

T5526 RIVERVIEW DAIRY

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Department of Water Resources
Eastern Region

MEMO

FROM: Allen Merritt

DATE: November 19, 1999

TO: Transfer File No. 5526

Water Right(s): 35-02727D
35-07603G
36-14988

In the Name of: Riverview Dairy

SUBJECT: Review and Recommendation

This transfer was filed to move water to an existing dairy to allow increase in herd size. The proposal involves drying up acres in Bingham County in basin 35 and moving the water to allow increase in use in Jerome County in basin 36. This type of proposal has been denied in the recent Jerome Cheese decision.

RECOMMENDATION

I RECOMMEND THAT THIS TRANSFER BE REVIEWED BY ADMINISTRATION AND HYDROLOGY TO DETERMINE CONDITIONS THAT WILL NOT CAUSE INJURY TO OTHER WATER RIGHTS WHEN MOVING WATER FROM ONE RESPONSE ZONE TO ANOTHER.

BASED ON THE JEROME CHEESE DECISION I RECOMMENT THIS TRANSFER BE DENIED.

36-14988 ✓ # 5526

PART 1**i. General Information:**

- a. Description of diversion system 2 Domestic Wells with pumps and pipes
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
acres will no longer be irrigated
- d. Remarks:

Domestic use is for one house with yard-irrigation to lawn area. Waste water from lagoon is transported in a heavy wagon to nearby neighbors on a yearly basis. Location changes from year to year according to cropping.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

PART 2

TRANS NO.

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 35-02727

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 11/01	3.66 CFS

SOURCE

GROUNDWATER

Priority: 03/13/1965

LOCATION OF POINT(S) OF DIVERSION:

NESWNW , Sec. 17, Township 04S, Range 31E
BINGHAM County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04S	31E	17	NWNE 40	SWNE 36	NENW 39		
			NWNW 40	SWNW 40	SENW 39		234
		18	NENE 40	SENE 39			79
Total number of acres irrigated:							313

CONDITIONS/REMARKS:

- RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
- THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 35:

WATER RIGHT NO.	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO.	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 35 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.
- USE OF THIS RIGHT WITH RIGHT NO. 35-07603C IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.66 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1252 AF.
- THIS RIGHT IS LIMITED TO THE IRRIGATION OF 234 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 35-07603C IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 313 ACRES IN A SINGLE IRRIGATION SEASON.
- RIGHT NO. 35-07603C IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

If yes, describe

[illegible]

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 35-07603C

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 10/31	0.93 CFS

SOURCE

GROUNDWATER

Priority: 02/15/1986

LOCATION OF POINT(S) OF DIVERSION:NESWNW , Sec. 17, Township 04S, Range 31E
BINGHAM CountyPLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04S	31E	17	NWNE 40	SWNE 36	NENW 39		
			NWNW 40	SWNW 40	SENE 39	SENW 39	234
		18	NENE 40				79
Total number of acres irrigated:							313

CONDITIONS/REMARKS:

- RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
- THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 35:

WATER RIGHT NO.	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN:

WATER RIGHT NO.	SOURCE
NONE	NONE

ALL WATER RIGHTS WITHIN BASIN 35 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.
- USE OF THIS RIGHT WITH RIGHT NO. 35-02727 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.66 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1252 AF.
- THIS RIGHT IS LIMITED TO THE IRRIGATION OF 79 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 35-02727 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 313 ACRES IN A SINGLE IRRIGATION SEASON.
- RIGHT NO. 35-02727 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

PART 2

Transfer No. 1

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.04 cfs for IRRIGATION purposes from 04/01 to 10/31
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

- 2. Point(s) of Diversion:**

[illegible]

3. Lands irrigated or place of use:

[illegible]

Total acres 13

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount ~~3.0~~ 0.89 cfs for IRRIGATION purposes from 04/01 to 10/31
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

- 2. Point(s) of Diversion:**

[illegible]

3. Lands irrigated or place of use:

[illegible]

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. 36-14988

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
STOCKWATER	01/01 to 12/31	0.07 CFS
DOMESTIC	01/01 to 12/31	0.04 CFS
	Totals	0.07 CFS

SOURCE

GROUNDWATER

Priority: 12/31/1983

LOCATION OF POINT(S) OF DIVERSION:SESESE , Sec. 26, Township 08S, Range 17E
JEROME CountyPLACE OF USE: STOCKWATERTWN RGE SEC

08S 17E 26 SESE

PLACE OF USE: DOMESTICTWN RGE SEC

08S 17E 26 SESE

CONDITIONS/REMARKS:

