUBLIC

RECEIVED

JUN 21 1991

Department of Water Resources  
Southern Region Office

STATE OF IDAHO

)  
) ss.  
)

AFFIDAVIT

County of Gooding

Walter Stockholm Jr., being first duly sworn,  
deposes and says:

1. That he is familiar with a farm near Wendell, Idaho,  
described as the E $\frac{1}{2}$ NE $\frac{1}{4}$  Section 34, Township 7 South, Range 15 East  
of the Boise Meridian, Gooding, Idaho.

2. That he has been familiar with said farm since  
1947-June.

3. That at the first time the undersigned became  
familiar with said farm there was located thereon a domestic well  
in operation for the use of the owners of said farm for their house-  
hold and general farmstead needs and uses, both for domestic water,  
for the watering of livestock, and for irrigation of the yard  
adjacent to the house and the garden.

Walter Stockholm

SUBSCRIBED and SWORN to before me this 18<sup>th</sup> day of  
June, 1991.

Lowell R. Arnesen  
NOTARY PUBLIC

MICROFILMED

FEB 17 1992

COPY

1 STATE OF IDAHO )  
2 ) SS. AFFIDAVIT  
3 COUNTY OF GOODING )

4 GUY CALLEN being first duly sworn, deposes and  
5 says:

6 1. That he is and has been familiar with a farm near  
7 Wendell, Idaho described as the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  Section 34,  
8 Township 7 South, Range 15 East of the Boise Meridian, Gooding  
9 County, State of Idaho.

10 2. That he has been familiar with said Dairy and farm  
11 since 1968 to the present time.

12 3. From the time the undersigned became familiar with  
13 the said farm to the present time there has been located thereon  
14 several wells in operation for the use of the owners of said  
15 Dairy and farm for their general Dairy and farmstead needs and  
16 uses, both for domestic water, for watering of at least 1000  
17 Dairy cows, plus other Dairy livestock, also during the past  
18 several years 4000 or more steer, heifer calfs and for irrigation  
19 of the yards and gardens.

20  
21 Guy Callen  
22 GUY CALLEN

23 SUBSCRIBED and SWORN to before me this 30<sup>th</sup> day of  
24 December, 1995.



Maurice J. Wert  
NOTARY PUBLIC  
Wendell, Idaho  
expires 8-1-2000

## DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.

in case follow-up is needed.

G. C. GUNNING

2298 E 2900 SOUTH

WENDALL, ID

536-5550

2. SUBJECT OF INQUIRY:

status of "claim" that was "turned down".

3. RESPONSE TO INQUIRY:

he brought in a 1994 Proof Sheet of A36-10815 and asked why it was denied. Looked up claim as recommended and went through it. Pulled claim file and reviewed w/ him. Offered copies of any part to him.

He asked for ccs of KKC letter supporting his/the recommendation of DOM only, an affidavit and the pg (617) in Son's report. I made them.

I gave him my card and explained the SF 3 form that should have been sent to the court by PCA or FCA as a report of the closing paperwork. He w/ follow up with them himself.

4. IDWR STAFF AND DATE:

F. Hitchcock 12-12-1995

F. Hitchcock (SD)

Print name and initial

WATER RIGHT CLAIM (Nos.):

A36-10815 DOM/COMM -

36-10815 DOM recommended

OBJECTION \_\_\_\_\_

RESPONSE \_\_\_\_\_

SETTLEMENT \_\_\_\_\_

RESPONSE \_\_\_\_\_

## DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.  
in case follow-up is needed.

WAYNE DENNIS  
FARM CREDIT

2. SUBJECT OF INQUIRY:

What is the status of the Dairy West Assoc.  
claim A36-10815?

3. RESPONSE TO INQUIRY:

Reviewed the claim and file contents.  
Explained the Disallowal and the permit requirements  
for Dairy uses.  
Suggested some options for obtaining a  
water Right.

4. IDWR STAFF AND DATE:

Print name and initial

WATER RIGHT CLAIM (Nos.):

Steve Chelland

9-28-93

STEVE CHELLAND

A36-10815

MICROFILMED

OCT 20 1994

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 the Rights to the Use of Water  
from the Snake River Basin  
Water System

Case No. 36-10815 -0001

The State of Idaho, ex rel.  
R. Keith Higginson in his  
official capacity as Director  
of the Idaho Department of  
Water Resources,

RESPONSE TO OBJECTION

Petitioner,

vs.

The United States; the State  
of Idaho; and all Claimants to  
the use of water from the Snake  
River Basin Water System,

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES  
P.O. BOX 44449  
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part  
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

MICROFILMED

OCT 20 1994

2. Person who filed objection:

Name: DAIRY WEST ASSOCIATES  
Address: PO BOX 95  
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER  
Attorney Address: DEPUTY ATTORNEY GENERAL(S)  
IDAHO DEPARTMENT OF WATER RESOURCES  
P.O. BOX 44449  
BOISE, ID 83711-4449  
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
9. ☒ Place of Use: I respond to the objection concerning:
- 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
14. ☒ Other: I respond to the objection concerning:

ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,  
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations regarding this item, IDWR responds as follows: IDWR recommended the name and address shown on the notice of claim and the objection.

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDWR responds as follows: The claimed commercial use was not included in IDWR's recommendation because it is not within the exception to the mandatory permit statute for appropriation of groundwater set forth in Idaho Code Sec. 42-111, and the claimant did not provide information requested by IDWR to show that the claimed commercial use was made prior to enactment of the mandatory permit statute for appropriation of groundwater in 1963. IDWR further responds that by seeking to include a stockwater use that was not identified on the notice of claim, the claimant improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed just as a party must obtain leave of court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection items 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that irrigation was not claimed, and therefore a number of irrigated acres could not be recommended. The claimant's objection to these items is in error. To the extent that the claimant objects to the place of use of the recommended water

(Over)

use, IDWR responds that the recommended water right accurately describes the place of use of the right.

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) General provision 9 of the director's report states: "Where consumptive use is not stated for a right or a portion of a right, the consumptive use for that right or that portion of the right is so small that it is deemed de minimus". (4) IDWR did not include a consumptive use volume in its recommendation for this right because the consumptive use for this water right is deemed to be de minimus. (5) Because no consumptive use volume has been claimed or recommended for this right, the objection is in error.

In response to Statement of the Objection item 14, and all allegations of the objection regarding that item, see attached "IDWR's Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

#### CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

No. of  
Pages

Notice of Claim No. A36-10815

5

IDWR's Response to Answer, Affirmative Defenses and Prayer  
for Relief of Claimant

4

(Over)

RESPONSE TO OBJECTION NO. 36-10815 -0001

- PAGE 5

**MICROFILMED**

**OCT 20 1994**

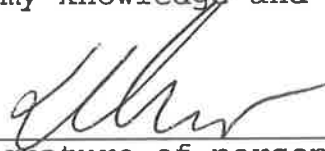
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



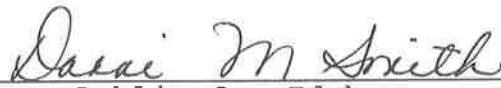
\_\_\_\_\_  
Signature of person filing response

By:



\_\_\_\_\_  
(Attorney signing in  
representative capacity)

Subscribed and sworn to before me this 10<sup>th</sup> day of September, 1993.



