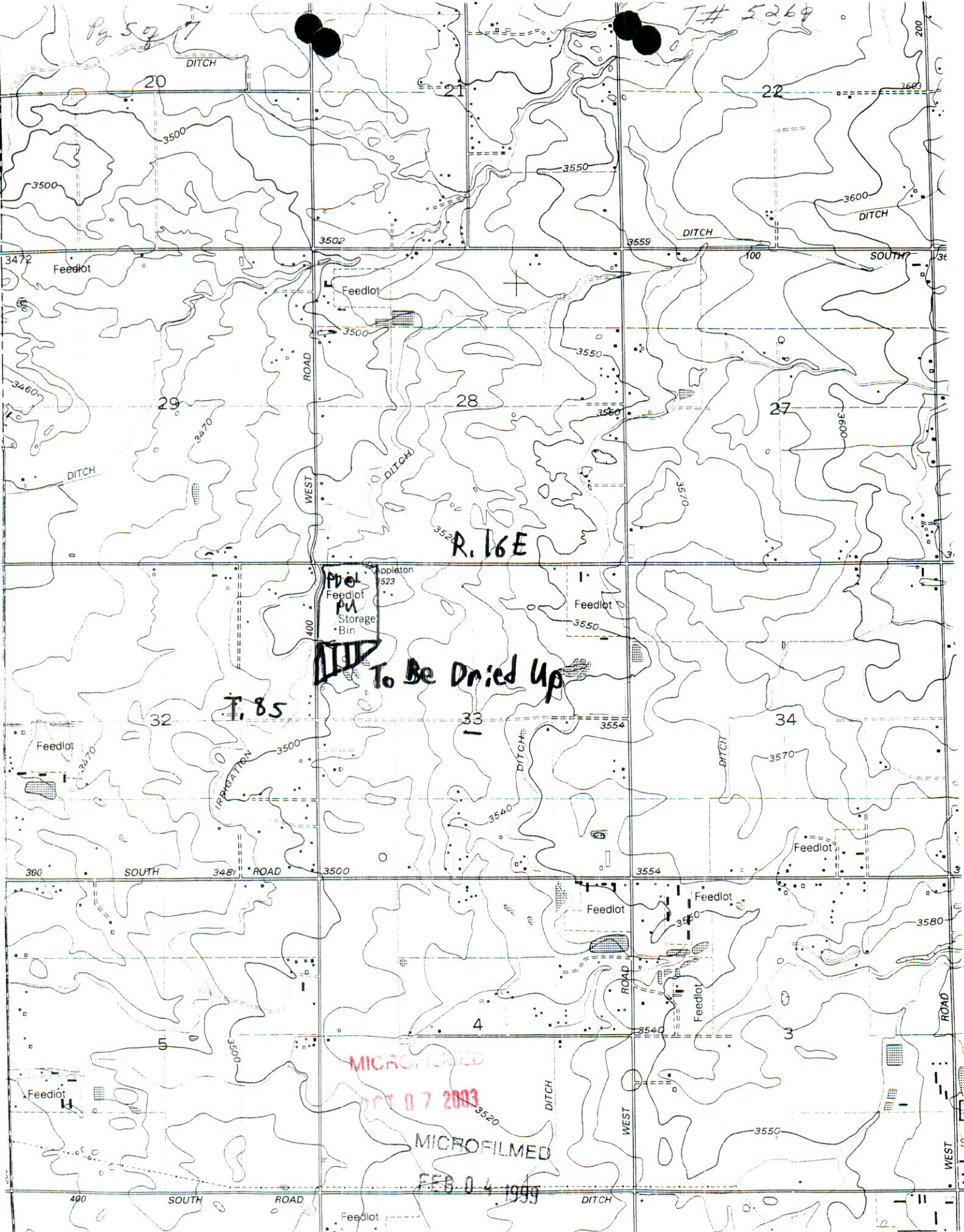


Pg 527

T# 5269



Appleton  
Feedlot  
PA  
Storage  
Bin

To Be Dried Up

T. 8S

R. 16E

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Pg 67 7, T# 5269  
1987 Photo

Sub  
Divis

28

28

2133

T1229  
G7

HEL 1

Home  
Site

T1328  
764

33

1997

4 1995  
3 HEL

74 3  
2 HEL

939

T1315  
752

T1225

16 HEL

22 HEL

493

T1272

2004-1-4

93

32 HEL

T1273

2004-1-4

Sundays on

37  
10

T1252  
676

T1265  
7041-5

T1263

2004-4-4

NOT FILMED  
JUL 0.7 2003

# AFFIDAVIT of PUBLICATION

State of Idaho }  
County of Jerome } ss.

JUN 19 1998

Department of Water Resources  
Southern Region

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Jerome North Side News, a newspaper published every week in Jerome, County of Jerome, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 11th day of June, 1998.

and the date of the last publication was on the 18th day of June, 1998.

