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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5697
WATER RIGHT NO(S). 36-07460AG/36-14988

This is to certify that: **RIVERVIEW DAIRY**
179 S 500 E
JEROME ID 83338

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 36-07460AG:			
Priority: 03/25/1974			
STOCKWATER	01/01 to 12/31	0.18 CFS	30.0 AF
COMMERCIAL	01/01 to 12/31	0.18 CFS	30.0 AF
		<u>0.18 CFS</u>	<u>30.0 AF</u>
Right No. 36-14988 :			
Priority: 12/31/1983			
STOCKWATER	01/01 to 12/31	0.07 CFS	13.4 AF
COMMERCIAL	01/01 to 12/31	0.07 CFS	13.4 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	1.2 AF
		<u>0.07 CFS</u>	<u>14.6 AF</u>
TOTAL:		* 0.25 CFS	44.6 AF *

SOURCE
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:

NESESE , Sec. 26, Township 08S, Range 17E
JEROME County

PLACE OF USE: STOCKWATER & DOMESTIC

TWN RGE SEC

08S 17E 26 SESE

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08S 17E 26 SESE
35 NENE
36 NWNE
NWNW

SENE
SWNE
SWNW

NENW
SENE
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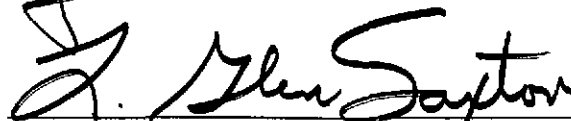
MAY 3 5 2001

TRANSFER NO. 5697
WATER RIGHT NO(S). 36-07460AG/36-14988

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. Use of water under this approval shall comply with applicable water quality standards of the Department of Environmental Quality.
3. The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- * 6. The total instantaneous diversion of water from all points of diversion under Transfer 5697 shall not exceed 0.25 cfs, nor a total combined annual volume of 44.6 af.
7. The quantity of water decreed for Right 36-14988 for stockwater and domestic uses is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.
8. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the dairy as authorized by these water rights.
9. Commercial use is for a dairy located within the SESE, S26, T08S, R17E.
10. Domestic use is for 1 home.
11. Two (2) points of diversion are located within the NESESE, S26, T08S, R17E.
12. The place of use is includes Parcel No. RL08S17E269001.

Dated this 14th day of July, 2000.


Chief, Water Allocation Bureau

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MAY 09 2001

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 5526 IN THE)	PRELIMINARY ORDER
NAME OF RIVERVIEW DAIRY)	
_____)	

This matter having come before the Idaho Department of Water Resources (the "Department") as an application for transfer and the Department having held a conference and a hearing in a similar matter, the hearing officer enters the following Findings of Fact, Conclusions of Law and Preliminary Order:

FINDINGS OF FACT

1. On July 9, 1999, Riverview Dairy ("applicant") filed Application for Transfer No. 5526 ("application") with the Department seeking to change the point of diversion, place of use, season of use and nature of use of a portion of License Nos. 35-02727 and 35-07603 and decreed right 36-14988. The applicant proposes to cease the diversion of a total of 0.22 cfs and 53.5 afy of ground water from the licenses and decreed right and to divert the water from two existing wells in the SESE Section 26, T8S, R17E, B.M. near Jerome, Idaho. The applicant proposes to use the water in an existing dairy facility diverting the water from wells which are located down gradient of the licensed water rights a distance of approximately 85 miles.

2. The Department published notice of the application which was not protested.

3. On July 27 and 28, 1999, the Department conducted a hearing in the matter of Application for Transfer No. 5436 in the name of Jerome Cheese Company. The application of Jerome Cheese Company involved a portion of water right 35-08606 in a proposed transfer which is factually similar to the application 5526. As a result of the hearing, the Department denied Application for Transfer No. 5436 as not being in the local public interest.

4. The majority of water not pumped at the licensed wells is tributary to springs which enter the Snake River in the Blackfoot to Neeley reach or below Neeley. Some of the unpumped water will go west in the aquifer but ground water reaching the Snake River will not again be available as ground water in the Snake Plain Aquifer.

5. On May 15, 1992, the Director issued a moratorium order curtailing the use of surface and ground water within the Snake River Basin upstream from the USGS gauge on the Snake River near Weiser, Idaho ("Snake Plain Aquifer"). The moratorium was issued to prevent further development of water resources in the Snake Plain Aquifer to ensure compliance with provisions of chapter 2, title 42, Idaho Code. The Director subsequently amended the moratorium order on January 6, 1993 and April 30, 1993.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, provides in pertinent part as follows:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code;

2. Section 42-1805(7), Idaho Code, and IDAPA 37.03.08055 (Water Appropriation Rule 55) provide for the establishment of a moratorium preventing further development of a water resource in a designated area to ensure compliance with provisions of chapter 2, title 42, Idaho Code.

3. The moratorium designated by the Department on May 15, 1992 for the Snake Plain Aquifer was issued to prevent further development of water sources on the plain in order to protect prior water rights and to ensure compliance with provisions of chapter 2, title 42, Idaho Code.

