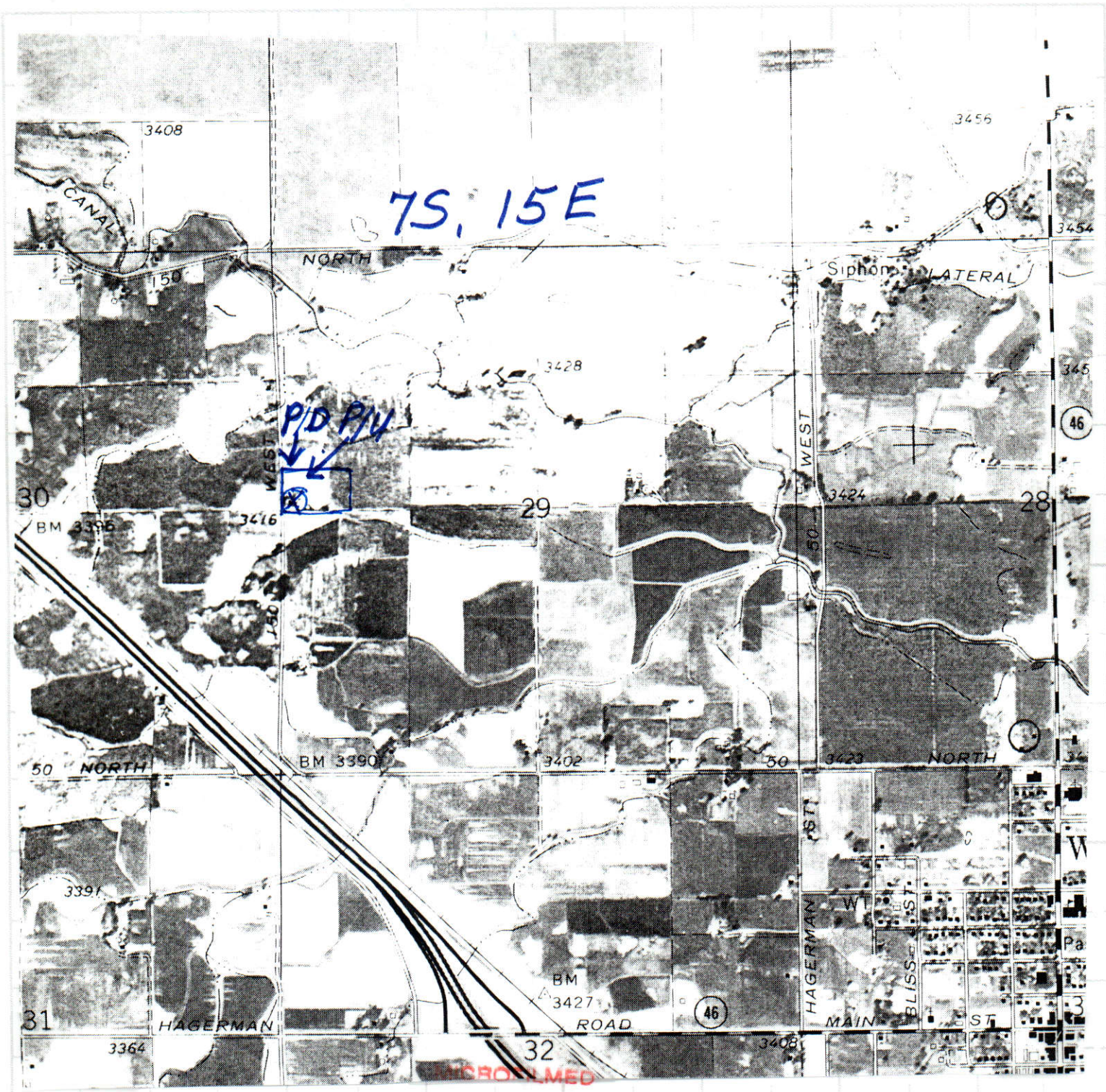
Transfer No. 4723

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



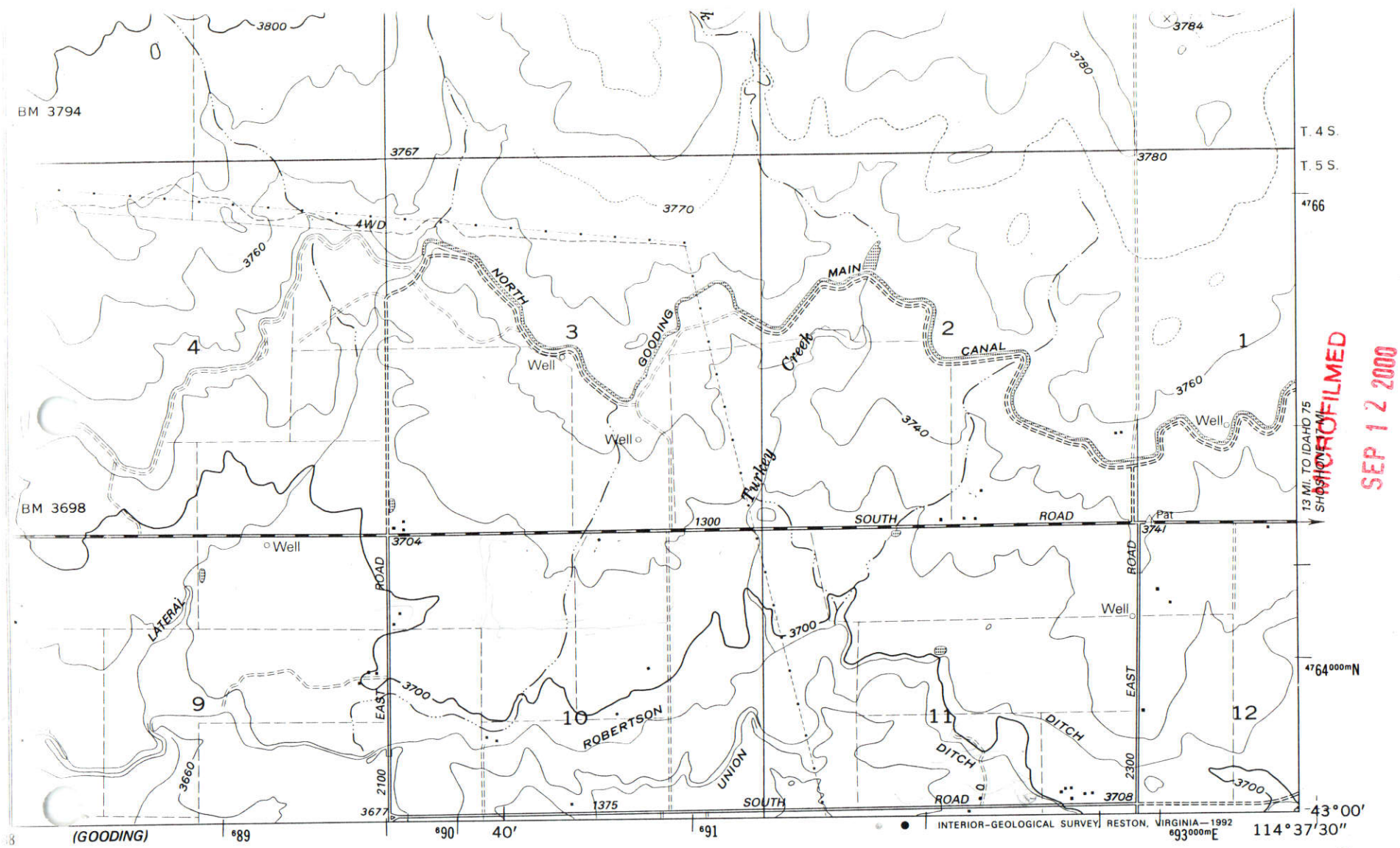
7S, 15E

P/D P/U

MICROFILMED

SEP 12 2000

SCALE: 2 inches equal 1 mile. Draw plan in ink.