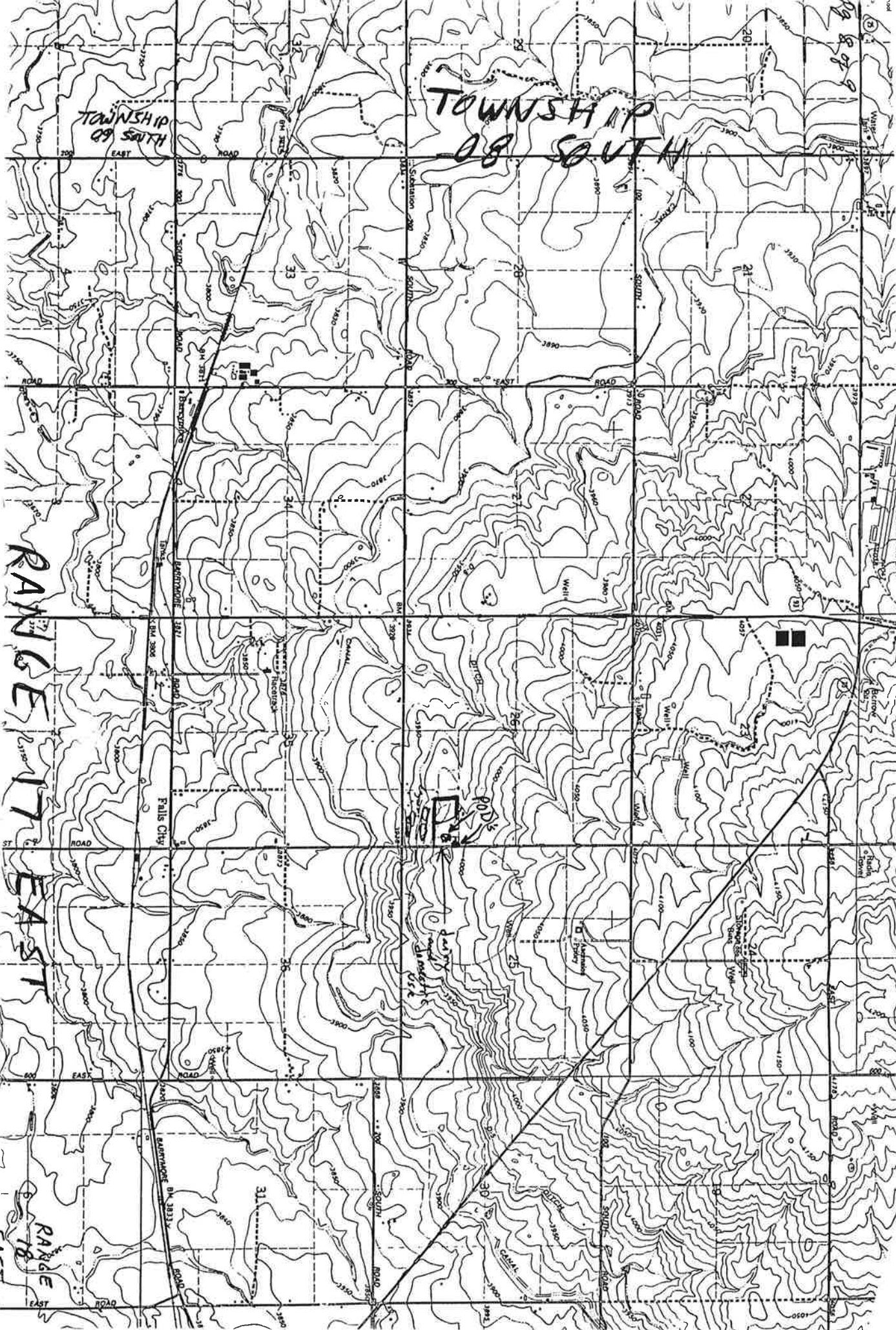
1. THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
2. THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3. PARCEL NO. RL08S17E269001
STOCKWATER, 350 FEEDER CATTLE W/ DAIRY BARN.

TOWNSHIP
09 SOUTH

TOWNSHIP
08 SOUTH

RANGE
17 EAST

RANGE
18



PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	<u>Stock water Commercial</u> <u>and Domestic</u>	<u>0.22 cfs</u>	<u>53.5 a/cr as needed</u>	<u>01/01 to 12/31</u>
2. Quantity and quality of return flows and location of discharge: <u>wasted water is ponded in lagoon and transported to</u> <u>neighbors acres as needed</u>				
3. Describe effects on other water uses resulting from the proposed change: <u>no effect</u>				

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 18th day of June, 19 99.