\_\_\_\_\_  
Notary Public for Idaho

Residing at: \_\_\_\_\_

My Commission, expires \_\_\_\_\_  
Danni Smith, Notary Public

Residing at Boise, Idaho  
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 10<sup>th</sup> day of September, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared 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. One copy to the owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HEPWORTH NUNGESTER & LEZAMIZ  
Address: PATRICK D BROWN  
& PENELOPE PARKER  
PO BOX 389  
TWIN FALLS ID 83303

4. One copy to:

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort Street, Box 33  
Boise, Idaho 83734

  
\_\_\_\_\_  
Signature of Respondent or attorney  
mailing on Respondent's behalf

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: A36-10815  
Date Received: 9/01/1988  
Receipt No: S002020  
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: DAIRY WEST ASSOCIATES  
Address: P.O. BOX 95  
HAGERMAN, ID

208-837-6105

83332

2. Date of Priority: JAN 01, 1930

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 07S      | 15E   | 34      | SW     | NE     | NE     |     | GOODING |

5. Description of diverting works:  
WELL AND PUMP

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 | 0.520  |      |        |

7. Total Quantity Appropriated is:  
0.520 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/ 800 DAIRY

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 of | Lot | Use    | Acres |
|----------|-------|---------|--------|--------|-----|--------|-------|
| 07S      | 15E   | 34      | NE     | NE     |     | DOMEST |       |
|          |       |         | NE     | NE     |     | COMMER |       |

A36-10815

Page 1

Date: 09/01/88

MICROFILMED  
FEB 8 7 1993  
OCT 20 1994

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:  
UNDER DAIRY HERD BUY-OUT AT FILING.

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: 2

**For Organizations:**

I do solemnly swear or affirm that I am Attorney in fact of  
Dairy West Associates, that I have signed the foregoing  
Organization document in the space below as Attorney in fact of  
Dairy West Associates and that the statements contained in the  
Organization foregoing document are true and correct.

Mac Knight  
Signature of Authorized Agent  
Attorney in fact Dairy West Ass.  
Title and Organization  
9/1/88  
Date

State of Idaho

County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 1st day

of September 19 88

Roxanne Storey  
Notary Public

Seal

Residing at Buhl, Id

My Commission Expires 6-30-94

POWER OF ATTORNEY

I, GLADE M. KNIGHT, hereby appoint my father, MAC J. KNIGHT, my true and lawful attorney (hereinafter called "my attorney") who is hereby authorized for me and in my name:

1. To act for and in my behalf with respect to all matters relating to the water rights, transfer, sale, or all other rights incident to ownership of certain real property (the "Property") located in Wendall, Idaho, and known as Dairy West, more particularly described as TOWNSHIP 7 SOUTH, RANGE 15, EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO, SECTION 34 E $\frac{1}{2}$  NE $\frac{1}{4}$ .

2. To enter into, make, sign, execute, acknowledge and deliver any note, deed of trust, or other document or instrument, that may, in the opinion of my attorney, be necessary or desirable in connection with the water rights, transfer, sale, or exercise of any right incident to the Property.

3. Without limiting the foregoing, generally to do, execute and perform any other act, deed, matter or thing that ought to be done, executed, and performed, or that, in the opinion of my attorney, ought to be done, executed or performed of every nature and kind whatsoever relating, directly or indirectly, to the matters set forth in paragraph 1 above, as fully and effectively as I could do, if personally present and acting.

I hereby certify and confirm all actions which may be taken by my attorney.

This power of attorney shall not terminate on disability of the principal.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 26<sup>th</sup> day of August, 1988.



COMMONWEALTH OF VIRGINIA:

CITY/COUNTY OF Sumner:

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August, 1988, by Glade M. Knight.