SCALE 1:24 000

0 1 MILE

2000 3000 4000 5000 6000 7000 FEET

0 1 KILOMETER

NTOUR INTERVAL 20 FEET
NES REPRESENT 10-FOOT CONTOURS
GEODETIC VERTICAL DATUM OF 1929

S WITH NATIONAL MAP ACCURACY STANDARDS
RVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
GRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

ROAD CLASSIFICATION

Primary highway, hard surface

Secondary highway, hard surface

Light-duty road, hard or improved surface

Unimproved road

Interstate Route U. S. Route State Route



QUADRANGLE LOCATION

THORN CREEK SW, IDAHO

43114-A6-TF-024

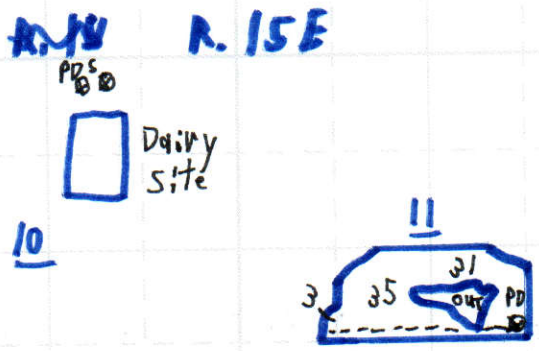
1957
REVISED 1992
DMA 3070 II SW-SERIES V893

T #47322
SEP 12 2000
MICROFILMED

Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



MICROFILMED
SEP 12 2000

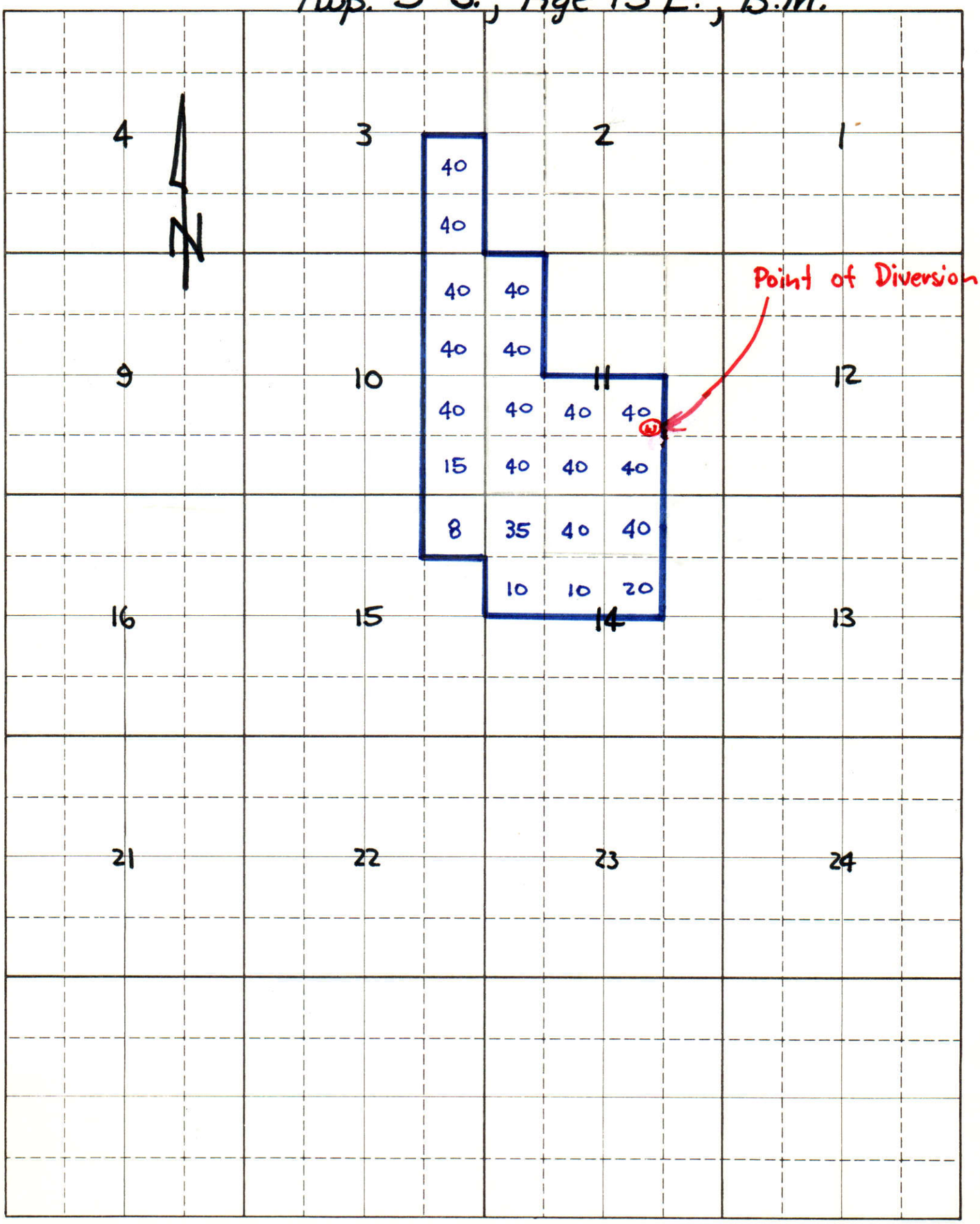
SCALE: 2 inches equal 1 mile. Draw plan in ink.

1505
T-8

T#4722

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Twp. 5 S., Rge 15 E., B.M.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Arkoosh Cedars Inc
Leroy Arkoosh Pres.
(Applicant)

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
County of Gooding }

Kim R. Crompton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 7 day of April, 19 77, and the date of the last publication was on the 14 day of April, 19 77.

Kim R. Crompton

Subscribed and sworn to before me this 14 day of April, 19 77.
(SEAL)

Carmen Harris
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice	40	40
Number of Insertions	2	2
Lines tabular at 315c		
40 Lines straight at 40 21c		8.40
40 Subsequent lines at 40 15c		6.—
TOTAL COST		14.40

MEMO LINED

COPY OF NOTICE

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Arkoosh & Zidan Inc., Rte. #1, Gooding, Id. 83330 has on 3/28/77 submitted Application No. 37-7575 for a permit to appropriate 13.96 cubic feet per second of water from groundwater by means of well, motor & pump within the NW¼SE¼, Sec. 11, Twp. 5S, Rge. 15E., B.M., Gooding County to be used from April 1 to Nov. 1 for irrigations purposes of 698 acres within the W½NW¼, SW¼, W½-SE¼, Sec. 11; E½NE¼, E½-SE¼, Sec. 10; E½SE¼, Sec. 3; NE¼NE¼, Sec. 15; W½-NE¼, NW¼, Sec. 14; Twp. 5S, Rge. 15E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before April 25, 1977.

Director
Pub: 4-7, 14

OK / SB / 4-19-77

RECEIVED
APR 19 1977
Department of Water Resources
Southern District Office

PUBLICATION RATES
(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

19360

No. 1175

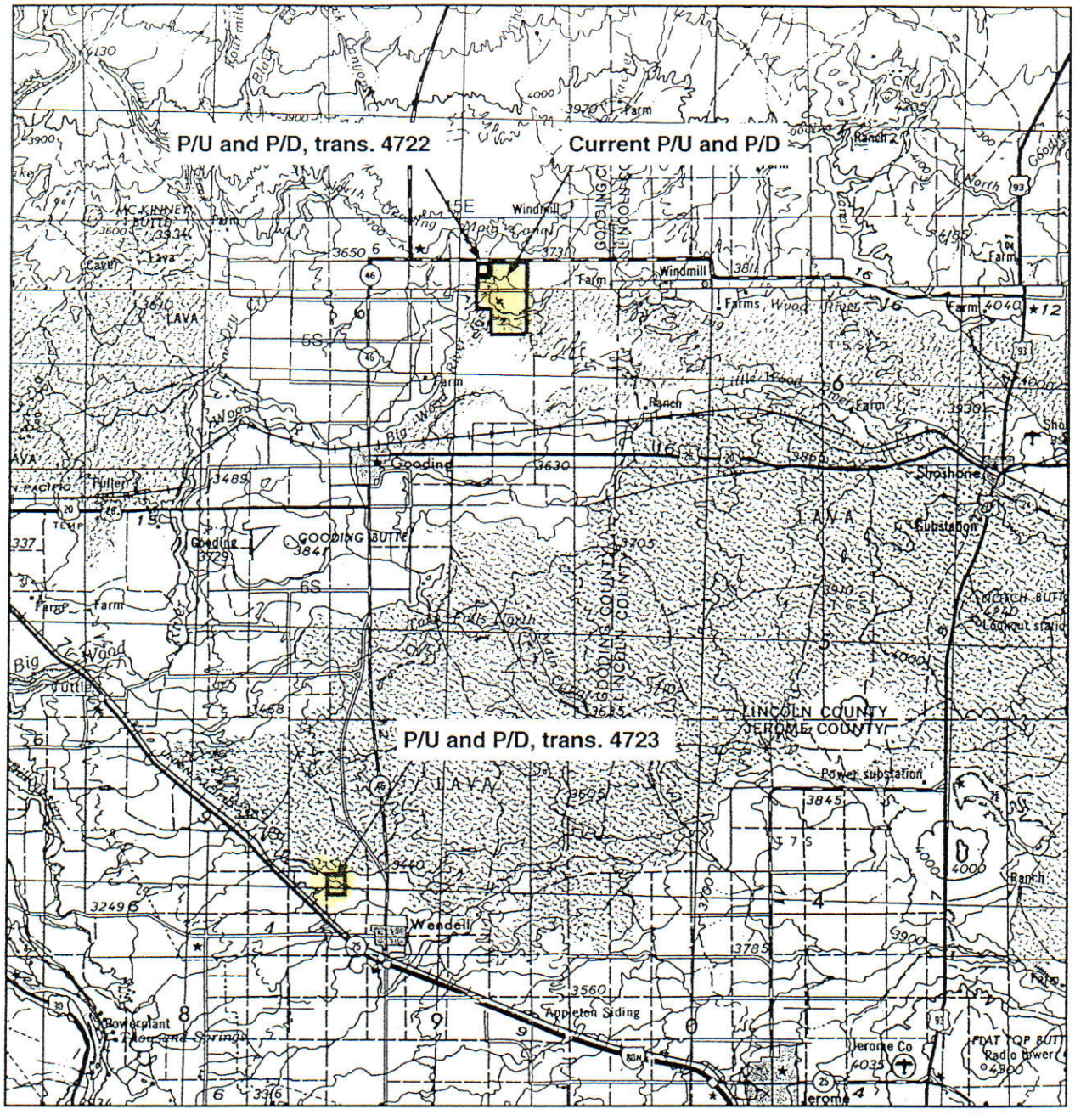


Figure 1. Vicinity map for transfer applications 4722 and 4723 (license 37-07575) for North Valley Milk, Inc.