Patty Nance  
Subscribed and sworn to before me this 18th day of June, 1998.  
(SEAL)

Norma DeLoe  
NOTARY PUBLIC

# 21192/7606  
NORTH SIDE NEWS  
Jerome, Idaho

## COST OF PUBLICATION

Number of Picas per Line \_\_\_\_\_

Number of Lines in Notice \_\_\_\_\_

Number of Insertions 2x

affidavit fee 2.25

Lines tabular at \_\_\_\_\_ 7¢/Pica  
587.81 Lines straight at 35.27 6¢/Pica  
587.81 Subsequent lines at 29.39 5¢/Pica

TOTAL COST 66.91  
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## COPY OF NOTICE

(Paste Here)

Longview Dairy #T-5269  
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resource  
BIA TO

## NOTICE OF PROPOSED CHANGE OF WATER RIGHT, No. T-5269

Notice is hereby given that LONG VIEW DAIRY, 381-D BOB BARTON RD; JEROME ID 83338 has applied to the Department of Water Resources for changes to a water right. The purpose of Transfer No. 5269 is to convert a portion of the right from irrigation use by drying up 10 acres and changing use to commercial and stockwater in the expansion of an existing dairy. PRESENTLY, Snake River Basin Adjudication Decreed Water Right No. 36-07317 (2.40 cfs) with a priority date of 03/21/1973 is diverted from groundwater within NE1/4NW1/4, S33, T08S, R16E; Jerome County for irrigation of 120 acres within parts of S33, T08S, R16E; Jerome County.

## PROPOSED CHANGE

The applicant wishes to divert a combined total of 0.20 cfs from two wells within NW1/4NW1/4, S33, T08S, R16E; Jerome County for stockwater use (0.20 cfs) and commercial dairy use (0.20 cfs) within NW1/4NW1/4, S33, T08S, R16E; Jerome County. This portion will be designated as Water Right No. 36-07317B. The remaining portion (2.20 cfs) will be designated as Water Right No. 36-07317A and will continue to irrigate 110 acres at the present place of use. Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before June 29, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director  
Pub: 6/11-6/18

N21192

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OCT 07 2003

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5269  
WATER RIGHT NO. 36-07317B

This is to certify that: **LONG VIEW DAIRY**  
**381-D BOB BARTON RD**  
**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> |
|-----------------------|----------------------|-----------------------|----------------------|
| STOCKWATER            | 01/01 to 12/31       | 0.20 CFS              | 25.6 AF              |
| COMMERCIAL            | 01/01 to 12/31       | 0.20 CFS              | 14.4 AF              |
|                       | Totals               | 0.20 CFS              | 40.0 AF              |

SOURCE

GROUNDWATER

Priority: 03/21/1973

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 33, Township 08S, Range 16E  
JEROME County

PLACE OF USE: STOCKWATER

TWN RGE SEC

08S 16E 33                      NWNW

PLACE OF USE: COMMERCIAL

TWN RGE SEC

08S 16E 33                      NENW                      NWNW                      SWNW  
                                    SENW

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
2. The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.

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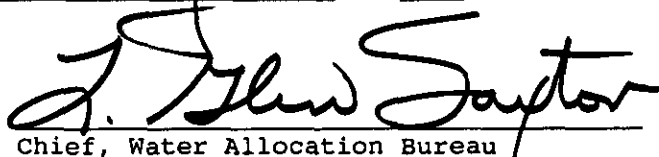
OCT 07 2003

TRANSFER NO. 5269  
WATER RIGHT NO. 36-07317B

CONDITIONS OF APPROVAL AND REMARKS

3. 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.
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 water used for commercial use under this transfer approval is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water shall not irrigate growing plants unless the water is first beneficially used in the dairy facility as authorized by the water right.
7. The remainder of Right 36-07317 is identified as 36-07317A and is limited to a diversion rate of 2.20 cfs, an annual diversion volume of 440.0 af, and irrigation of 110.0 acres each year.
8. Prior to use of water for irrigation purposes under Right 36-07317A, the right holder shall install a measuring device to measure the amount of water diverted and shall annually report the diversion to the department. The right holder shall obtain prior approval from the department of the type of measuring device to install.
9. The acres which are no longer authorized for irrigation under Right 36-07317A are specifically described as follows: 10.0 acres in the SWNW, S33, T08S, R16E.
10. Two points of diversion are located in the NWNW, S33, T08S, R16E.
11. This transfer approval does not authorize the construction of any new well or the deepening or enlargement of any existing well.

Dated this 20<sup>th</sup> day of January, 1999.

  
Chief, Water Allocation Bureau

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Page 1 of 7STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 5269

RECEIVED

## APPLICATION FOR TRANSFER OF WATER RIGHT

JUL 22 1998

## PART 1

Department of Water Resources

Name of applicant Long View Dairy Phone 324-7256 dairy  
Post Office address 381-DBob Barton Rd, Jerome, ID 83338 324-7704 home

## A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use  
☒ Change nature of use ☒ Change period of use ☒ Other Split right
2. Describe the reason for the proposed changes Convert a portion of the water right from irrigation to commercial and stockwater uses to cover expansion of an existing dairy