MY COMMISSION EXPIRES JUNE 13, 1991

My commission expires: \_\_\_\_\_

June C. Dean  
Notary Public

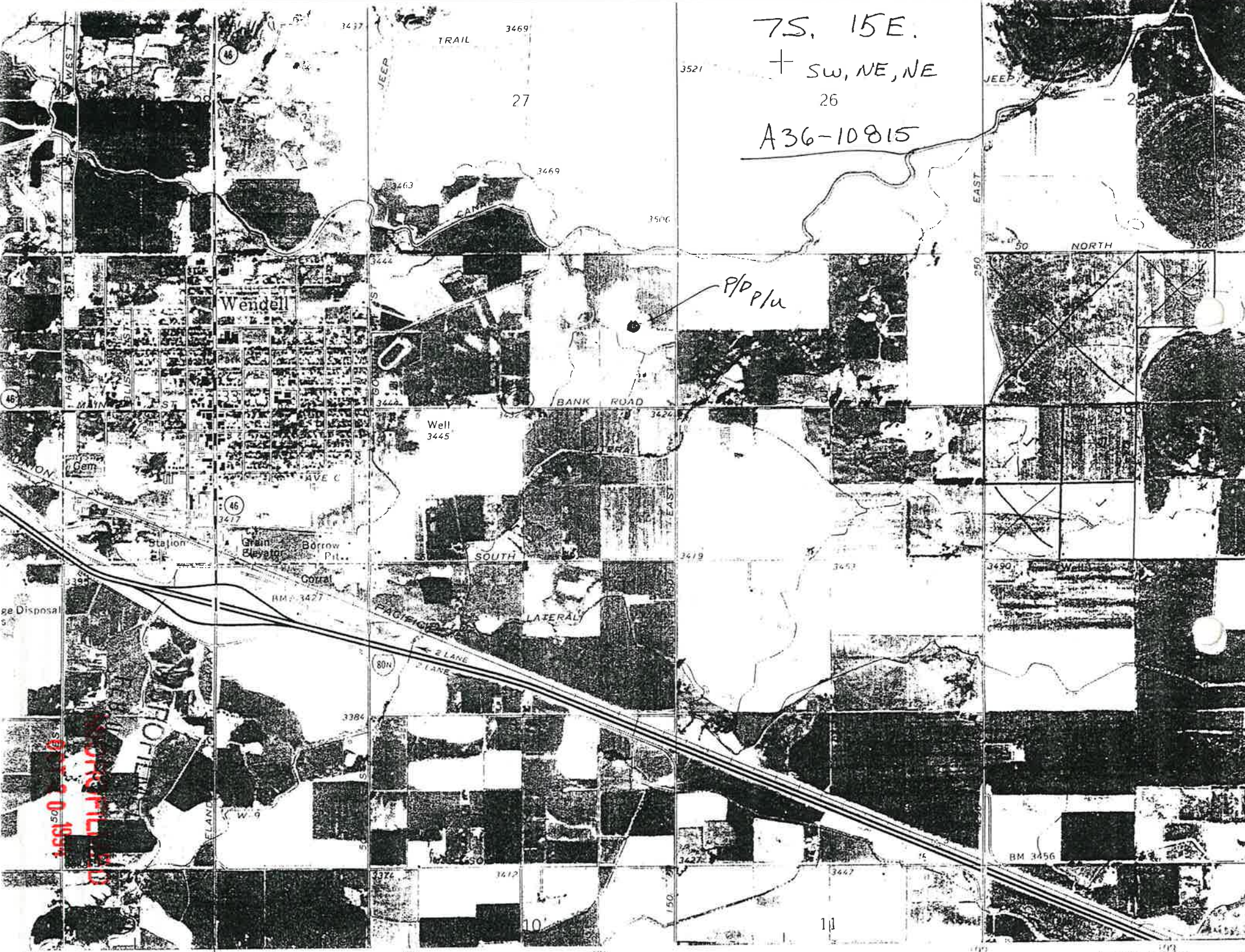
MICROFILMED  
FEB 07 1993

MICROFILMED

OCT 20 1994

7S, 15E.  
+ SW, NE, NE  
26  
A36-10815

P/D P/u



IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR  
RELIEF OF CLAIMANT

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. GENERAL RESPONSE
- (2) II. DESCRIPTIVE SUMMARY, (first unnumbered page of Part I of the director's report)
- (3) III. TABLE OF CONTENTS (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. INSTRUCTIONS FOR USING THIS REPORT PART I (page 1 of Part I of the director's report)
- (5) IV. 2. SCOPE OF THE ADJUDICATION (pages 1-3 of Part I of the director's report)
- (6) IV. 3. PURPOSE OF THIS REPORT PART I (pages 3-4 of Part I of the director's report)
- (7) V. 1. BOUNDARIES OF BASIN (pages 4-6 of Part I of the director's report)
- (8) V. 2. WATER SOURCES (page 6 of Part I of the director's report)
- (9) V. 3. DEVELOPMENT OF WATER USE (pages 6-9 of Part I of the director's report)
- (10) VI. GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36 (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. EFFECT OF ADJUDICATION (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. GENERAL ADMINISTRATIVE PROVISIONS (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. CONJUNCTIVE ADMINISTRATION (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. ADMINISTRATION OF GROUND WATER RIGHTS (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. MEASURING DEVICES AND CONTROL

- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. **FIRE FIGHTING PURPOSES** (page 11 of Part I of the director's report)
  - (18) VI. General Provision 9. **CONSUMPTIVE USE** (page 12 of Part I of the director's report)
  - (19) VI. **GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE** (page 12 of Part I of the director's report)
  - (20) VI. General Provision 10. **DOMESTIC USE** (page 12 of Part I of the director's report)
  - (21) VI. **GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE** (page 13 of Part I of the director's report)
  - (22) VI. General Provision 11. **STOCK WATER USE** (page 13 of Part I of the director's report)
  - (23) VI. **GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE** (page 13 of Part I of the director's report)
  - (24) VI. General Provision 12. **IRRIGATION USE** (pages 13-14 of Part I of the director's report)
  - (25) VI. General Provision 13. **DIVERSION VOLUME FOR IRRIGATION** (page 14 of Part I of the director's report)
  - (26) VI. General Provision 14. **CONSUMPTIVE USE FOR IRRIGATION** (pages 14-15 of Part I of the director's report)
  - (27) VI. General Provision 15. **AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION** (page 15 of Part I of the director's report)
  - (28) VI. General Provision 16. **DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE** (pages 15-16 of Part I of the director's report)
  - (30) VI. 17. **INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS** (pages A-i through A-iii of Part I of the director's report)
  - (31) VI. 18. **IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW** (pages A-1 through B-25 of Part I of the director's report)
  - (32) **DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)**
  - (33) **DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)**

The attachment also contains part VIII, **AFFIRMATIVE DEFENSES** (pp. 20 through 28) and a **PRAYER FOR RELIEF** (untitled, p. 28).

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

RECEIVED

APR 30 1993

Department of Water Resources  
Adjudication Bureau

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

Case No. A36-10815  
(You must insert the  
water right number you  
are objecting to)

The State of Idaho, ex rel.  
R. Keith Higginson in his  
official capacity as Director  
of the Idaho Department of  
Water Resources,

OBJECTION

Petitioner,

36-10815 -0001/  
93-04-0402

vs.

The United States; the State  
of Idaho; and all Claimants to  
the use of water from the Snake  
River Basin Water System,

Respondents.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

MICROFILMED

OCT 20 1994

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Dairy West Associates

Address: P.O. Box 95

Hagerman, ID 83332

Briefly describe your interest in this water right:

Beneficial use since 01/01/1930

2. Owner of the water right:

Name: Dairy West Associates

Address: P.O. Box 95

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Hepworth, Nungester & Lezamiz

Attorney Address: P. Parker & Patrick D. Brown

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208)734-7510; Fax: (208)734-4115

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

## II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
  - a. ☒ the total quantity of water used in cubic feet per second; or
  - b. ☐ the total quantity of water stored in acre-feet per year; or
  - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
  - a. ☐ the legal description of the place of use; or
  - b. ☒ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.
11. ☐ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See Attached

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

See Page 7

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Maximum quantity: 520 with consumptive use changed accordingly;  
purpose of use: include stockwater 800 head

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.



Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VERIFICATION (Must be Completed)

State of Idaho

County of Blaine Falls

Mac Knight, being first duly  
(Name of person filing objection)  
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Mac Knight  
Signature of person filing objection

By: [Signature]  
(Attorney signing in  
representative capacity)

Subscribed and sworn to before me this 28 day of April,  
1993.

Linda M. Rousseau  
Notary Public for Idaho  
Residing at: Blaine Falls, ID  
My Commission Expires: 9-11-93

(Over)

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct 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. One copy to the owner of the water right, and you must fill in the following information:

Owner name: Dairy West Associates  
Owner's address: P.O. Box 95  
Hagerman, ID 83332

3. One copy to:

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-4449

4. One copy to:

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort Street, Box 33  
Boise, ID 83724

  
\_\_\_\_\_  
Signature of Objector or attorney  
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 1 - See Paragraph 2, page 2 for correct name and/or address.

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 7 - Beneficially used for purposes set forth in notice of claim.

Box 9 - Director's Report fails to accurately state the place of use.

CHANGES TO DIRECTOR'S REPORT, page 4

Objectors reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial.

Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

indefinite that it prevents the objectors from knowing what would be admitted or denied.

#### IV.

#### INTRODUCTION

##### 1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

##### 2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

**3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)**

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. BOUNDARIES OF BASIN. (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. WATER SOURCES. (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. DEVELOPMENT OF WATER USE. (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.

(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. EFFECT OF ADJUDICATION. (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

**2. GENERAL ADMINISTRATIVE PROVISIONS. (DRP-I at pages 9 - 10)**

The objectors admit paragraphs a. and b.

**3. CONJUNCTIVE ADMINISTRATION (DRP-I at page 10)**

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

**4. ADMINISTRATION OF GROUND WATER RIGHTS (DRP-I at page 10)**

The objectors deny the averments within this section.