Brockway Engineering, PLLC 11/25/96

MICROFILMED
SEP 12 2000

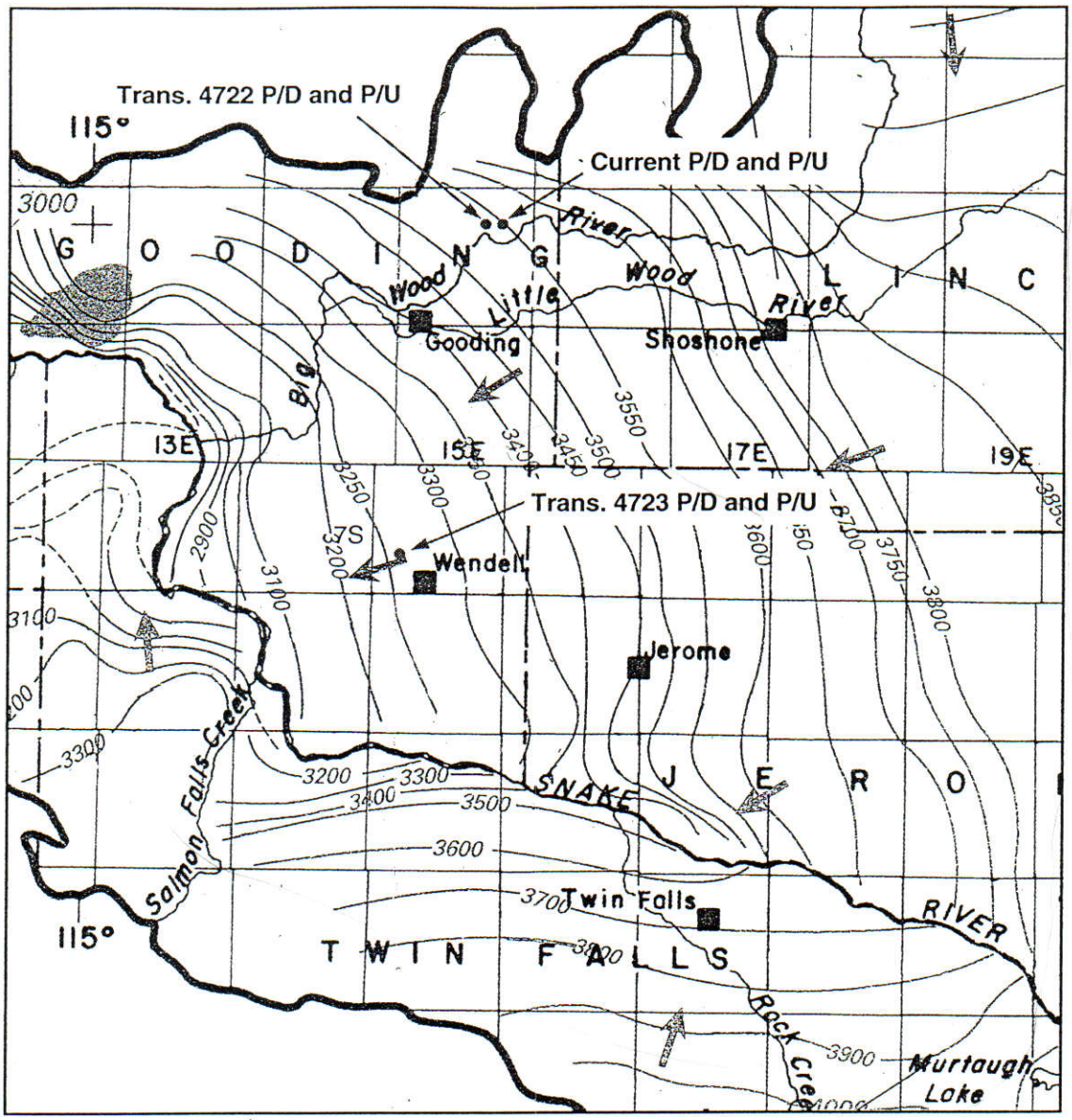


Figure 2. A portion of USGS Atlas HA-703 showing Spring 1980 water table configuration for North Valley Milk, Inc. transfer applications 4722 and 4723 (license 37-07575).

Brockway Engineering, PLLC 11/25/96

MICROFILMED
SEP 12 2000

1505

T-8

Transferred Off

Pumping 150 - 20 psi

UR 10 HP

Union Dist

MICROFILMED

SEP 2000

T #4722



Lands presently being irrigated by well in background. Blue pipeline is from pump diverting ditch water. Systems not connected.



Well associated with transfers # 4722 & # 4723.

MICROFILMED
SEP 12 2003



Well associated with new transfers
#4897 & #4898.

MICROFILMED
SEP 12 2000


1505
T8
OUT
OUT
MICROFILMED
SEP 12 2000
T#4722

AFFIDAVIT of PUBLICATION

RECEIVED
JAN 25 1996
Department of Water Resources
Southern Region

State of Idaho
County of Gooding } ss.

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 17 day of Jan., 19 96, and the date of the last publication was on the 24 day of Jan, 19 96.

Patty Nance

Subscribed and sworn to before me this 24th day of January, 19 96

(SEAL)

Norma DeVore
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

OK MB 1/26/96

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice _____
Number of Insertions 21
Affidavit Fee $2.25

_____	Lines tabular at	_____	6¢/Pica
321.75	Lines straight at	16.09	5¢/Pica
321.75	Subsequent lines at	12.87	4¢/Pica
	TOTAL COST	31.21	

MICROFILMED
SEP 12 2000

COPY OF NOTICE

(Paste Here)

Appl. for Transfer #37-07575
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. Water Res.
BILL TO

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

Notice is hereby given that Application for Transfer of a portion of Water Right No. 37-07575 and further described as Transfer No. 4722 filed by NORTH VALLEY MILK, INC., 425 N 250 W; SHOSHONE ID 83352 and published on 10/11 & 10/18/95 has been AMENDED.

The purpose of this modification is to change the proposed place of use for the new dairy from the E1/2NE1/4 to the W1/2NE1/4, S10, T5S, R15E.

Any protest against approval of the Amended Transfer must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of $25.00 on or before February 5, 1996. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Gooding County Leader on 1/17 & 1/24/96.

7-8 pt. per line straight.....5¢/Pica
7-8 pt. per line successive insertions.....4¢/Pica

№ 5956
2328

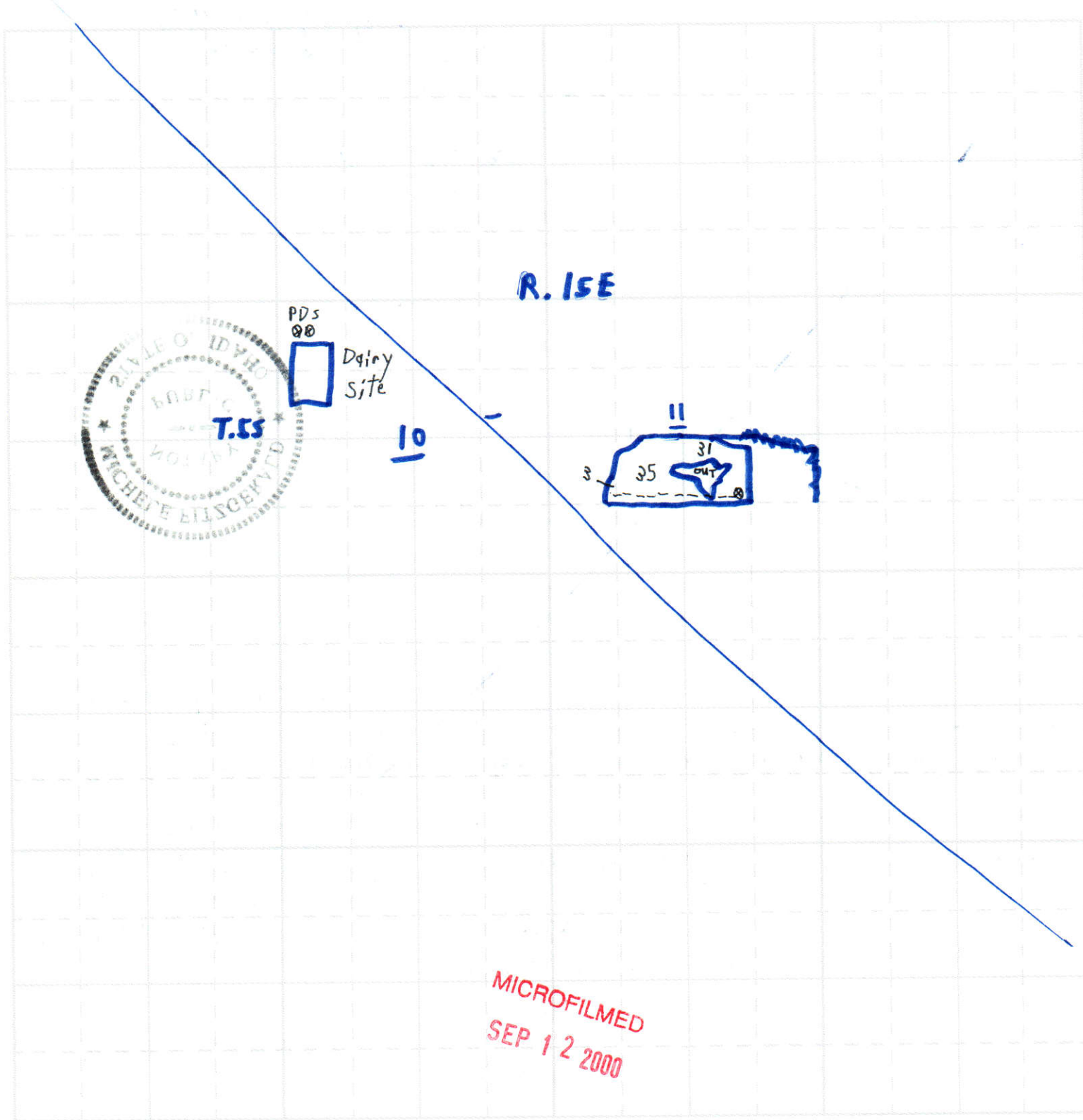
Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



