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DEPARTMENT OF
WATER RESOURCES

Sep 27 2010

Dean and Eden Dimond
1454 hwy 25
Jerome Idaho 83338
208-825-4142

Before the Director
Idaho Department of Water Resources

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 72435

BIG SKY FARMS,

Applicant,

Dean T. Dimond, Harold S. Dimond,
Richard Bullers, Cyrus Bullers, James
Stewart, Brenda Herrmann, Dennis H.
Dimond, Blaine E. Miller, James Wyatt,
Rita Ayers & Lee Halper,

Protestants

Here is the Notice Of Appeal timely filed September 13, 2010. If IDWR reviews
Judge Elgee Opinion they will see that if Everyone follows the Law in this go around the
Opinion will be reversed.

Dean Dimond

Eden Dimond

HUTCHINSON
&
BROWN, LLP

Keith E. Hutchinson, Esq.
Patrick D. Brown, Esq.

ATTORNEYS AT LAW

PHONE: (208) 733-9300
WATS: (800) 753-2529
FAX: (208) 733-9343

September 13, 2010

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DEPARTMENT OF
WATER RESOURCES

-- via hand delivery --

Clerk of District Court
JEROME COUNTY COURTHOUSE
233 W. Main St.
Jerome ID 83338

Re: **ICARE**, et al - v. Big Sky Farms
Case No. CV 08-1081

Dear Clerk:

Enclosed herewith for filing please find NOTICE OF APPEAL, together with my checks in the amount of \$101.00 (representing payment of the appeal filing fees) and \$100.00 (representing payment of the estimated cost of the Clerk's Record).

Thank you.

Sincerely,



Patrick D. Brown

/cb
Enc.

cc: Mike Seib, w/enc.
John Lothspeich, w/enc.
Michelle Emerson, w/enc.
Charles Tebbutt, w/enc.
Richard Carlson, w/enc.

DISTRICT COURT
FIFTH JUDICIAL DISTRICT
JEROME COUNTY, IDAHO

Patrick D. Brown, ISB No. 4413
Hutchinson & Brown, LLP
104 Lincoln St.
PO Box 207
Twin Falls, ID 83303-0207

2010 SEP 13 PM 1 56

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**DEPARTMENT OF
WATER RESOURCES**

Phone: (208) 733-9300; fax (208) 733-9343

BY _____
PATRICK D. BROWN

Attorney for Petitioners Friends of Minidoka, Wayne Slone, guardian of James Slone, Idaho Concerned Area Residents for the Environment, Inc., the Japanese American Citizens League, Inc., the National Trust for Historic Preservation, Inc., and Preservation Idaho, Inc., Dean & Eden Dimond, Harold & Carolyn Dimond, and the Idaho Rural Council, Inc.

Charles M. Tebbutt, OSB No. 96579
LAW OFFICES OF CHARLES M. TEBBUTT
470 W. Broadway
P.O. Box 10112
Eugene OR 97440
Phone: (541) 344-8312; fax (541) 344-0188
Pro Hac Vice Attorney for Petitioners listed above

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

In the Matter of:)

The Jerome County Board of)
Commissioners' Decision Dated)
September 23, 2008 Approving A)
Livestock Confinement Operation Permit)
for Don McFarland, dba Big Sky Farms,)

CASE NO. CV 2008-1081

NOTICE OF APPEAL

Fee: \$101.00

Friends of Minidoka, Dean & Eden)
Dimond, Harold & Carolyn Dimond,)
Wayne Slone, guardian of James Slone,)
the Idaho Rural Council, Inc., Idaho)
Concerned Area Residents for the)
Environment, Inc., the Japanese American)
Citizens League, Inc., the National Trust)
for Historic Preservation, Inc., and)
Preservation Idaho, Inc.)