**5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (DRP-I at page 10)**

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

**6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)**

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

**7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)**

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

**8. FIRE FIGHTING PURPOSES (DRP-I at page 11)**

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

**9. CONSUMPTIVE USE (DRP-I at page 12)**

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the same.

**GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)**

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

**10. DOMESTIC USE (DRP-I at page 12)**

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

**GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)**

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

**11. STOCK WATER USE (DRP-I at page 13)**

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

**GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)**

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

**12. IRRIGATION USE. (DRP-I at pages 13 - 14)**

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

**13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)**

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments including that the amounts set forth are the maximum annual volume of water reasonably required at the field headgate for irrigation, either within Basin 36 in general, or upon objectors' real property in particular. The objectors additionally deny that the maximum annual volumes per acre set forth is that which is "reasonably required for irrigation unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation or field conditions;" because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department

by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

**14. CONSUMPTIVE USE FOR IRRIGATION.** (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, including the amount of maximum annual volume of consumptive use per acre in the northern and southern portions of the basin, all of which is beyond the scope of any power or authority vested in the Director or the Department, and contrary to fact; historical use; established, vested, decreed, licensed or permitted rights.

**15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION.** (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

**16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)**

The objectors deny the averments contained in this section in its entirety.

**17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)**

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

**18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)**

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

**DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)**

**(DIRECTOR'S REPORT PART II)**

**I.**

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

**DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)**

**(DIRECTOR'S REPORT PART III)**

**I.**

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

**VIII.**

**AFFIRMATIVE DEFENSES**

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

**AFFIRMATIVE DEFENSE NO. 1**

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101,

and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due

process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing decrees issued by the Director and Department, which decrees are binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such decrees.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to

deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

**AFFIRMATIVE DEFENSE NO. 19**

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the "General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

**AFFIRMATIVE DEFENSE NO. 20**

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

**AFFIRMATIVE DEFENSE NO. 21**

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of

objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.

2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.

3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.

4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.

5. For such further relief to which the Court finds objectors justly entitled.

(WATER\21530ANS)

## DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.  
in case follow-up is needed.

Bob Rycg  
Farm Credit

2. SUBJECT OF INQUIRY:

WIR on E 1/2 S34 T7S R15E  
(DWR data: NSCC water only)

Dairy West Assoc.  
Glade Knight

Farm Credit is repossessing it.

3. RESPONSE TO INQUIRY:

①

② SRBA data A36-10815, 36-10815, NSCC  
Claim made for Don / Comm (Dairy)  
Recommended for Don only (not to say  
a small dairy is not part of it, but limit  
on volume).

Give him claim & rec. claim

4. IDWR STAFF AND DATE:

Douglas Jones 1/6/92

Print name and initial

WATER RIGHT CLAIM (Nos.):

A36-10815

MICROFILMED

OCT 20 1994

**NOTICE OF ERROR**

—

**RESPONSE**

—

**CORRECTED R PROOF**

—

## NOTICE OF ERROR FORM

AUG-24-1992

Please type or print clearly, fill out completely, and return to:

**Idaho Department of Water Resources**

**Statehouse Mail**

**Boise, Idaho 83720-9000**

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

**YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:** SEP-24-1992

1. Water right number: 36-10815

2. Name: Dairy West Associates

Address: P. O. Box 95  
Hagerman, ID 83332

John R. Coleman,  
Attorney

P. O. Box 525  
Twin Falls, ID 83303

**MICROFILMED**

Weekday Telephone Number: (208) 837-6105

**FEB 07 1993**

**TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE**

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:  
Denial of Right based on lack of proof of lawful appropriation.
4. Describe the changes you wish to have made in the proposed recommendation:  
Grant filing in amount and place of use described in application.
5. Describe why you disagree with the proposed recommendation:  
Affidavit of use for domestic and stockwater purposes signed by Walter Stockham and filed with IDWR on June 21, 1991, established use for such purposes from January 1947.
6. Date: September 23, 1992.

SIGNATURE

A handwritten signature in cursive script, appearing to read "W. B. Knight", is written over a horizontal line.

COLEMAN, RITCHIE & ROBERTSON

ATTORNEYS AT LAW  
156 SECOND AVE. WEST  
P.O. BOX 525  
TWIN FALLS, IDAHO 83303-0525

RECEIVED

SEP 24 1992

Department of Water Resources  
Southern Region  
TELEPHONE (208) 734-1224

JOHN R. COLEMAN  
JOHN S. RITCHIE  
THOMAS M. ROBERTSON

FAX (208) 734-3983

September 24, 1992

Mr. Robert Worstell  
Water Agent Adjudication Bureau  
Idaho Department of Water Resources  
222 Shoshone Street East  
Twin Falls, ID 83301

Re: Snake River Adjudication Claim No. 36-10815  
Dairy West Associates

Dear Mr. Worstell:

I am delivering herewith a Notice of Error Form signed by Dairy West Associates, regarding the above filing.

We would like an opportunity to review our position concerning errors in the finding of the Department concerning this Right. I would be most happy to visit with you at your earliest convenience.

Sincerely yours,

  
JOHN R. COLEMAN

JRC/jlk  
Encl.  
cc: Mr. Frank Knight

MICROFILMED  
FEB 07 1993

RECEIVED

JUN 21 1991

Department of Water Resources  
Southern Region Office

STATE OF IDAHO )  
County of Gooding ) ss.

AFFIDAVIT

Walter Stockholm Jr., being first duly sworn,  
deposes and says:

1. That he is familiar with a farm near Wendell, Idaho,  
described as the E $\frac{1}{2}$ NE $\frac{1}{4}$  Section 34, Township 7 South, Range 15 East  
of the Boise Meridian, Gooding, Idaho.

2. That he has been familiar with said farm since  
1947-Jan.

3. That at the first time the undersigned became  
familiar with said farm there was located thereon a domestic well  
in operation for the use of the owners of said farm for their house-  
hold and general farmstead needs and uses, both for domestic water,  
for the watering of livestock, and for irrigation of the yard  
adjacent to the house and the garden.

Walter Stockholm

SUBSCRIBED and SWORN to before me this 18<sup>th</sup> day of

June, 1991.

Lowell R. Ogden  
NOTARY PUBLIC

MICROFILMED  
FEB 07 1993



State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

22-Oct-1992

DAIRY WEST ASSOCIATES  
PO BOX 95  
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIM 36-10815.

Dear Mr Knight

After reviewing the affidavit submitted by Walter Stockham Jr. I am still unable to recommend this claim for commercial use. The affidavit indicates farmstead needs and uses, and watering of livestock. This does not identify a dairy use or its extent.

Rather than recommending the right for disallowal I have recommended it as a valid right for domestic purposes as I feel that the home did exist at the claimed priority date. Domestic rights include lawn/garden irrigation up to 1/2 acre, incidental stockwater, and other minor uses associated with a home.