## B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | Right Number     | Priority         | Amount (cfs/ac-ft) | Nature of Use     | Period of Use              |
|------------------|------------------|--------------------|-------------------|----------------------------|
| <u>36-07317B</u> | <u>3-21-1973</u> | <u>0.20/25.6</u>   | <u>Stockwater</u> | <u>1-1</u> to <u>12-31</u> |
|                  |                  | <u>0.20/14.4</u>   | <u>Commercial</u> | " to "                     |
|                  |                  |                    |                   | to                         |
|                  |                  |                    |                   | to                         |
2. Total amount of water being transferred 0.20 cubic feet per second and/or 40.0 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     | NW  | NW  | 33   | 8S   | 16E  | Jerome | 2 wells & pumps          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

## 5. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | Totals |
|------|------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |      |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 8S   | 16E  | 33   |        |        |        |        | 0      | 0.5    | 0      | 0      |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

\* (For use in representing water as described on Page 2) Total acres \_\_\_\_\_  
ent 3, 3, 3.

**PART 1****6. General Information:**

- a. Description of diversion system Well & pump, lines to corrals & dairy barn (15 hp pump on west side of barn). A backup well & pump (7 1/2 hp) on the east side of the barn can serve in an emergency via a portable hose, but is not directly connected to the other well.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ✓ 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:

Land will no longer be irrigated

- d. Remarks:

License 36-08061 covers the original dairy herd of 600 milk cows and 120 dry animals. Herd is now 1200 dairy cows & 200 dry adults.

**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 \_\_\_\_\_

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**A. DESCRIPTION OF RIGHT AS RECORDED:**

Claim No. 36-07317

STAGE: DECREED

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>DIVERSION RATE</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|-----------------------|----------------------|
| IRRIGATION            | 04/01 to 10/31       | 2.40 CFS              | 480.0 AF             |

SOURCE

GROUNDWATER

Priority: 03/21/1973

LOCATION OF POINT(S) OF DIVERSION:NWNENW , Sec. 33, Township 08S, Range 16E  
JEROME CountyPLACE OF USE: IRRIGATION

| <u>TWN</u>                       | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u> | <u>ACRES</u> | <u>ACRES</u> | <u>TOTAL</u> |
|----------------------------------|------------|------------|--------------|--------------|--------------|--------------|
| 08S                              | 16E        | 33         | NENW 40      | SWNW 40      | SESW 40      | 120          |
| Total number of acres irrigated: |            |            |              |              |              | 120          |

CONDITIONS/REMARKS:

1. A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE MAINTAINED AS A PART OF THE DIVERTING WORKS.

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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 0.20 cfs for Irrig. purposes from 4-1 to 10-31  
 (cfs/ac-ft)  
 amount 40.0 AFA for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)  
 amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
 (cfs/ac-ft)

2. Point(s) of Diversion: Same as 2.A.7.

| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | Totals |
|------|------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |      |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 85   | 16E  | 33   |        |        |        |        |        |        | 10     |        |        |        |        |        |        |        |        |        | 10     |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 10**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. amount 2.20 for Irrigation purposes from 4-1 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: Same as 2.A.7.

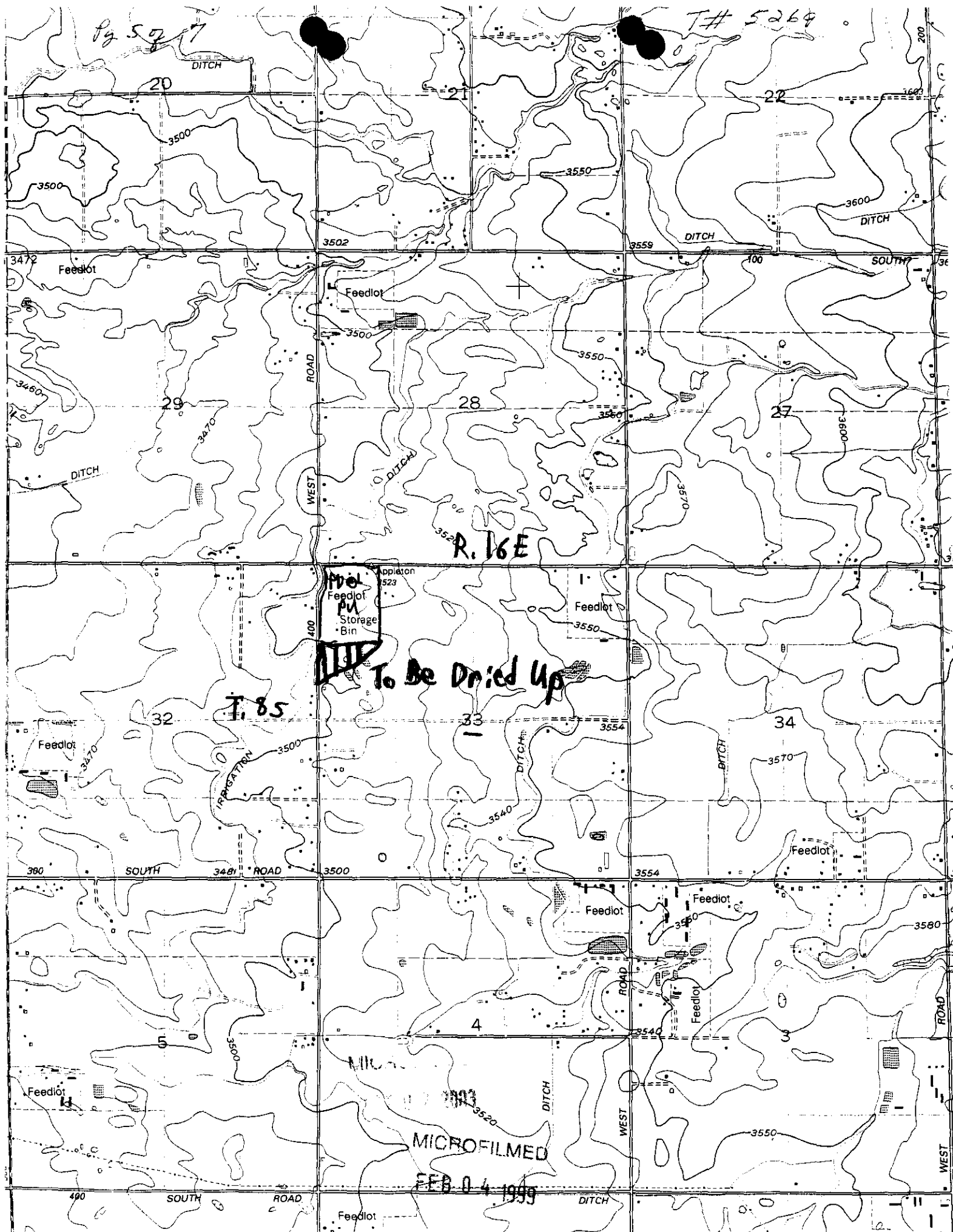
| Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|-----|-----|-----|-----|------|------|------|--------|--------------------------|
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |
|     |     |     |     |      |      |      |        |                          |