MICROFILMED
SEP 12 2000

SCALE: 2 inches equal 1 mile. Draw plan in ink.

AFFIDAVIT of PUBLICATION

RECEIVED
OCT 20 1995
Department of Water Resources
Southern Region

State of Idaho } ss.
County of Gooding }

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 day of Oct., 1995 and the date of the last publication was on the 18 day of Oct., 1995.

Patty Nance

Subscribed and sworn to before me this 18th day of October, 1995.
(SEAL)

Norma DeVoe
NOTARY PUBLIC

#10989/6118

GOODING COUNTY LEADER
Gooding, Idaho

OK MB 10/20/95

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice _____
Number of Insertions 2X
Affidavit Fee $2.00

_____	Lines tabular at	_____	6¢/Pica
1309	Lines straight at	65.45	5¢/Pica
1309	Subsequent lines at	52.36	4¢/Pica
	TOTAL COST	119.81	

MICROFILMED
SEP 12 2000

COPY OF NOTICE

(Paste Here)

Not. Prop. of Water Right Chg.
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

St. Dept. Water Res.
BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that NORTH VALLEY MILK, INC.,425 N 250 W;SHOSHONE ID 83352 has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of IDAHO CODE and further described as Transfer No. 4722.

The purpose of this application is to add diversion point(s), change the place of use, change the Nature of Use, change the period of use, and split the water right as well as convert from irrigation use to dairy use for a portion of the water right.

WATER RIGHT AS RECORDED:
Water Right No. 37-07575
Basis: License
Date of Priority: 3/28/1977
Source: groundwater
Use: irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: NW1/4SE1/4, S11, T5S, R15E; Gooding County.
Place of Use: 354 acres within SE1/4SE1/4, S10; E1/2SW1/4, SW1/4SW1/4, W1/2SE1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.
A claim has been filed in the Snake River Basin Adjudication.
PROPOSED CHANGES:
Total amount of water being transferred: 1.76 cfs
Water Right No. 37-07575A
Use: irrigation (1.38 cfs) 4/1-10/31
Point of Diversion: SE1/4NW1/4SE1/4, S11, T5S, R15E (existing well); Gooding County.
Place of use: 69 acres within N1/2SW1/4, NW1/4SE1/4, S11, T5S, R15E.
Water Right No. 37-07575B
Use: 1/1-12/31
stockwater (0.38 cfs)
commercial (0.38 cfs)
Point of Diversion: NE1/4NE1/4, S10, T5S, R15E (Two new wells to be drilled); Gooding County.
Place of use: E1/2NE1/4, S10, T5S, R15E.

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The purpose of this application is to add diversion point(s), change the place of use, change the Nature of Use, change the period of use, as well as convert from irrigation use to dairy use for a portion of the water right. The Water Right was split in Companion Transfer No. 4722.

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Basis: License
Date of Priority: 3/28/1977
Source: groundwater
Use: irrigation (2.21 cfs) 4/1-11/1
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A claim has been filed in the Snake River Basin Adjudication.
PROPOSED CHANGES:
Water Right No. 37-07575C
Use: 1/1-12/31
stockwater (0.15 cfs)
commercial (0.15 cfs)
Total amount of water being transferred: 0.15 cfs
Point of Diversion: SW1/4SW1/4NW1/4, S29, T7S, R15E; Gooding County.

sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 day of Oct., 19 95, and the date of the last publication was on the 18 day of Oct., 19 95.

Patty Nauer

Subscribed and sworn to before me this 18th day of October, 19 95.

(SEAL)

Norma DeVoe
NOTARY PUBLIC

#10989/6118

GOODING COUNTY LEADER

Gooding, Idaho

OK MB 10/20/95

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2X

Affidavit Fee $2.00

_____ Lines tabular at _____ 6¢/Pica

1309 Lines straight at 65.45 5¢/Pica

1309 Subsequent lines at 52.36 4¢/Pica

TOTAL COST 119.81

MICROFILMED
SEP 12 2000

_____
DEFENDANT

_____
PLAINTIFF

St. Id. Dept. Water Res.
BILL TO

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A claim has been filed in the Snake River Basin Adjudication.
PROPOSED CHANGES:
Water Right No. 37-07575C
Use: 1/1-12/31
stockwater (0.15 cfs)
commercial (0.15 cfs)
Total amount of water being transferred: 0.15 cfs
Point of Diversion: SW1/4SW1/4NW1/4, S29, T7S, R15E; Gooding County.
Place of use: SW1/4NW1/4, S29, T7S, R15E.
Any protest against approval of the proposed change of water right applications must be filed with the Department of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of $25.00 on or before October 30, 1995. The protestant must also send a copy of the protest to the applicant.
Karl J. Dreher, Director
Published in the Gooding County Leader on 10/11 & 10/18/95.

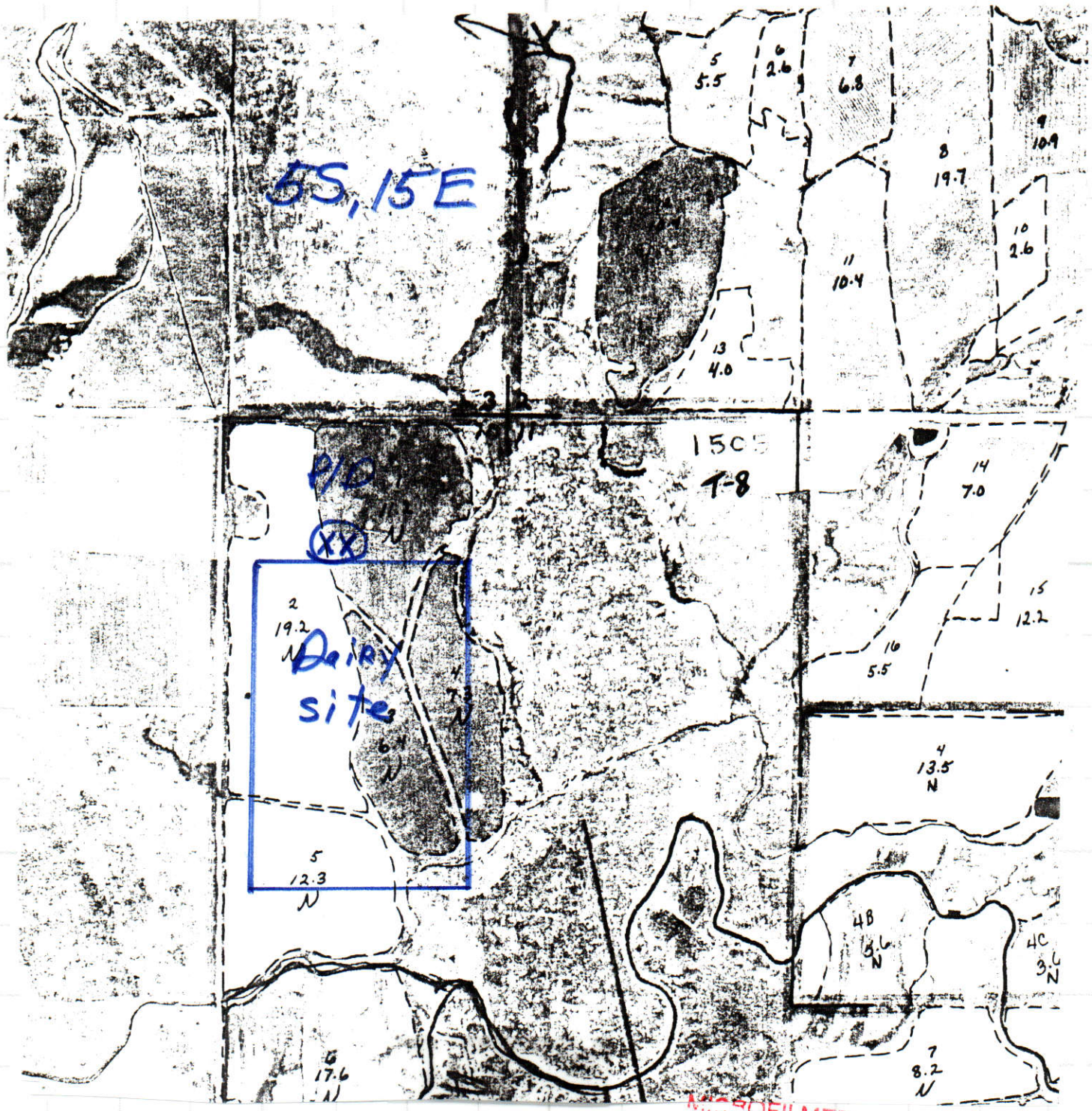
Page _____ of _____ Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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MICROFILMED
SEP 12 2000

SCALE: 2 inches equal 1 mile. Draw plan in ink.