If you still do not agree with the IDWR recommendation to the court, you may file an objection with the court after you receive the final recommendation of your water right. The objection process will be explained when you receive the final recommendation of your water right.

Sincerely

Kelly K Christensen  
Sr Water Resource Agent

MICROFILMED  
FEB 07 1993

Water Right Number - R36-10815

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

\*\*\* C - CURRENT OWNER \*\*\*  
DAIRY WEST ASSOCIATES

1 - PO BOX 95

2 -

3 -

City- HAGERMAN

Phone - 208-837-6105

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +  
01/01/1930 ERROR IN REGION J - BENEFICIAL USE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +  
GROUNDWATER+ - - - - - - - - - - - - - - - Point of Diversion - - - - - +  
Twn Rng Sec Tract Lot RFlg County  
07S 15E 34 SW NE NE (47) GOODING+ - - - - - - - - - - - - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume  
43 - DOMESTIC 01/01 12/31 0.040+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.040 0.0+ - - - - - - - - - - - - - - - Place of Use - - - - - +  
Twn Rng Sec Tract Lot Acres Code Description County  
07S 15E 34 NE NE 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - WELL AND PUMP

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - NONE

+ - - - - - - - - - - - - - - - Remarks - - - - - +  
No Remarks found.+ - - - - - - - - - - - - - - - Old Water Right Numbers - - - - - +  
No Old Water Right Numbers Found+ - - - - - - - - - - - - - - - Conditions of Approval - - - - - +  
No Conditions of Approval found.MICROFILMED  
FEB 07 1993

Prefix Translation: RESEARCH

+ - Decree Date - +  
00/00/0000

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 10/22/1992 | Old Judicial District   | -       |
| Claim Received Date  | - 09/01/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - S002020    | Water District          | -       |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | -            | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | - C     |

FEB 07 1993

**R PROOF**

**CVR**

**MAPS**

**PHOTOS**

**MISC**

—

—

—

—

—

Water Right Number - R36-10815

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

\*\*\* C - CURRENT OWNER \*\*\*  
DAIRY WEST ASSOCIATES1 - P.O. BOX 95  
2 -  
3 -  
City- HAGERMAN  
Phone - 208-837-6105

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - + + - - Stage - - - + + - - Status - - - +  
01/01/1930 ERROR IN REGION I - DISALLOWED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +  
GROUNDWATER+ - - - - Point of Diversion - - - - - +  
Twn Rng Sec Tract Lot RFlg County  
07S 15E 34 SW NE NE (47) GOODING+ - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume  
43 - DOMESTIC 01/01 12/31 0.040 1.20  
10 - COMMERCIAL 01/01 12/31 0.520 8.60+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.520 9.80 4.6+ - - - - Place of Use - - - - - +  
Twn Rng Sec Tract Lot Acres Code Description County  
07S 15E 34 NE NE 10 COMMERCIAL (47) GOODING  
07S 15E 34 NE NE 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - WELL AND PUMP

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME; STOCKWATER, 800 DAIRY CATTLE

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +  
NO LAWFUL APPROPRIATION SHOWN.+ - - - - Old Water Right Numbers - - - - - +  
No Old Water Right Numbers FoundMICROFILMED  
FEB 07 1993

Water right number - R36-10815

Prefix Translation: RESEARCH

+ - - - - Conditions of Approval - - - - - +

P01 - NO LAWFUL APPROPRIATION SHOWN: There are a number of  
- circumstances in which a claim is proposed to be disallowed on  
- this basis. This is most commonly included for a claim based on  
- beneficial use or posted notice that is PROPOSED to be disallowed  
- because the right claimed is not within an exception to the  
- mandatory permit statute, and beneficial use of water prior to  
- the mandatory permit statute was not confirmed. This is also  
- included where a claim is PROPOSED to be disallowed because the  
- claim is to water that is not public water subject to  
- appropriation.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +  
00/00/0000

+ - - - - Comments - - - - - +

Date: 03/19/1992 User Id: MERRITT Subject: DISALLOWED  
EVIDENCE OF PRIORITY NOT SUBMITTED. USE EXCEEDS 13,000 GAL/DAY.  
Date: 03/19/1992 User Id: MERRITT Subject: COPIED FROM REMARKS  
UNDER DAIRY HERD BUY-OUT AT FILING.

+ - - Audit Fields - - +

04/24/92 WORSTELL

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 04/24/1992 | Old Judicial District   | -       |
| Claim Received Date  | - 09/01/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - S002020    | Water District          | -       |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | -            | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | -       |

MICROFILMED  
FEB 07 1993

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

00:16:56  
08/30/90

PAGE: 10  
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-10315

| CLAIM ELEMENT            | FIELD EXAM<br>Y/N | CORRESPONDENCE<br>SENT/RECEIVED<br>BY WHOM/DATE | FIELD EXAM<br>BY WHOM/DATE | CHANGE<br>CLAIM<br>Y/N | VERIFIED BY<br>CODE | COMPLETED<br>REVIEW<br>WHOM/DATE | COMPLETED<br>DATA ENTRY<br>WHOM/DATE | VERIFIED<br>DATE<br>WHOM/DATE |
|--------------------------|-------------------|-------------------------------------------------|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE            | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| POINT OF DTU             | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| SOURCE                   | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PLACE OF USE             | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| DTU AMOUNT<br>CFS/VOLUME | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| CONSUMPTIVE USE          | -                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PURPOSES                 | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PERIOD OF USE            |                   |                                                 |                            |                        |                     |                                  |                                      |                               |
| PAGES OF CLAIM           | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| REMARKS                  | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |

\*VERIFIED BY\* CODES

TOPO MAP/ORTHO-PH = 1  
AIRC MAP = 2  
WATERMASTER RECORDS = 3  
AIRC PHOTOS = 4  
FIELD EXAM = 5  
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION  
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

MICROFILMED

FEB 07 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

|                 | ACCEPTED<br>AS CLAIMED | NEEDS<br>REVIEW |
|-----------------|------------------------|-----------------|
| OWNERSHIP       | ( )                    | ( )             |
| FORFEIT/ABANDON | ( )                    | ( )             |
| ADDITIONAL DIU  | ( )                    | ( )             |

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-10815

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE

EXAMINER

CFS

SPLITS:

| OLD RIGHT<br>NUMBERS | CURRENT<br>CLAIM NUMBERS | DIVERSION<br>RATE | CURRENT "R"<br>CLAIM NUM. | "R" DIU.<br>RATE | WR RIGHT<br>NUMBERS | DIVERSION<br>RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| -                    | A36-10815                | 0.520             | -                         | -                | -                   | -                 |
| TOTAL CFS            |                          | 0.520             |                           |                  |                     |                   |

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)  
IF NO, is the written review sheet attached? (Y/N)

DATABASE  
N

FIELD  
EXAMINER

REMARKS:

AUTHENTICATION:

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

NAME OF FIELD EXAMINER: \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

00:18:56  
08/30/90

PAGE: 1  
GENERAL INFORMATION

CLAIM NUMBER: A36-10815

LAST: DAIRY WEST ASSOCIATES  
ADDRESS: P.O. BOX 95  
CITY: HAGERMAN  
PHONE NUMBER: 208-237-6105

FIRST:  
STATE: ID ZIP: 82332

OWNER CODE: 2

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS? DATABASE  
Y

FIELD  
EXAMINER

CLAIM REMARKS: INDEED DAIRY HERD BUY-OUT AT FILING.