3. Lands irrigated or place of use:

| Twp. | Rge. | Sec. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | Totals |
|------|------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |      |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 85   | 16E  | 33   |        |        |        |        | 40     |        | 30     | 40     |        |        |        |        |        |        |        |        | 110    |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |      |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total acres 110

T# 5269



1987 Photo

Sub  
Divis

T1229

HEL 1

Home  
Site

T1328  
764

1997

1995

74  
HEL

939

T1315  
752

22  
HEL

T1272

2004-1-4

Sub

T1263

2004-1-4

1989

**PART 3****B. CHANGES IN NATURE OF USE**

| 1 | New Nature of Use | Amount<br>(cfs/ac-ft) | Hours/days/year    | Period of Use |
|---|-------------------|-----------------------|--------------------|---------------|
|   | Stockwater        | 0.20/25.6             | all year as needed | 1-1 to 12-31  |
|   | Commercial        | 0.20/14.4             | "                  | " to "        |

## 2. Quantity and quality of return flows and location of discharge:

Water will be ponded and land applied as needed

## 3. Describe effects on other water uses resulting from the proposed change:

No effect on other water users.

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.

Long View Dairy  
(Signature of Applicant)

Subscribed and sworn to before me this 20<sup>th</sup> day of February, 19 98

J. F. Stanton  
(Notary Public)

My commission expires 10-25-2000

**FOR DEPARTMENT USE ONLY**

Transfer contains 7 pages and 1 attachments

Received by J. F. Stanton Date 2-23-98

Protest filed by None

Prelim. check by JF Fee \$100. 5020898

Receipted by JF Date 2-23-98

Published in Northeast News

Copies of protest forwarded by \_\_\_\_\_

Pub. dates 6/11 & 6/18/98

Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendation requested on N/A

Recommended for ☒ approval ☐ denial

\_\_\_\_\_ rec'd. \_\_\_\_\_

by AD

Copy of transfer sent to lien holder \_\_\_\_\_

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FEB 23 1998

Department of Water Resources  
Southern Region

1969 JAN 15 PM 12: 17

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 36-07317

100-443886-10, 5495

07 07 2003



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

January 22, 1999

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

LONG VIEW DAIRY  
381-D BOB BARTON RD  
JEROME ID 83338

RE: Water Right 36-07317B (Transfer 5269)

Dear Water Right Holder(s):

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water right (Transfer 5269). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

As of July 1, 1996, all water right owners are required to report any change in water right ownership and any change of mailing address to the department.

If you have acquired any other water right or have changed your mailing address **PRIOR TO** July 1, 1996, you have until July 30, 1998, to record the ownership and/or address change with the department.

If you acquired other water rights or changed your mailing address **AFTER** July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes in a timely manner could result in a \$100 late filing fee. You can contact any office of the department for more information. If you have any questions concerning your water right listed above you can contact me at (208) 327-7947.