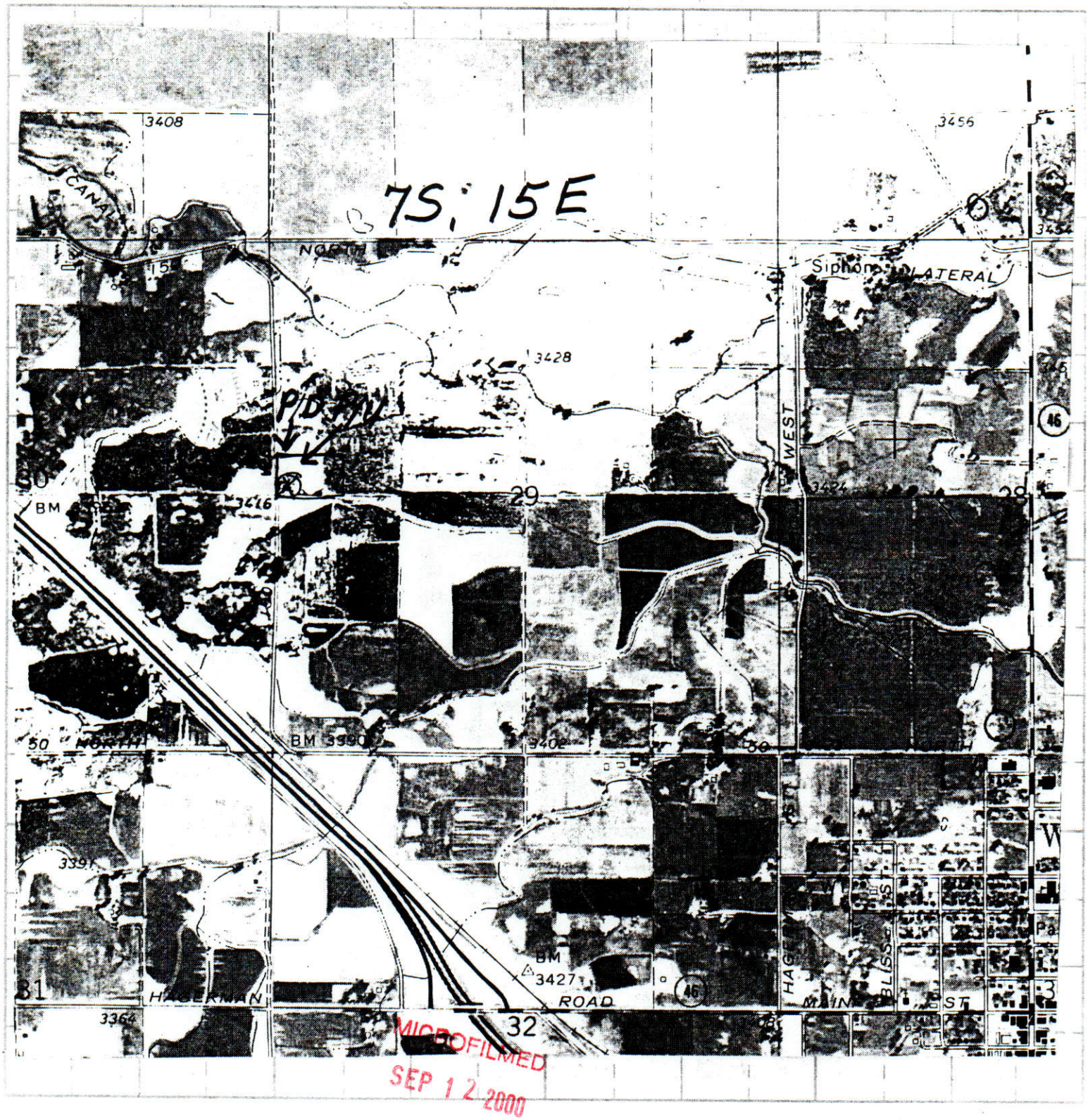
Transfer No. 4723

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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MICROFILMED
SEP 12 2000

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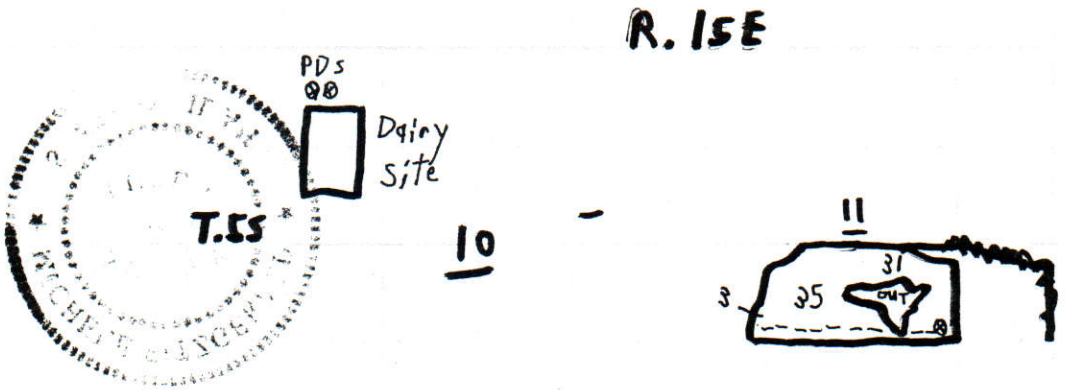
Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

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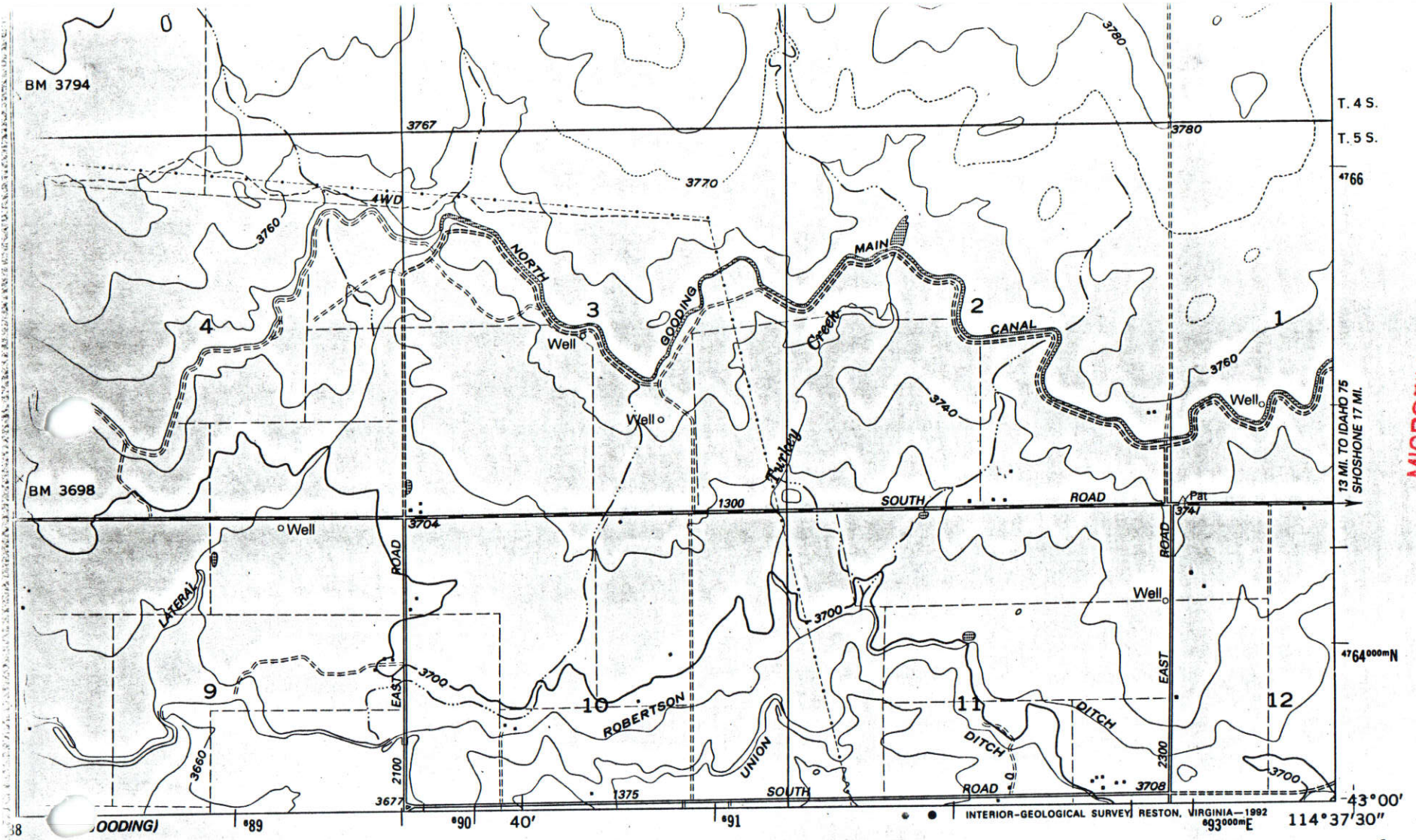


MICROFILMED
SEP 12 2000

SCALE: 2 inches equal 1 mile. Draw plan in ink.