FIELD EXAMINATION INFORMATION

CONTACT PERSON:

PHONE NUMBER: ( ) -

DATE OF FIELD EXAM: / /

APPOINTMENT MADE: Y( ) N( )

TIME: : A( ) P( )

ACCOMPANIED BY:

PHONE NUMBER: ( ) -

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

MICROFILMED  
FEB 07 1993

A. AJ CLAIM: \* A86-10815 PRIORITY DATE: 01-01-1980 STAGE: I

B. US RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE

Y

FIELD  
EXAMINER

REDACTED

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y/N Y/N Y  
IF YES EXPLAIN.

REMARKS:

RECOMMENDED PRIORITY DATE:

REVIEWED BY

DATE

POINT OF DIVERSION REVIEW SHEET

CLAIM NUMBER: A26-10815

MICROFILMED  
FEB 07 1993

A. AT CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT     | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY    |
|-----------|------|------|------|-----|-----|-----|-----|---------|
| A26-10815 | 07S  | 15E  | 34   | SW  | NE  | NE  |     | GOODING |

OTHER AT CLAIMS WITH SAME AT POD  
A PREPITY B PREPITY  
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT  
NONE

SOURCE: GROUNDWATER

TRIB:

B. WR POINT OF DIVERSION AND SOURCE:

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY? (Y/N)  
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE  
Y  
Y

FIELD  
EXAMINED

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

| TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | COUNTY |
|------|------|------|-----|-----|-----|-----|--------|
|------|------|------|-----|-----|-----|-----|--------|

SOURCE:

TRIB:

REVIEWED BY:

DATE:

4. POOT WATER RIGHT NUMBERS: A36-10815

9. PCU LISTING

| TWP         | RNG | SEC | 1/4 | 1/4 | LOT | NAME                          | AT<br>#/ACRES    | MR<br>#/ACRES | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|-------------|-----|-----|-----|-----|-----|-------------------------------|------------------|---------------|-----------------|----------------|------------------|
| 07S         | 15E | 34  | NE  | NE  |     | DAIRY WEST ASSOCIATES         | A36-10815 /      | - /           | 29.0            |                |                  |
|             |     |     |     |     |     | NORTH SIDE CANAL COMPANY LTD. | A01-0021270/40.0 | - /           |                 |                |                  |
| 07S         | 15E | 34  | NE  | NE  |     | DAIRY WEST ASSOCIATES         | A36-10815 /      | - /           | 29.0            |                |                  |
|             |     |     |     |     |     | NORTH SIDE CANAL COMPANY LTD. | A01-0021270/40.0 | - /           |                 |                |                  |
| TOTAL ACRES |     |     |     |     |     | A36-10815                     |                  |               | 78.00           |                |                  |

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y/ N/ N/A/ Y  
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO PCU DISCREPANCY? (Y/N)

DATABASE  
Y

FIELD  
EXAMINER

PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES:

REVIEWED BY:

DATE:

A. ALL CLAIMED USES:

| PURPOSES                             | MONTH/DAY           | DIVERSION QUANTITY |
|--------------------------------------|---------------------|--------------------|
| 836-10815 DOMESTIC                   | FROM 01-01 TO 12-31 | .040 CFS           |
| 836-10815 COMMERCIAL                 | FROM 01-01 TO 12-31 | .520 CFS           |
| TOTAL DIVERSION RATE/VOLUME CLAIMED: |                     | .560 CFS           |

B. MR RECORDED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|----------|-----------|--------------------|
|----------|-----------|--------------------|

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

|                                          | DATABASE | FIELD EXAMINER |
|------------------------------------------|----------|----------------|
| DUE TO WATER-USE DISCREPANCY? (Y/N)      | Y        |                |
| DUE TO DIVERSION RATE DISCREPANCY? (Y/N) | Y        |                |
| DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N) | N        |                |

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y( ) N( )

RECOMMEND TO MR STANDARDS OR OTHER? Y( ) N( ) Explain in remarks, below.

REMARKS:

MICROFILMED  
FEB 07 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y( ) N( )

AJ TOTAL CLAIMED DIVERSION RATE: 0.520 CFS  
 WE ROOT RIGHT TOTAL DIVERSION RATE: 0.260 CFS

\*\*\* IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required: \*\*\*  
 \*\* If an amount smaller than the original diversion rate is \*\*  
 \*\* claimed and an exam is NOT required, explain in remarks. \*\*

FLOW MEASUREMENT REQUIRED? FIELD  
 DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N) DATABASE EXAMINER  
 Y

B. FLOW MEASUREMENT  
 MEASUREMENT METHOD SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y( ) N( ) IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

| CLAIM       | SOURCE      | NAME                          | DIV. RATE | DIV. RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|-------------|-------------|-------------------------------|-----------|----------------|-----------|----------------|
| 401-0001270 | SNAKE RIVER | NORTH SIDE CANAL COMPANY LTD. | 2250.000  | 0.001          |           |                |

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE  
ACRES  $\times$  0.02 CFS/ACRE = CFS  
(Taken from p/u review)  
DERS AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y( ) N( )

1b. CALCULATIONS

\*\*\* IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y( ) N( ) \*\*\*

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = AE/A  
ACRES  $\times$  CONSUMPTIVE VOL. AE/A FOR AREA =  
TOTAL CONSUMPTIVE USE AE/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AE/A  
ACRES  $\times$  DIVERSION VOL. AE/A FOR AREA =  
TOTAL DIVERSION VOLUME AE/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y( ) N( )

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

MICROFILMED  
FEB 07 1993

RECOMMENDATIONS:

REC.  
PURPOSES

REC. PERIOD  
FROM TO

REC. DIV  
DATE CFS

REC. DIV  
VOL. AF/A

REC. CONS.  
USE

DATABASE EXAMINER

DATABASE EXAMINER

DATABASE EXAMINER

TOTAL FOR THIS RIGHT

REVIEWED BY:

DATE:



FILE NUMBER ----- Gunning 36-10815  
REVIEWER ----- D Jones

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE ----- 400  
NUMBER OF NONMILKING CATTLE ----- 0  
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;  
IF ANAEROBIC, ENTER ZERO ----- 0.0  
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) ----- 4  
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF  
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS ----- 1  
NUMBER OF MILKINGS PER DAY ----- 2

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS):

MILKING CATTLE @35 GPD/HD ----- 0.26  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* --- 0.26  
NONMILKING CATTLE @12 GPD/HD ----- 0.00  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.00  
TOTAL (BASED UPON ROUNDED NUMBERS) ----- 0.26

DIVERSION VOLUME (AFA):

STOCKWATER  
MILKING CATTLE @35 GPD/HD ----- 15.7  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* --- 16.0  
NONMILKING CATTLE @12 GPD/HD ----- 0.0  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.0  
TOTAL (BASED UPON ROUNDED NUMBERS) ----- 16.0

COMMERCIAL  
WASHING OF BULK TANK AND RELATED EQUIPMENT ----- 0.4  
PARLOR FLOOR AND MILKHOUSE FLOOR ----- 0.1  
CATTLE WASHING BASED UPON METHOD OF WASHING ----- 0.4  
TOTAL ----- 0.9

TOTAL DIVERSION VOLUME ----- 16.9

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER  
MILKING ----- 2.3  
NONMILKING ----- 0.0  
TOTAL ----- 2.3  
COMMERCIAL ----- 0.0  
TOTAL CONSUMPTIVE USE ----- 2.3

\* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.