Sincerely,

JIM JOHNSON, Manager  
Water Right Permits Section

JJ:klt  
Enclosures

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APR 07 2003

**CERTIFICATE OF MAILING**

I hereby certify that on the 22nd day of **January, 1999**, I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

**WATER RIGHT 36-07317B (Transfer 5269)**

**LONG VIEW DAIRY  
381-D BOB BARTON RD  
JEROME ID 83338**

  
Kari Lynn Townsend  
Secretary

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FEB 04 1999

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OCT 07 2003

## 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.

## MEMORANDUM

**TO:** File 36-07317 *JS*  
**FROM:** Pam Skaggs/State Office *JS*  
**SUBJECT:** Transfer 5269  
**DATE:** January 20, 1999

Transfer 5269 adds and changes the point of diversion, and changes the place, nature and season of use under a portion of Right 36-07317, splitting the right into Parts A and B. The transfer was processed on the right as recently decreed in the SRBA. The applicant is removing 10 acres from irrigation to provide for an expansion to an existing dairy under Right 36-08061. This transferred portion is for an additional 600 dairy cows and 80 more dry cows.

The applicant owns the NW quarter of Section 33, T08S, R16E. The dairy is located in the NWNW and irrigation occurs in the remaining quarter quarters under Right 36-08061. The irrigated quarter quarters were included in the commercial place of use description to represent the location of land application from the ponded dairy water.

Season of use was adjusted to year round use for stockwater and commercial use in the dairy. The reduction of 10.0 acres provides sufficient rate and volume for the expansion of the dairy as proposed under the transfer.

| <u>Change in Nature of Use Evaluation</u> |                 |                  |                    |                             |
|-------------------------------------------|-----------------|------------------|--------------------|-----------------------------|
|                                           | <u>Rate</u>     | <u>Use</u>       | <u>Acres</u>       | <u>Div. Vol./C.U. Vol.</u>  |
| 36-07317                                  | 2.40 cfs        | IRR              | 120.0 acres        | 480.0 afa/360.0 afa         |
| 36-07317A                                 | 2.20 "          | "                | 110.0 "            | 440.0 " /330.0 "            |
| 36-07317B                                 | 0.20 "          | STOCK            | ( 10.0 " )         | 25.6 " / 3.5 "              |
|                                           | <u>0.20 "</u>   | <u>COMMER</u>    | " "                | <u>14.4 " / -----</u>       |
|                                           | 0.20 cfs        | STOCK/COMMER     |                    | 40.0 afa/ 3.5 afa           |
|                                           | <b>2.40 cfs</b> | <b>IRR/DAIRY</b> | <b>110.0 acres</b> | <b>480.0 afa/333.5 afa*</b> |

\* Wastewater from the dairy will be ponded & land applied as needed. Consumptive use of ponds is considered same per acre as irrigation or land application. No net increase in consumptive use.

Recommended conditions include water quality, county zoning, measuring & annual reporting, land application limits, remaining irrigation limits, no new wells and standard transfer conditions.

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 821 67 2003 FEB 04 1999

FROM: Allen Merritt *AM*

DATE: July 14, 1998

TO: Transfer No. 5269  
Right No: 36-07317  
Name: LONG VIEW DAIRY

SUBJECT: Review and Recommendation

This transfer proposes to dry up irrigated acres (10.0) and convert the irrigation use to that of stockwater and commercial use associated with expansion of an existing dairy. The existing dairy is partially covered by 36-08061. The lands dried up under the license are those presently covered by a pivot. The pivot is proposed not to swing around quite as far as it does presently; thus drying up 10 acres.

The application was advertised without protest. In review of the right proposed to be transferred it appears there is a question of forfeiture of a portion of the base right which may have been overlooked when the base right was recently decreed in the SRBA. See Jim Stanton's 3/19/98 memo. The recent decree was for 120 acres. Jim's findings indicate that due to the expansion of the dairy over recent years the land proposed to be dried up has not been irrigated (It has already been dried up).

I recommend that the transfer be approved but the remainder of the right be limited to 92 acres (1.84 cfs) as it has been watered in the recent past:

|       |                 |                            |
|-------|-----------------|----------------------------|
| NENW  | 35 acres        |                            |
| NWNW  | 2 acres         |                            |
| SWNW  | 21 acres        | All Section 33, T08S, R16E |
| SEnw  | <u>34</u> acres |                            |
| Total | 92 acres        |                            |

\*Note that this recommendation is somewhat of a compromise position. It takes into consideration the recent policy that requires that dairies be considered 100% consumptive. This would require that for 40 afa, 13.3 acres be dried up. It also balances the forfeiture issue with the recent decree. On the one extreme if only 92 acres have been watered with a finding of forfeiture then they should only be allowed 78.7 acres remaining. On the other extreme if the decree is found binding, wiping the none use years clean and applying the diversion volume and not consumptive use volume then 110 acres should remain. I believe my recommendation is equitable.

I recommend that transfer #5269 be approved with the following conditions:

-The right split off for dairy use (36-07317B) when combined with 36-08061 is limited to 107.3 afa for the dairy barn and stockwater for the dairy string and dry cattle. 36-07317B provides an additional diversion volume of 40.0 afa above historical use. MICROFILMED

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-The uses for 36-07317B include:

|            |          |          |
|------------|----------|----------|
| Commercial | 0.20 cfs | 14.4 afa |
| Stockwater | 0.20 cfs | 25.6 afa |
| Total      | 0.20 cfs | 40.0 afa |

-The remaining irrigation portion of the subject right (36-07317A) is limited to 1.84 cfs (368.0 afa) for irrigation of 92 acres as listed above.