MICROFILMED
SEP 12 2000





SCALE 1:24 000

0 1 MILE

2000 3000 4000 5000 6000 7000 FEET

0 1 KILOMETER

NTOUR INTERVAL 20 FEET
NES REPRESENT 10-FOOT CONTOURS
GEODETIC VERTICAL DATUM OF 1929

S WITH NATIONAL MAP ACCURACY STANDARDS
RVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
GRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

IDAHO

QUADRANGLE LOCATION

ROAD CLASSIFICATION

Primary highway, hard surface

Secondary highway, hard surface

Light-duty road, hard or improved surface

Unimproved road

Interstate Route U. S. Route State Route

THORN CREEK SW, IDAHO

43114-A6-TF-024

1957
REVISED 1992
DMA 3070 II SW-SERIES V893

MICROFILMED
SEP 12 2000

T #4732

2-71

Form 219
6/86

RECEIVED
FEB 03 1989
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 37-7575

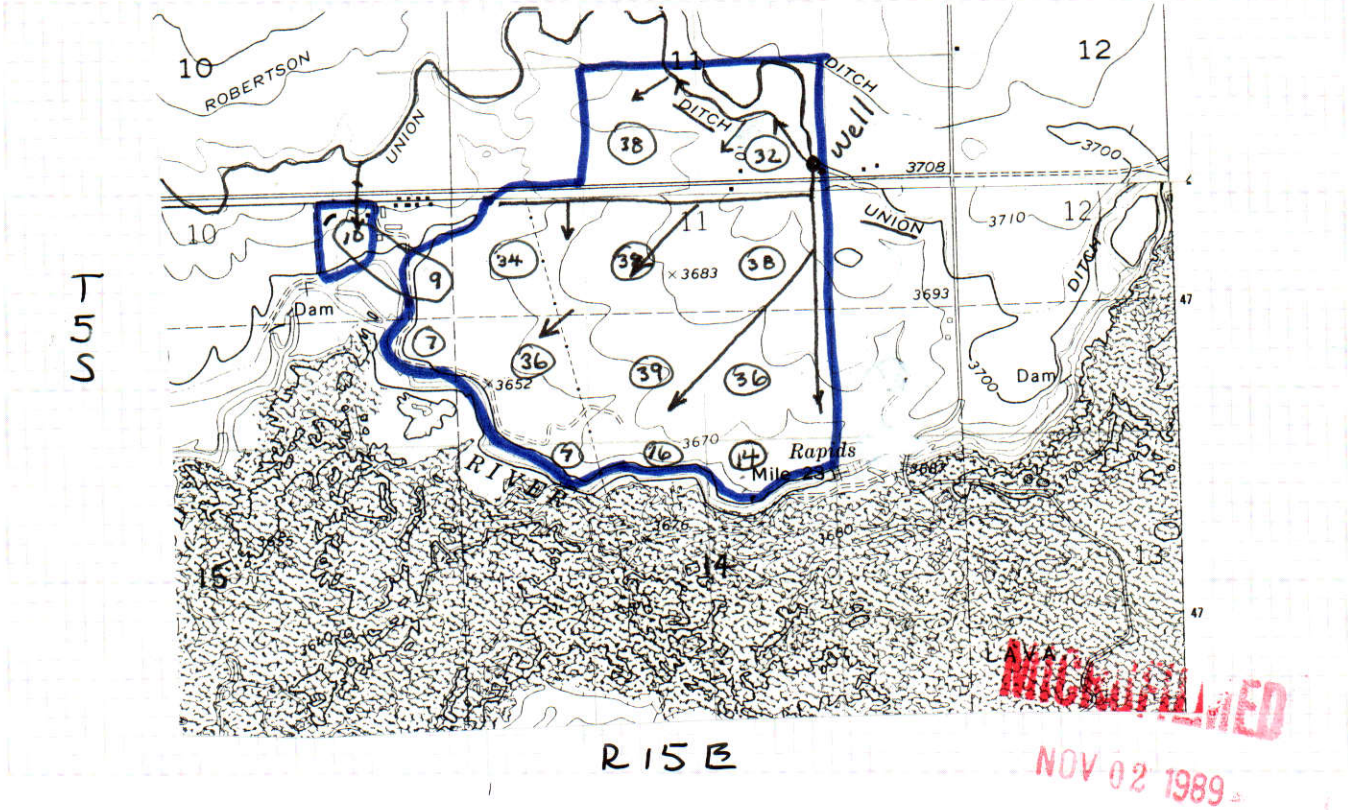
1. Owner: ARKOOSH & Zidan Inc. Phone No. 934-5044
   Current Address: Rte 1, Gooding, Ida. 83330
2. Accompanied by: Mitch ARKOOSH EXAM. DATE: 6-25-87
   Address: _____ Phone No. _____
   Relationship to Permit Holder: Son
3. Source: groundwater, tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: This ground is irrigated w/ Wood River Water. ☐ Copies Attached
2. Other water rights with same point of diversion: _____
   _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

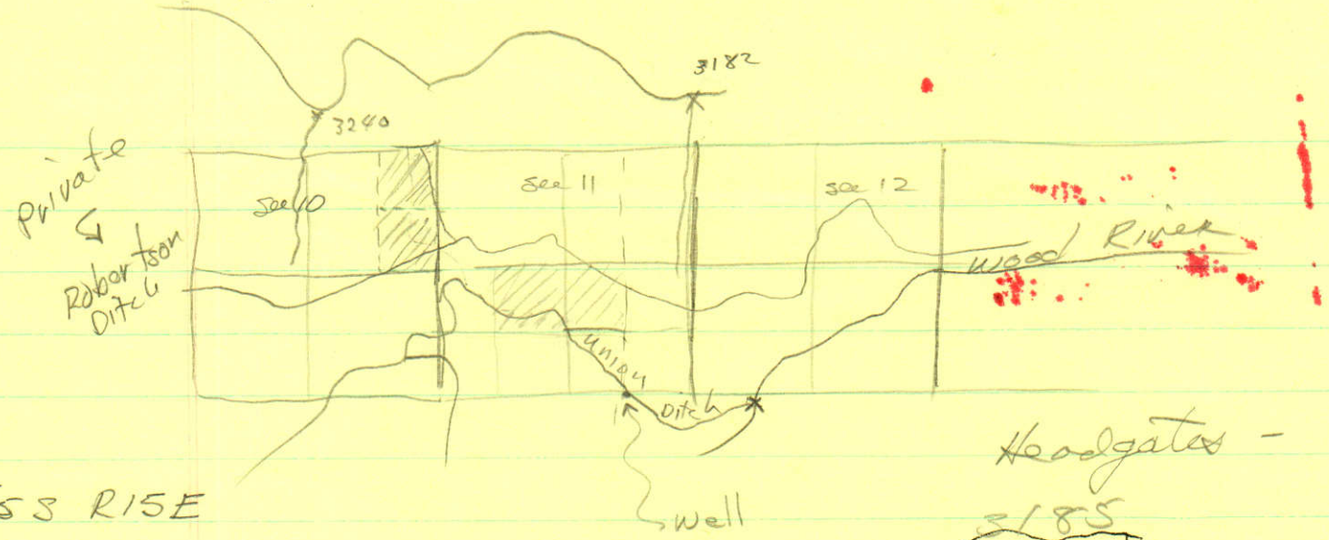
1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



RECEIVED
NOV 02 1989

Scale: 1" = _____.

2. ☐ Copy of U.S.G.S. Quadrangle Attached
   Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☒ Aerial Photo Attached
   (required for irrigation of 10 acres or more).
   ☐ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.