4. The proposed point of diversion by the applicant for the dairy is within the Snake Plain Aquifer area. Since only a small unquantified portion of ground water which would not be pumped at the licensed well in Basin 35 would reach the proposed new well(s) located about 85 miles to the southwest, the diversion of 0.22 cfs or the majority thereof at the proposed new well(s) would have the same physical effect as a new appropriation of ground water and would cause injury because it would have a senior priority over validly established water rights held by junior appropriators.

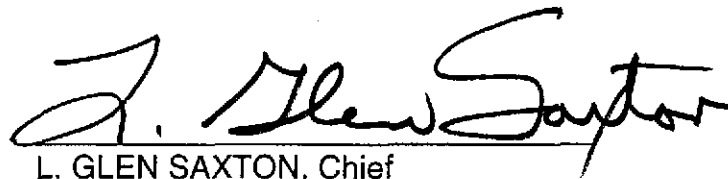
5. It is not in the local public interest to approve a transfer that would essentially be a new appropriation of water which would otherwise be prevented by the moratorium.

6. The Department should deny the application.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Transfer No. 5526 in the name of Riverview Dairy is **DENIED**.

Signed this 21st day of December, 1999.

A handwritten signature in black ink, reading "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, Chief
Water Allocation 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 SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-14988

1996 NOV 22 PM 12:19
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME & ADDRESS: MELVIN EGGINK
BERNICE EGGINK
179 S 500 E
RT 4
JEROME ID 83338

SOURCE: GROUNDWATER

QUANTITY: 0.07 CFS

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

PRIORITY DATE: 12/31/1983

POINT OF DIVERSION: T08S R17E S26 SESESE Within JEROME County

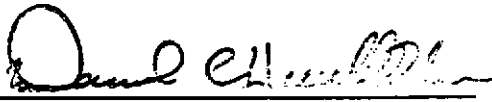
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	STOCKWATER	01-01 12-31	0.07 CFS
	DOMESTIC 1 HOME	01-01 12-31	0.04 CFS

PLACE OF USE:	STOCKWATER	Within JEROME County
	T08S R17E S26	SESE
	DOMESTIC	Within JEROME County
	T08S R17E S26	SESE

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

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

DATED: NOV 22 1996


DANIEL C. HURLBUTT
PRESIDING JUDGE
Snake River Basin Adjudication

SRBA Decree

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-14988

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JUN 04 1997

NOV 27 2000

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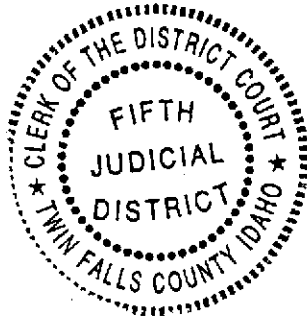
RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED: NOV 22 1996

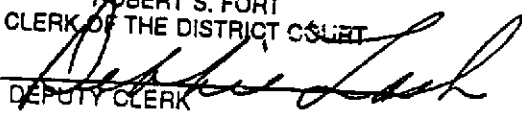


DANIEL C. HURLBUTT
PRESIDING JUDGE
Snake River Basin Adjudication



State of Idaho
County of Twin Falls ss.
I hereby certify the foregoing to be a full,
true and correct copy of the original on
file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURT

By 
DEPUTY CLERK

JUN 04 1997

MICROFILMED

JAN 27 2000

MEMORANDUM

TO: **FILE** 36-14988

FROM: **VAULT**

RE: **TRANSFER #** 69373

DATE: 10-03-01

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**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 36-02676

MEMORANDUM

TO: FILE 36-14988

FROM: PAM SKAGGS CS

RE: TRANSFER # 5697

DATE: 07-13-2000

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 36-07440AG.

MICROFILMED

MAY 09 2001

MEMORANDUM

TO: FILE 36-14988
FROM: VAULT
RE: TRANSFER # 5526
DATE: _____

=====

**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 35-02727

Denied by Order dated 12-21-1999

MICROFILMED

JAN 27 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 327-7900 FAX: (208) 327-7866

December 21, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

RIVERVIEW DAIRY
179 S 500 E
JEROME ID 83338

RE: Preliminary Order for Transfer 5526

Dear Water Right Holder(s):

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

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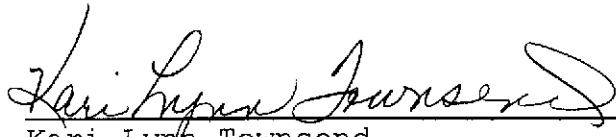
JAN 27 2000

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of December, 1999, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER to the person(s) listed below:

RE: Preliminary order for Transfer 5526

RIVERVIEW DAIRY
179 S 500 E
JEROME ID 83338


Kari Lynn Townsend
Secretary

MICROFILMED
JAN 17 2000

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

MICROFILMED
JAN 27 2000

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of, or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.