-Measuring device(s) shall be installed and maintained on the wells associated with the dairy and is subject to the West ESPA Measurement District measuring and reporting requirement.

-The remaining irrigation use is subject to North Snake Groundwater District &/or West ESPA Measurement District measuring and reporting requirements.

-Subject to all other local, state & federal requirements as needed.

-No new wells are authorized to be drilled under this approval.

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TO: File

DATE: July 13, 1998

FROM: Jim Stanton

SUBJECT: App. for Transfer, Long View Dairy

The present p/u is as follows; NE/NW (34-35 ac), NW/NW (2 ac), SW/NW (21 ac), SE/NW (34 ac), for a total of 91-92 acres. This much land has been irrigated within the last five years according to the ASCS records.

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# AFFIDAVIT of PUBLICATION

State of Idaho }  
County of Jerome } ss.

JUN 19 1998

Department of Public Safety  
Criminal Division

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Jerome North Side News, a newspaper published every week in Jerome, County of Jerome, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 11<sup>th</sup> day of June, 1998, and the date of the last publication was on the 18<sup>th</sup> day of June, 1998.

Patty Nance

Subscribed and sworn to before me this 18<sup>th</sup> day of June, 1998.

(SEAL)

Norman Doe  
NOTARY PUBLIC

# 21192/7606  
NORTH SIDE NEWS  
Jerome, Idaho

## COST OF PUBLICATION

Number of Picas per Line \_\_\_\_\_

Number of Lines in Notice \_\_\_\_\_

Number of Insertions 2x

affidavit fee 2.25

Lines tabular at \_\_\_\_\_ 7¢/Pica  
587.81 Lines straight at 35.27 6¢/Pica  
587.81 Subsequent lines at 29.39 5¢/Pica

TOTAL COST 666.91  
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## COPY OF NOTICE

(Paste Here)

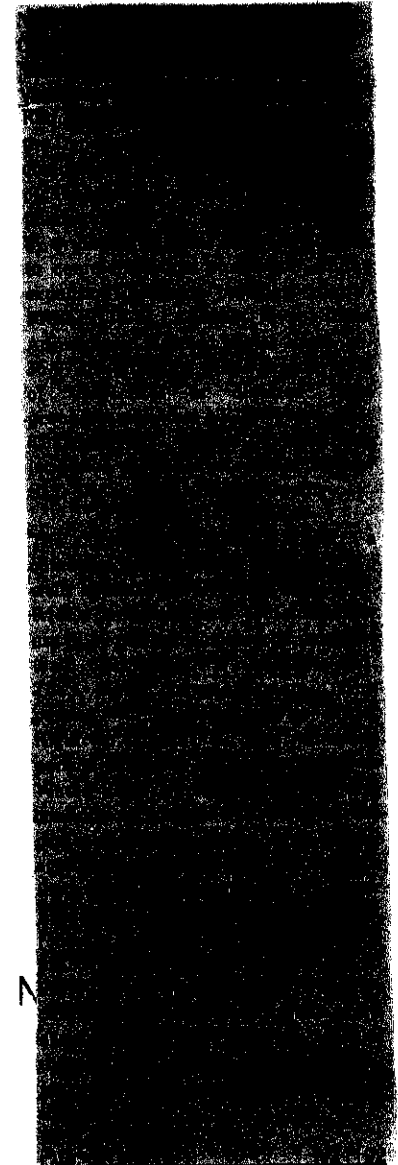
Longview Dairy #T-5269  
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resource  
BILL TO



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OCT 07 2007



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

June 2, 1998

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

LEGALS DEPT  
MAGIC VALLEY PUBLISHING CO  
ATTN North Side News  
PO BOX 468  
JEROME ID 83338

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates.

We have attempted to submit this legal as camera ready. Please call me at your earliest convenience and prior to your staff re-typing the legal if it does not meet your specifications so I can possibly make adjustments.

If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

Mary Baldwin  
Sr. Secretary

Enclosure

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NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
No. T# 5269

Notice is hereby given that LONG VIEW DAIRY, 381-D BOB BARTON RD; JEROME ID 83338 has applied to the Department of Water Resources for changes to a water right.

The purpose of Transfer No. 5269 is to convert a portion of the right from irrigation use by drying up 10 acres and changing use to commercial and stockwater in the expansion of an existing dairy.

**PRESENTLY,** Snake River Basin Adjudication Decreed Water Right No. 36-07317 (2.40 cfs) with a priority date of 03/21/1973 is diverted from groundwater within NE1/4NW1/4, S33, T08S, R16E; Jerome County for irrigation of 120 acres within parts of S33, T08S, R16E; Jerome County.

**PROPOSED CHANGE**

The applicant wishes to divert a combined total of 0.20 cfs from two wells within NW1/4NW1/4, S33, T08S, R16E; Jerome County for stockwater use (0.20 cfs) and commercial dairy use (0.20 cfs) within NW1/4NW1/4, S33, T08S, R16E; Jerome County. This portion will be designated as Water Right No. 36-07317B. The remaining portion (2.20 cfs) will be designated as Water Right No. 36-07317A and will continue to irrigate 110 acres at the present place of use.