T 5 S R 15 E

Headgates -
≈185
3182
3240

ARKOOSHZIDAN -
E½ NE¼ Sec. 10 5N 15E

No Agreement w/Canal Co to discharge in Union

14) owner in Robertson Ditch.
Has to have agreement to use this Ditch w/the owners -

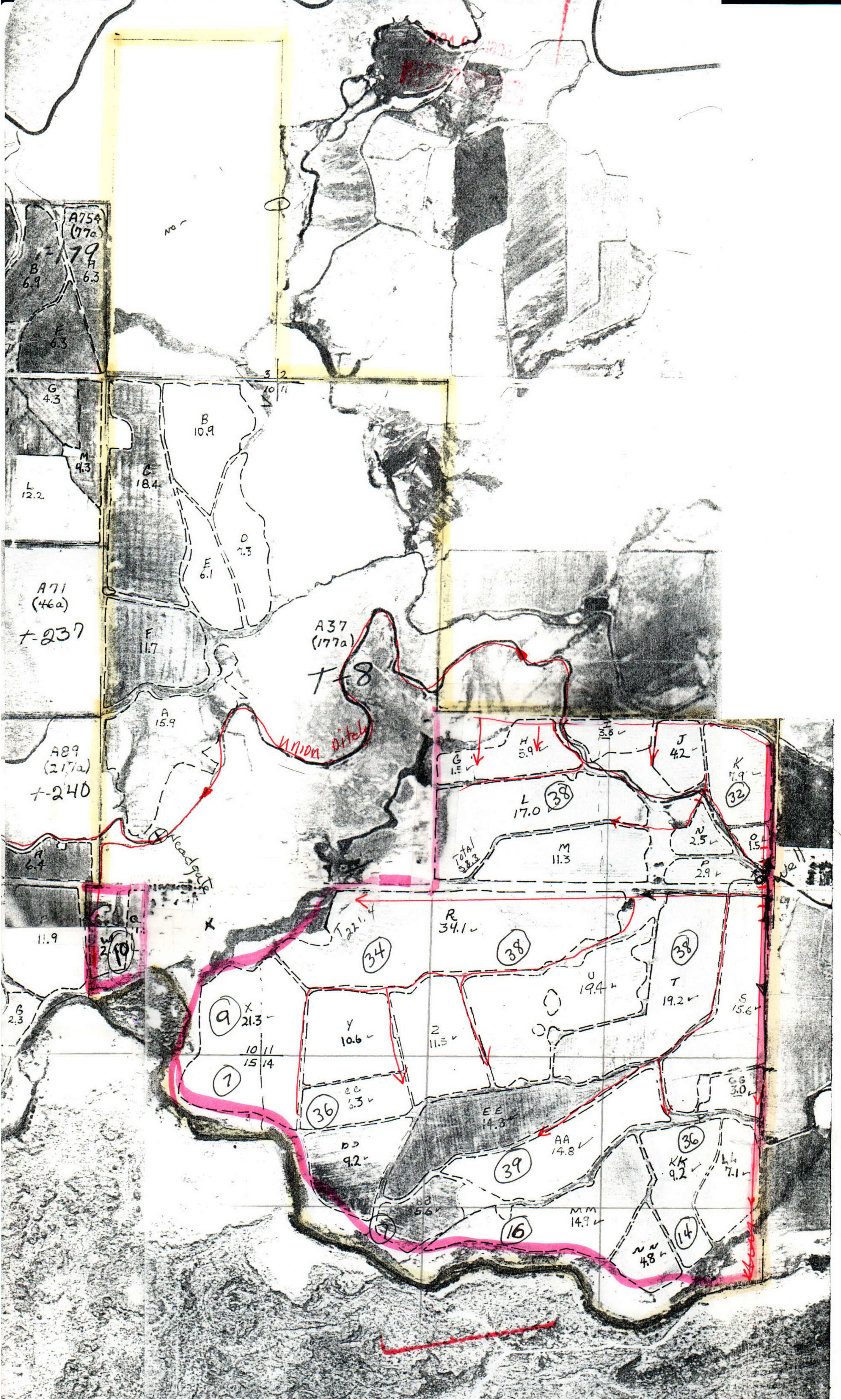
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37-7575

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NOV 02 1989



well / motor & pump.
open discharge into ditch


A754 (77a)
+-79
A 6.3
B 6.9
F 6.3
G 4.3
M 4.3
L 12.2
B 10.9
C 18.4
D 2.3
E 6.1
A71 (46a)
+-237
F 11.7
A37 (177a)
+-8
A 15.9
A89 (217/a)
+-240
Union Ditch
Headgate
A 6.4
11.9
2.3
I 3.6
J 4.2
H 5.9
G 1.3
K 7.9
L 17.0
N 2.5
O 1.5
M 11.3
Total 58.3
P 2.9
Well
R 34.1
T 19.2
U 19.4
S 15.6
X 21.3
Y 10.6
Z 11.3
CC 5.3
EE 14.3
GG 3.0
AA 14.8
DD 9.2
KK 9.2
LL 7.1
MM 14.9
NN 4.8

AME OF APPLICANT NHAP REVIEW - 37-7575 Form No. 0

FROM PERMIT: 5S-15E (2"=1MI)

3

40

40

40 40

40 40

10 11

40 40 40 40

40 40 40 40

8 35 40 40

10 10 20

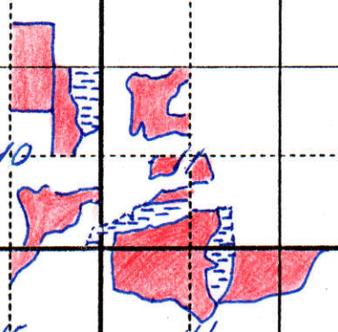
15 14

FROM NHAP: 21I-25 (9/2/84) 1"=1MI

6 5 4 3 2

7 8 9 10

15 14



STUBBLE

IRRIGATED

NHAP SHOWS PARTIAL IRRIGATION OF NW, SW, & SE SEC 11; E½ SEC. 10; W½ SEC. 11; W½ SE SEC. 11; AND N½ SEC. 14

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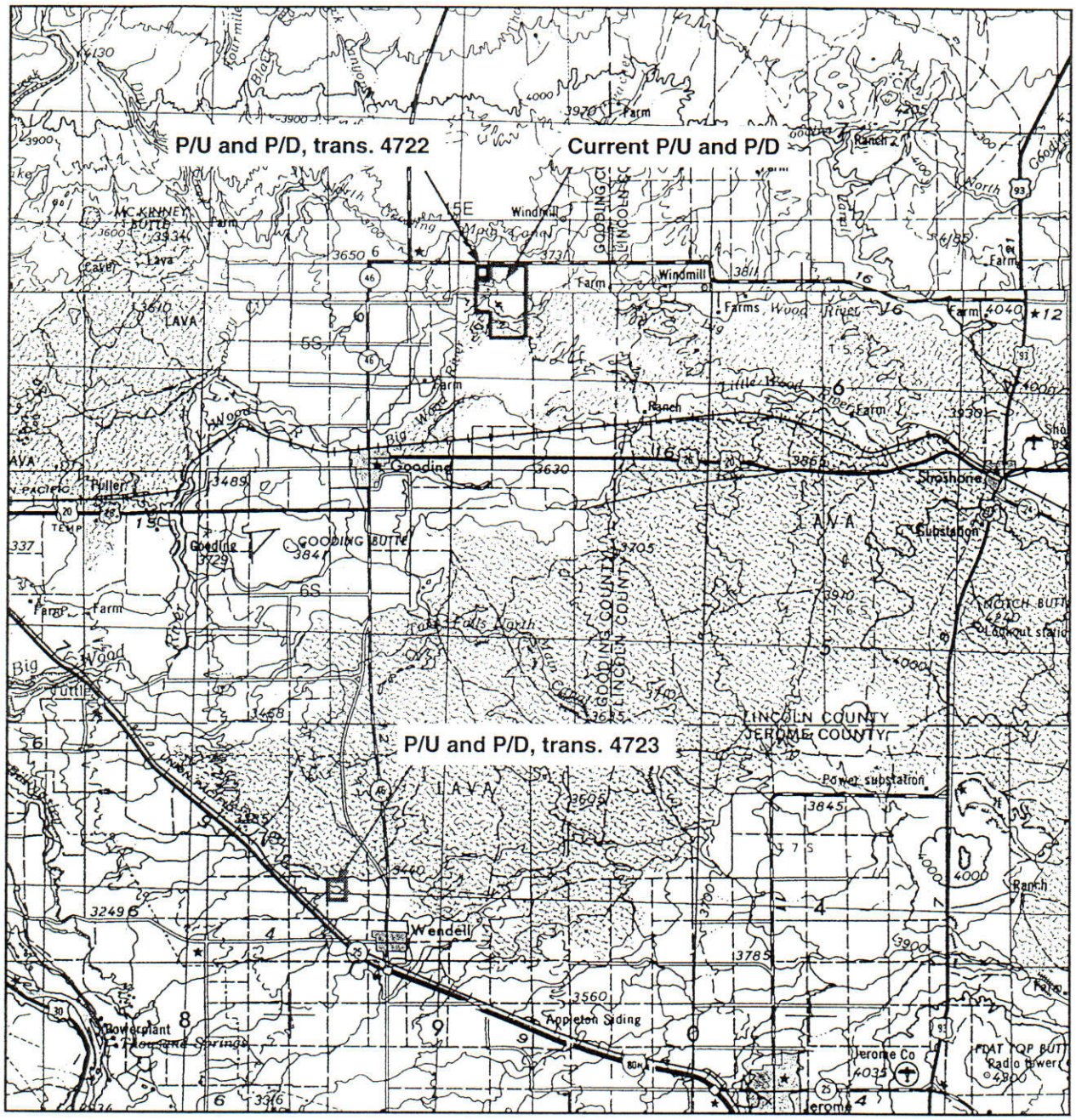


Figure 1. Vicinity map for transfer applications 4722 and 4723 (license 37-07575) for North Valley Milk, Inc.