Petitioners,)

vs.	)
	)
Jerome County, a Political Subdivision	)
of the State of Idaho, Joseph Davidson,	)
Charles Howell and Diana Obenauer,	)
Members of the Jerome County	)
Board of Commissioners,	)
	)
Respondents.	)
	)
South View Dairy, an Idaho General	)
Partnership, Tony Visser, William	)
DeJong and Ryan Visser, general partners,	)
	)
Intervenors,	)
	)

TO: RESPONDENTS JEROME COUNTY, JOSEPH DAVIDSON, CHARLES HOWELL, AND DIANA OBENAUER, AND INTERVENORS SOUTH VIEW DAIRY, TONY VISSER, WILLIAM DeJONG AND RYAN VISSER, AND THE PARTIES' ATTORNEYS, AND THE CLERK OF THE DISTRICT COURT OF THE 5TH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR JEROME COUNTY.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellants Friends of Minidoka, Dean & Eden Dimond, Harold & Carolyn Dimond, Wayne Slone, guardian of James Slone, the Idaho Rural Council, Inc., Idaho Concerned Area Residents for the Environment, Inc., the Japanese American Citizens League, Inc., the National Trust for Historic Preservation, and Preservation Idaho appeal against the above named Respondents to the Idaho Supreme Court from the final judgment denying Appellants' Petition for Judicial Review, entered in the above entitled action on the 6th day of August, 2010, Honorable Judge Robert J. Elgee presiding.

2. Appellants have a right to appeal to the Idaho Supreme Court, and the judgment described in ¶1 above is appealable under and pursuant to Rule 11(a)(1) I.A.R.

3. Appellants assert that the District Court made several errors in its legal analysis in the final judgment, including but not limited to:

A. the denial of standing for the Japanese American Citizens League, the National Trust for Historic Preservation, Preservation Idaho, and Friends of Minidoka applied an inappropriately narrow standard;

B. the conclusion that Respondents' limitation on who could provide written and oral testimony and the manner in which such testimony is submitted did not violate constitutional procedural or substantive due process requirements;

C. the rejection of the claim that Respondents violated one of the Appellants (Wayne Sloan, guardian of James Sloan) procedural due process rights by failing to cure defective notice of the hearing; and

D. the rejection of Appellants' claim that Respondents followed an unlawful procedure by failing to follow its own ordinances and construing its own ordinances in a way that limited its ability to consider other potentially conflicting ordinance requirements.

4. There has not been an order sealing the record in this case.

5. Appellants do not request a reporter's transcript.

6. Appellants do not request any additional documents be included in the clerk's record, other than those automatically included.

7. Appellants do not request that any exhibits be copied and sent to the Supreme Court, except those automatically included as part of the Record.

8. I certify that:

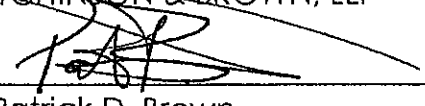
A. Appellants have contacted the Clerk of the Court for Fifth Judicial District for the State of Idaho, have requested an estimate of the fee for preparation of the clerk's record, and intend to pay that fee once the clerk has determined the cost of preparation.

B. That the appellate filing fee has been paid.

C. That service has been made upon all parties required to be served pursuant to Rule 20.

RESPECTUFLY SUBMITTED THIS 13th day of September, 2010.

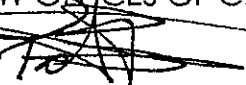
~~HUTCHINSON & BROWN, LLP~~

By: 

Patrick D. Brown

Attorney for Petitioners Friends
of Minidoka, Wayne Slone,
guardian of James Slone,
Idaho Concerned Area
Residents for the Environment,
Inc., the Japanese American
Citizens League, Inc., the
National Trust for Historic
Preservation, Inc., Preservation
Idaho, Inc., Dean & Eden
Dimond, Harold & Carolyn
Dimond, and the Idaho Rural
Council, Inc.

~~LAW OFFICES OF CHARLES M. TEBBUTT~~

By: 

Patrick D. Brown for Chas. Tebbutt

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 13th day of September, 2010, (s)he served a true and correct copy of the within and foregoing document upon the following by depositing a copy thereof in the United States mail, postage prepaid, addressed to:

John B. Lothspeich
Fredericksen, Williams, Meservy & Lothspeich, LLP
PO Box 168
Jerome, Idaho 83383

Michelle Emerson
Jerome County Clerk
300 N. Lincoln, Rm. 310
Jerome, Idaho 83338

Michael J. Seib
Jerome County Prosecutor
233 W Main St
Jerome, Idaho 83338

Connie Bell