Any protest against the proposed changes must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before June 29, 1998 to be considered by the Department in its decision to grant or deny any part of the proposed change. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the North Side News on 6/11 & 6/18/98.

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

June 1, 1998

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

ATTN ROBERT E KRUCKER  
LONG VIEW DAIRY  
381-D BOB BARTON RD  
JEROME ID 83338

Re: Application for Transfer No. 5269 (36-07317 Part)

Dear Applicants:

The Department of Water Resources acknowledges receipt of your Application for Transfer.

This office has scheduled advertising the application in the North Side News for 6/11 and 6/18/98. The advertisement will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

State Office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

James E. Stanton  
Sr. Water Resource Agent

JS:MB

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FEB 04 1999

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JUN 07 2003

TO: File

DATE: March 19, 1998

FROM: Jim Stanton

SUBJECT: App. for Transfer, Long View Dairy (Bob Krucker)

I have reviewed the ASCS records for the last several years on this property, and then visited the property. I viewed the farm ground from my truck while driving the county roads or stopping for a better look. Later I spoke to Mr. Krucker to clarify a couple of points. My conclusion is that, since 1987, no more than 92 acres have been irrigated under Right 36-07317; the land that is proposed to be dried up under this transfer has not been irrigated during this period. However, this right was decreed on 120 acres by the SRBA Court. There are at least 10 acres of other land outside the pivot that are irrigated from this well. If *res judicata* applies, then the transfer should be approved as filed. If it does not apply, then 10 other acres outside the pivot will need to be dried up in order to prevent an expansion. This will also affect the number of remaining decreed acres after the transfer, which could be either 110 as proposed or ~~82~~ that are actually irrigated.

92

8

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T # 5269



**Farm Credit Services**

1363 Fillmore Street  
P.O. Box 5059  
Twin Falls, Idaho 83303-5059  
208/733-2577

February 20, 1998

Department of Water Resources  
1341 Fillmore St. Suite 200  
Twin Falls, ID 83301

To Whom It May Concern,

Whereas Northwest Farm Credit Services, ACA has a first mortgage on the ground located in the NW1/4 of Section 33, T8S R16E, this letter is to confirm our consent for Long View Dairy (Bob and Kathy Krucker) to transfer 40 AF of water from Water Right 36-07317 to Water Right 36-08061.

If you have any questions, please call our office at 733-2577. Thank You.

Sincerely,

Jeffrey D. Osborne  
Senior Credit Officer

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State of Idaho  
Department of Water Resources

# WATER RIGHT LICENSE

WATER RIGHT NO. 36-08061

Priority: February 9, 1982

Maximum Diversion Rate:

0.20 CFS

Maximum Diversion Volume:

67.3 AF

This is to certify, that LONG VIEW DAIRY  
381D BOB BARTON RD  
JEROME ID 83338

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 9, 1982; and has submitted Proof of Beneficial Use on June 29, 1983. An examination indicates that the works have a diversion capacity of .310 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| STOCKWATER            | 01/01 to 12/31       | 0.20 CFS                 | 25.1 AF              |
| COMMERCIAL            | 01/01 to 12/31       | 0.20 CFS                 | 42.2 AF              |
|                       | Totals               | 0.20 CFS                 | 67.3 AF              |

LOCATION OF POINT(S) OF DIVERSION:

NWNW , Sec. 33, Township 08S, Range 16E  
JEROME County

PLACE OF USE: STOCKWATER  
TWN RGE SEC

08S 16E 33 NWNW

PLACE OF USE: COMMERCIAL, same as STOCKWATER use

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Return flow if discharged to a surface water system shall meet Idaho Water Quality Standards.
6. Stockwater use is for 120 range and 600 dairy cattle.
7. Commercial use is for a dairy.

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FEB 04 1999

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

1999 JAN 15 PM 12:17

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 36-07317

Snake River Basin Adjudication  
TWIN FALLS CO., IDAHO  
FILED

NAME & ADDRESS: LONG VIEW DAIRY  
381-D BOB BARTON RD  
JEROME ID 83338

SOURCE: GROUNDWATER

QUANTITY: 2.4 CFS  
480.0 AFY

PRIORITY DATE: 03/21/1973

POINT OF DIVERSION: T08S R16E S33 NWNEW Within JEROME County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY             |
|-------------------------------|----------------|-------------------|----------------------|
| IRRIGATION                    |                | Irrigation Season | 2.4 CFS<br>480.0 AFY |

| PLACE OF USE: | IRRIGATION                       | Within JEROME County              |
|---------------|----------------------------------|-----------------------------------|
|               | T08S R16E S33<br>120 ACRES TOTAL | NENW 40      SWNW 40      SENW 40 |

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

A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE  
MAINTAINED AS A PART OF THE DIVERTING WORKS.

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.