THEORETICAL FLOW ESTIMATION WORKSHEET

REQUIRED PUMP INFORMATION

|                                | PUMP 1 | PUMP 2 | PUMP 3 |
|--------------------------------|--------|--------|--------|
| PUMP HORSEPOWER (HP) -----     | 7.50   | 0.00   | 0.00   |
| LIFT (FT) -----                | 150    | 0      | 0      |
| DISCHARGE PRESSURE (PSI) ----- | 40     | 0      | 0      |
| FRICTION LOSSES (FT) -----     | 0.0    | 0.0    | 0.0    |

CALCULATIONS

|                                     |       |      |      |
|-------------------------------------|-------|------|------|
| THEORETICAL FLOW RATE (CFS) * ----- | 0.19  | 0.00 | 0.00 |
| DIVERSION VOLUME (AFA) ** -----     | 138.0 | 0.0  | 0.0  |

\* PUMP EFFICIENCY WAS ASSUMED TO BE 70%.

\* DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE  
THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY  
DAY OF THE YEAR.

FILE NUMBER \_\_\_\_\_ Gunning 36-10815  
REVIEWER \_\_\_\_\_ D Jones

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE \_\_\_\_\_ 400  
NUMBER OF NONMILKING CATTLE \_\_\_\_\_ 0  
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;  
IF ANAEROBIC, ENTER ZERO \_\_\_\_\_ 0.0  
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) \_\_\_\_\_ 4  
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF  
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS \_\_\_\_\_ 1  
NUMBER OF MILKINGS PER DAY \_\_\_\_\_ 3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS):

MILKING CATTLE @35 GPD/HD \_\_\_\_\_ 0.26  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* --- 0.26  
NONMILKING CATTLE @12 GPD/HD \_\_\_\_\_ 0.00  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.00  
TOTAL (BASED UPON ROUNDED NUMBERS) \_\_\_\_\_ 0.26

DIVERSION VOLUME (AFA):

STOCKWATER  
MILKING CATTLE @35 GPD/HD \_\_\_\_\_ 15.7  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* --- 16.0  
NONMILKING CATTLE @12 GPD/HD \_\_\_\_\_ 0.0  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.0  
TOTAL (BASED UPON ROUNDED NUMBERS) \_\_\_\_\_ 16.0

COMMERCIAL  
WASHING OF BULK TANK AND RELATED EQUIPMENT \_\_\_\_\_ 0.5  
PARLOR FLOOR AND MILKHOUSE FLOOR \_\_\_\_\_ 0.1  
CATTLE WASHING BASED UPON METHOD OF WASHING \_\_\_\_\_ 0.7  
TOTAL \_\_\_\_\_ 1.3

TOTAL DIVERSION VOLUME \_\_\_\_\_ 17.3

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER  
MILKING \_\_\_\_\_ 2.3  
NONMILKING \_\_\_\_\_ 0.0  
TOTAL \_\_\_\_\_ 2.3  
COMMERCIAL \_\_\_\_\_ 0.0  
TOTAL CONSUMPTIVE USE \_\_\_\_\_ 2.3

\* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.

THEORETICAL FLOW ESTIMATION WORKSHEET

REQUIRED PUMP INFORMATION

|                                | PUMP 1 | PUMP 2 | PUMP 3 |
|--------------------------------|--------|--------|--------|
| PUMP HORSEPOWER (HP) _____     | 7.50   | 0.00   | 0.00   |
| LIFT (FT) _____                | 150    | 0      | 0      |
| DISCHARGE PRESSURE (PSI) _____ | 40     | 0      | 0      |
| FRICTION LOSSES (FT) _____     | 0.0    | 0.0    | 0.0    |

CALCULATIONS

|                                    |       |      |      |
|------------------------------------|-------|------|------|
| THEORETICAL FLOW RATE (CFS) * ---- | 0.19  | 0.00 | 0.00 |
| DIVERSION VOLUME (AFA) ** -----    | 138.0 | 0.0  | 0.0  |

\* PUMP EFFICIENCY WAS ASSUMED TO BE 70%.

\* DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE  
THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY  
DAY OF THE YEAR.

FILE NUMBER ----- Gunning 36-10815  
REVIEWER ----- D Jones

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE ----- 400  
NUMBER OF NONMILKING CATTLE ----- 0  
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;  
IF ANAEROBIC, ENTER ZERO ----- 0.0  
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) ----- 4  
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF  
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS ----- 2  
NUMBER OF MILKINGS PER DAY ----- 3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS):

MILKING CATTLE @35 GPD/HD ----- 0.26  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* --- 0.26  
NONMILKING CATTLE @12 GPD/HD ----- 0.00  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.00  
TOTAL (BASED UPON ROUNDED NUMBERS) ----- 0.26

DIVERSION VOLUME (AFA):

STOCKWATER  
MILKING CATTLE @35 GPD/HD ----- 15.7  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* --- 16.0  
NONMILKING CATTLE @12 GPD/HD ----- 0.0  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.0  
TOTAL (BASED UPON ROUNDED NUMBERS) ----- 16.0

COMMERCIAL  
WASHING OF BULK TANK AND RELATED EQUIPMENT ----- 0.5  
PARLOR FLOOR AND MILKHOUSE FLOOR ----- 0.1  
CATTLE WASHING BASED UPON METHOD OF WASHING ----- 6.0  
TOTAL ----- 6.7

TOTAL DIVERSION VOLUME ----- 22.7

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER  
MILKING ----- 2.3  
NONMILKING ----- 0.0  
TOTAL ----- 2.3  
COMMERCIAL ----- 0.0  
TOTAL CONSUMPTIVE USE ----- 2.3

\* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.

THEORETICAL FLOW ESTIMATION WORKSHEET

REQUIRED PUMP INFORMATION

|                                | PUMP 1 | PUMP 2 | PUMP 3 |
|--------------------------------|--------|--------|--------|
| PUMP HORSEPOWER (HP) -----     | 7.50   | 0.00   | 0.00   |
| LIFT (FT) -----                | 150    | 0      | 0      |
| DISCHARGE PRESSURE (PSI) ----- | 40     | 0      | 0      |
| FRICTION LOSSES (FT) -----     | 0.0    | 0.0    | 0.0    |

CALCULATIONS

|                                     |       |      |      |
|-------------------------------------|-------|------|------|
| THEORETICAL FLOW RATE (CFS) * ----- | 0.19  | 0.00 | 0.00 |
| DIVERSION VOLUME (AFA) ** -----     | 138.0 | 0.0  | 0.0  |

\* PUMP EFFICIENCY WAS ASSUMED TO BE 70%.

\* DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE  
THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY  
DAY OF THE YEAR.

FILE NUMBER ----- Gunning 36-10815  
REVIEWER ----- D Jones

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

|                                                                                                                          |     |
|--------------------------------------------------------------------------------------------------------------------------|-----|
| NUMBER OF MILKING CATTLE -----                                                                                           | 400 |
| NUMBER OF NONMILKING CATTLE -----                                                                                        | 0   |
| IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;<br>IF ANAEROBIC, ENTER ZERO -----                                 | 0.0 |
| EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) -----                                                                   | 4   |
| ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF<br>SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS ----- | 3   |
| NUMBER OF MILKINGS PER DAY -----                                                                                         | 2   |

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS):

|                                                    |      |
|----------------------------------------------------|------|
| MILKING CATTLE @35 GPD/HD -----                    | 0.26 |
| MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * --- | 0.26 |
| NONMILKING CATTLE @12 GPD/HD -----                 | 0.00 |
| NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *  | 0.00 |
| TOTAL (BASED UPON ROUNDED NUMBERS) -----           | 0.26 |

DIVERSION VOLUME (AFA):

|                                                    |      |
|----------------------------------------------------|------|
| STOCKWATER                                         |      |
| MILKING CATTLE @35 GPD/HD -----                    | 15.7 |
| MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * --- | 16.0 |
| NONMILKING CATTLE @12 GPD/HD -----                 | 0.0  |
| NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *  | 0.0  |
| TOTAL (BASED UPON ROUNDED NUMBERS) -----           | 16.0 |

|                                                   |      |
|---------------------------------------------------|------|
| COMMERCIAL                                        |      |
| WASHING OF BULK TANK AND RELATED EQUIPMENT -----  | 0.4  |
| PARLOR FLOOR AND MILKHOUSE FLOOR -----            | 0.1  |
| CATTLE WASHING BASED UPON METHOD OF WASHING ----- | 15.2 |
| TOTAL -----                                       | 15.7 |

|                              |      |
|------------------------------|------|
| TOTAL DIVERSION VOLUME ----- | 31.7 |
|------------------------------|------|

CONSUMPTIVE USE VOLUME (AFA):

|                             |     |
|-----------------------------|-----|
| STOCKWATER                  |     |
| MILKING -----               | 2.3 |
| NONMILKING -----            | 0.0 |
| TOTAL -----                 | 2.3 |
| COMMERCIAL -----            | 0.0 |
| TOTAL CONSUMPTIVE USE ----- | 2.3 |

\* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.

THEORETICAL FLOW ESTIMATION WORKSHEET

REQUIRED PUMP INFORMATION

|                                | PUMP 1 | PUMP 2 | PUMP 3 |
|--------------------------------|--------|--------|--------|
| PUMP HORSEPOWER (HP) -----     | 7.50   | 0.00   | 0.00   |
| LIFT (FT) -----                | 150    | 0      | 0      |
| DISCHARGE PRESSURE (PSI) ----- | 40     | 0      | 0      |
| FRICTION LOSSES (FT) -----     | 0.0    | 0.0    | 0.0    |

CALCULATIONS

|                                     |       |      |      |
|-------------------------------------|-------|------|------|
| THEORETICAL FLOW RATE (CFS) * ----- | 0.19  | 0.00 | 0.00 |
| DIVERSION VOLUME (AFA) ** -----     | 138.0 | 0.0  | 0.0  |

\* PUMP EFFICIENCY WAS ASSUMED TO BE 70%.

\* DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE  
THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY  
DAY OF THE YEAR.

FILE NUMBER \_\_\_\_\_ Gunning 36-10815  
REVIEWER \_\_\_\_\_ D Jones

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE \_\_\_\_\_ 400  
NUMBER OF NONMILKING CATTLE \_\_\_\_\_ 0  
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;  
IF ANAEROBIC, ENTER ZERO \_\_\_\_\_ 0.0  
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) \_\_\_\_\_ 4  
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF  
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS \_\_\_\_\_ 3  
NUMBER OF MILKINGS PER DAY \_\_\_\_\_ 3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS):

MILKING CATTLE @35 GPD/HD \_\_\_\_\_ 0.26  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* -- 0.26  
NONMILKING CATTLE @12 GPD/HD \_\_\_\_\_ 0.00  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.00  
TOTAL (BASED UPON ROUNDED NUMBERS) \_\_\_\_\_ 0.26

DIVERSION VOLUME (AFA):

STOCKWATER  
MILKING CATTLE @35 GPD/HD \_\_\_\_\_ 15.7  
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* -- 16.0  
NONMILKING CATTLE @12 GPD/HD \_\_\_\_\_ 0.0  
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) \* 0.0  
TOTAL (BASED UPON ROUNDED NUMBERS) \_\_\_\_\_ 16.0

COMMERCIAL  
WASHING OF BULK TANK AND RELATED EQUIPMENT \_\_\_\_\_ 0.5  
PARLOR FLOOR AND MILKHOUSE FLOOR \_\_\_\_\_ 0.1  
CATTLE WASHING BASED UPON METHOD OF WASHING \_\_\_\_\_ 22.8  
TOTAL \_\_\_\_\_ 23.5

TOTAL DIVERSION VOLUME \_\_\_\_\_ 39.5

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER  
MILKING \_\_\_\_\_ 2.3  
NONMILKING \_\_\_\_\_ 0.0  
TOTAL \_\_\_\_\_ 2.3  
COMMERCIAL \_\_\_\_\_ 0.0  
TOTAL CONSUMPTIVE USE \_\_\_\_\_ 2.3

\* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.

THEORETICAL FLOW ESTIMATION WORKSHEET

REQUIRED PUMP INFORMATION

|                                | PUMP 1 | PUMP 2 | PUMP 3 |
|--------------------------------|--------|--------|--------|
| PUMP HORSEPOWER (HP) _____     | 7.50   | 0.00   | 0.00   |
| LIFT (FT) _____                | 150    | 0      | 0      |
| DISCHARGE PRESSURE (PSI) _____ | 40     | 0      | 0      |
| FRICTION LOSSES (FT) _____     | 0.0    | 0.0    | 0.0    |

CALCULATIONS

|                                     |       |      |      |
|-------------------------------------|-------|------|------|
| THEORETICAL FLOW RATE (CFS) * ----- | 0.19  | 0.00 | 0.00 |
| DIVERSION VOLUME (AFA) ** -----     | 138.0 | 0.0  | 0.0  |

\* PUMP EFFICIENCY WAS ASSUMED TO BE 70%.

\* DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE  
THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY  
DAY OF THE YEAR.