Jeanie Robertson (Signature of Applicant)

Jeanie Robertson (Notary Public)

My commission expires 9-23-2000

FOR DEPARTMENT USE ONLY

Transfer contains 9 pages and 4 attachments

Received by P. SKINNER Date 07/09/99 Protest filed by _____

Prelim. check by P. SKINNER Fee \$100.00 S022353

Received by P. SKINNER Date 07/09/99

Published in North Side News & Morning Copies of protest forwarded by _____

Pub. dates 8/26 & 9/2/99 New S Hearing held by _____ Date _____

Watermaster recommendation requested on N/A Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MEMORANDUM

TO: Riverview Dairy Transfer (#5526) File

FROM: Corey Skinner *CS*

DATE: August 2, 1999

SUBJECT: Staff Review

The enclosed Transfer Application, #5526 filed in the name of Riverview Dairy, seeks to convert portions of irrigation water rights 35-02727 (T35-02727A) and 35-07603C (T35-07603D) to stockwater, commercial, and domestic uses for a dairy operation located approximately 4 miles east of Jerome. In addition, the transfer also proposes modifying water right 36-14988 (a decreed domestic and stock right) so that it will be included with the water rights associated with the dairy. The transfer application proposes allowing 14.5 acre-feet of volume for water right 36-14988 and 39.0 acre-feet of volume for the two irrigation rights, bringing the proposed total diversion volume to 53.5 acre-feet. The application should be fairly straightforward, but there are some issues that need further clarification.

The first issue relates to the two irrigation water rights involved with the transfer application. Currently, irrigation water rights 35-02727 and 35-07603C are appurtenant to land located within parts of Sections 17 and 18 (T04S, R31E), within Bingham County. The enclosed transfer application proposes moving portions of these two rights to land located about 2 miles southeast of the Highway 93 and Highway 25 interchange. Both the current and proposed places of use and point of diversion are within the boundaries of the Eastern Snake River Plain Aquifer. However, the proposed change in the point of diversion and place of use would result in diverting and using water over 85 miles to the southwest (down gradient).

Another issue relates to the volume associated with water right 36-14988. This particular right is a decreed Snake River Basin Adjudication right, allowing a diversion of up to 13,000 gallons per day. This particular right was decreed for domestic and stockwater use. However, this particular right has apparently served as the only water right for the historical dairy operation. The applicant has attempted to substantiate the past water use at the dairy by including a letter from an attorney who was familiar with the property. The letter states that there have been in excess of 550 head of cattle at the dairy operation. Therefore, it appears that there may be justification for allowing the maximum 13,000 gallons per day limit for the historical use of water right 36-14988. The enclosed transfer application is based on a historical volume of 14.5 acre-feet per year (13,000 gallons per day).

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Riverview Dairy Transfer #5526 Memo

August 2, 1999

The enclosed transfer application does not define the location of the land application of the waste water from the dairy operation. During my preliminary discussions with Ms. Jeanne Serviss of Riverview Dairy regarding the transfer, it was noted that the applicant did not know the exact location(s) of where the waste water was land applied. Ms. Serviss said that waste water was removed from the dairy lagoons and applied to various neighbors' property on an as needed basis. She said that the waste water was pumped from the lagoons into a "Honey Wagon", where it is then transported to various neighbors' properties. She said that she did not know the exact locations of where the neighbors applied this waste water, but that Riverview dairy is attempting to obtain some surrounding properties so that they can eventually land apply the waste water to their own lands.

During the staff review of the enclosed transfer application, it was noted that there was no information regarding the need for the water amounts at the dairy operation (namely a dairy water use worksheet). In addition, it was noted that Riverview dairy did not provide any proof of ownership information regarding the land where the dairy is located. Note that this needs to be included with the application since the applicant has included water right 36-14988 in the enclosed application. I called the Jerome County Assessor's office and was informed that the property is owned by Nelvin Eggink. Ms. Serviss gave me the impression that Riverview Dairy was the owner of the dairy, but some of the lien holder information in the file indicates that Ms. Serviss is in the process of purchasing the dairy. Regardless, some sort of proof of ownership, or permission from the actual owner, needs to be included in the file. This date, I have mailed a letter to Jeanne Service requesting the necessary ownership and dairy water use information.

It should also be noted that domestic use was included on all of the proposed rights associated with the enclosed transfer. It should be noted that the domestic use consists of one house with yard irrigation (see remarks on transfer application). If the enclosed transfer is approved, appropriate remarks or approval conditions should be implemented to clarify this domestic use.