  
DANIEL C. HURLBUTT, JR.  
PRESIDING JUDGE  
Snake River Basin Adjudication

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)  
Water Right 36-07317

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PAGE 1  
DEC-16-1997

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SOUTHERN REGION  
1341 FILLMORE STREET, SUITE 200  
TWIN FALLS ID 83301-3380  
(208) 736-3033

GOVERNOR

KARL J DREHER  
DIRECTOR

December 30, 1997

Longview Dairy  
ATTN: Robert E. Krucker  
81 Bob Barton Road  
Jerome, Idaho 83338

Dear Mr. Krucker,

I am writing you this letter to inform you of the results of my well inventory inspection performed on the Longview Dairy on 12-17-97 for the West ESPA Measurement District (WMD). During this inspection I concluded that out of the three wells that you have for the dairy only one of those wells will need a measurement device at this time.

The 15 Hp well is the only well that is required to have a measurement device at this time. My inspection showed that you have already installed a Grainland Flow Meter on this well. I calibrated this meter at the time of my inspection and discovered that it was operating 20 % below the standard meter I used to calibrate the meter. Therefore, to get an accurate annual volume we will multiply the total acre feet of that meter by 1.25 to get a more accurate annual volume for 1997. During my inspection I calibrated your meter to my portable meter. After my adjustment your meter was reading 1.8 % low, which is well within the standards set by the WMD. We will be able to take a direct reading in 1998 unless the meter is replaced and then I will have to come out and recalibrate the meter.

The 7.5 Hp well is set up to supply water to two houses and to backup the dairy well in case of an emergency. I discovered that the 7.5 Hp well is not directly connected to the dairy barn, but can be connected using a fire hose assembly. I have recommended that this well not be measured unless it is connected to the dairy barn by the fire hose. If it is connected then the amount of water will have to be monitored and reported. However if this well is permanently connected to the dairy then it will have to be measured and reported.

The 5 Hp well is not connected to the system and is below the required measurement standard for the WMD. However if it is connected to the dairy's system then it too will need a measurement device. The irrigation well is apart of the North Snake Groundwater District and is not under the WMD jurisdiction.

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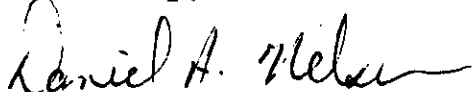
DEC 07 2003

T # 5029

I would like to inform you that your water right for the dairy is limited to 67.30 annual acre feet of water. According to the records that you have submit to the WMD in 1996 you diverted approximately 128.6 acre feet. You did state that you have been having problems with your meter which might account for the overuse. If you continue to show that you are using more water than your water rights allows, I would strongly recommend that you come to the Southern Office of the Idaho Department of Water Resources and file a transfer to establish the correct amount of water used in the dairy on a water right.

If you have any questions or concerns please contact me at the above address or telephone number.

Sincerely,



Daniel A. Nelson  
Water Right Agent  
Southern Office  
Idaho Department of Water Resources

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FEB 2 2004

State of Idaho  
Department of Water Resources

RECEIVED

MAR 28 1975

Department of Water Resources  
Southern District Office

WATER RIGHT LICENSE

License of Water Right No. 36-7317 Priority March 21, 1973 Amount 3.20 cfs

THIS IS TO CERTIFY, that C. E. & G., INC.  
of Twin Falls, Idaho, has complied with the terms and conditions of Permit  
No. 36-7317 issued pursuant to Application for Permit dated March 21, 1973,  
and has submitted proof to the Department of Water Resources on March 26, 1974,  
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a  
capacity for the diversion of 3.23 cfs of water from a ground water source,  
tributary to \_\_\_\_\_, and that the permit holder has applied to a beneficial use and  
established a right to use water as follows:

| Beneficial Use    | Period of Use                          | Rate of Diversion      | Annual Volume           |
|-------------------|----------------------------------------|------------------------|-------------------------|
| <u>Irrigation</u> | from <u>March 15</u> to <u>Nov. 15</u> | at <u>3.20</u> cfs and | <u>640 acre feet or</u> |
|                   | from _____ to _____                    | at _____ cfs and       | <u>4.0 af per acre</u>  |
|                   | from _____ to _____                    | at _____ cfs and       | _____                   |

(both dates inclusive)

Subject, however, to the condition that no more than 3.20 cfs of water be diverted at any one time, and  
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose  
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed  
640 acre feet per year, said waters to be diverted within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Sec. 33,  
Twp. 8 S, Rge. 16 E, B.M. in the County of Jerome

Description and location of place of use:

| Twp. | Range | Sec. | NE $\frac{1}{4}$ |                  |                  |                  | NW $\frac{1}{4}$ |                  |                  |                  | SW $\frac{1}{4}$ |                  |                  |                  | SE $\frac{1}{4}$ |                  |                  |                  | Totals |
|------|-------|------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------|
|      |       |      | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ |        |
| 8 S  | 16 E  | 33   |                  |                  |                  |                  | 40               | 40               | 40               | 40               |                  |                  |                  |                  |                  |                  |                  |                  | 160    |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |

Total number of acres irrigated 160

A measuring device of a type approved by this Department shall be permanently  
maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho  
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use  
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 26 day of  
March, 19 75.

Director