Brockway Engineering, PLLC 11/25/96

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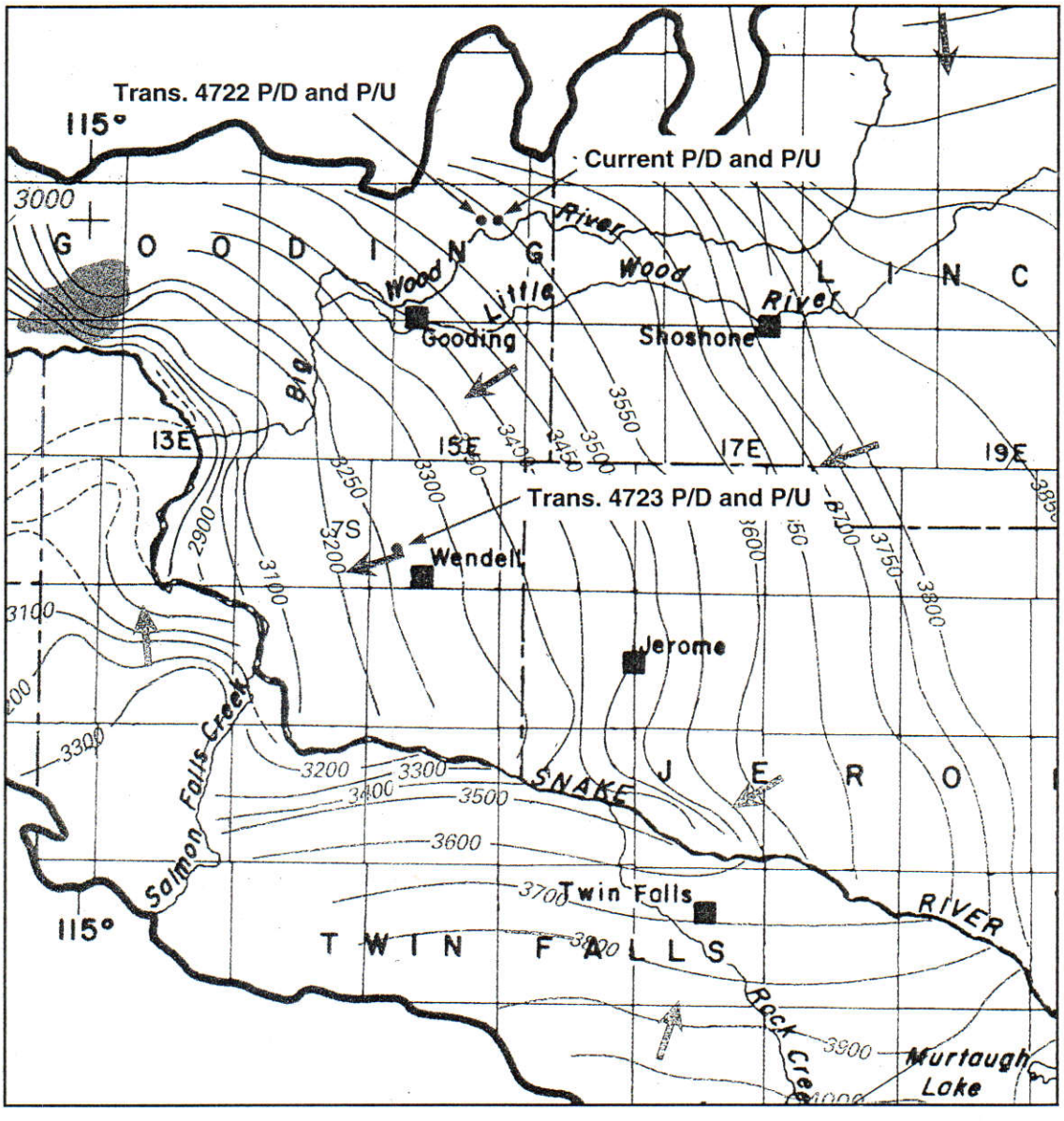
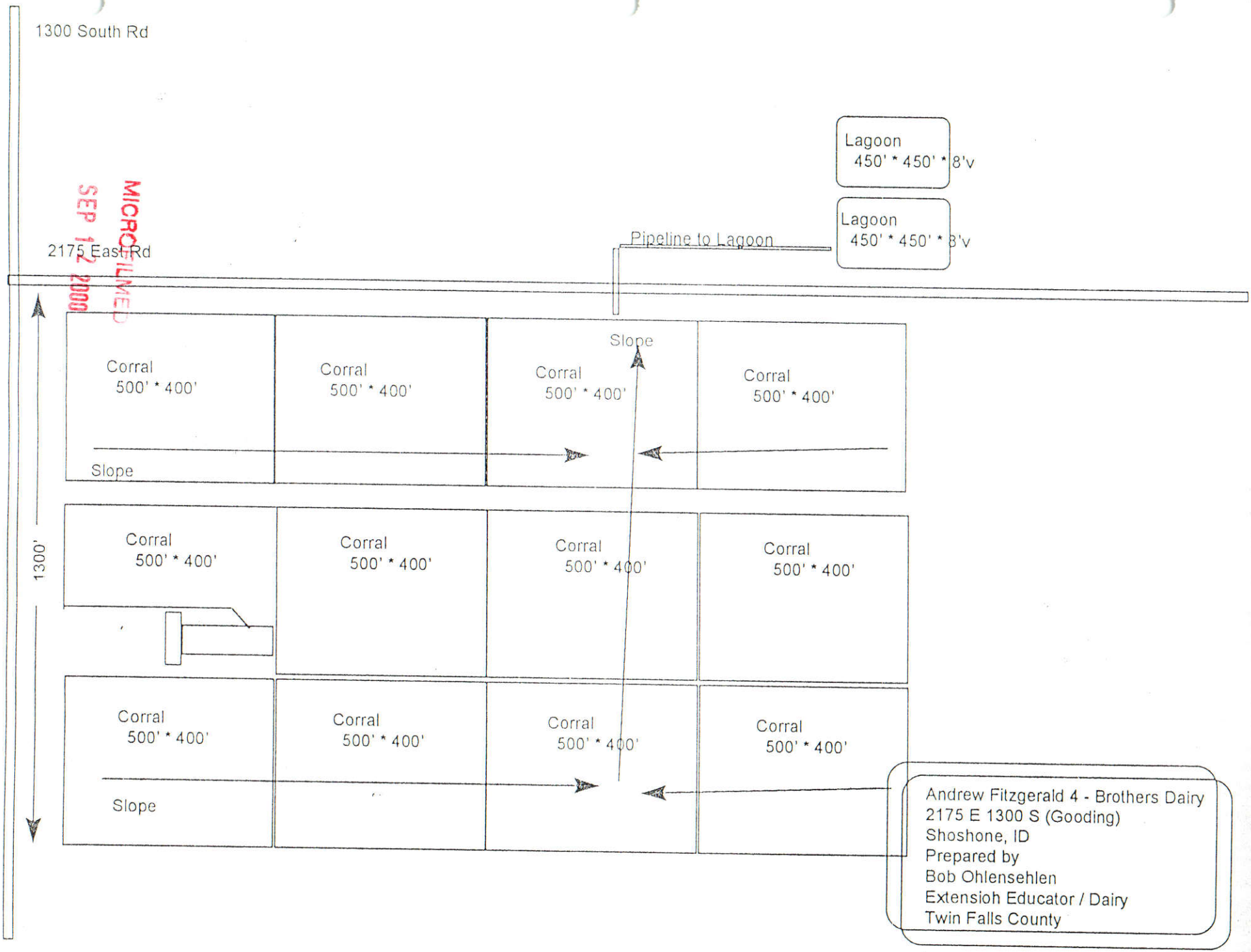


Figure 2. A portion of USGS Atlas HA-703 showing Spring 1980 water table configuration for North Valley Milk, Inc. transfer applications 4722 and 4723 (license 37-07575).

Brockway Engineering, PLLC 11/25/96

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1300 South Rd
Lagoon
450' * 450' * 8'v
Lagoon
450' * 450' * 8'v
Pipeline to Lagoon
2175 East Rd
MICROFILMED
SEP 12 2000
Slope
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Slope
1300'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Slope
Andrew Fitzgerald 4 - Brothers Dairy
2175 E 1300 S (Gooding)
Shoshone, ID
Prepared by
Bob Ohlensehlen
Extensioh Educator / Dairy
Twin Falls County

A37-09622
DEEPWELL
well

4-BROS. DAIRY
788 ACRES
2175 E 1300 S
600 DWG IDAHO

MAIN

KERVER 300 HP

JOHN RENNER
400 HD
NEIGHBOR HOUSE

4722

HOUSE
WELL
NEW WELLS
BARN
(2)
CORRALS
(8)
FEED

WASTE WATER
PIVOT
(4)
LAGOONS
(3)

Department of Water Resources
Exhibit
Area Admitted
APPLICANT'S
4/10/97
19
Large map submitted 4/30/97 AM
for this map *

FOSSIECO
300 HD

UNION DITCH
1900 HD
ARKOOSH
FEEDLOT

WELL
ARKOOSH
HOUSE

PIVOT
(6)
HARDLINES
1
DEEPWELL
A37-01575

ADAMS
600 HD

LEGUINECHE
1500

PIVOT
PIVOT
(7)
Dry up
Dry up

15

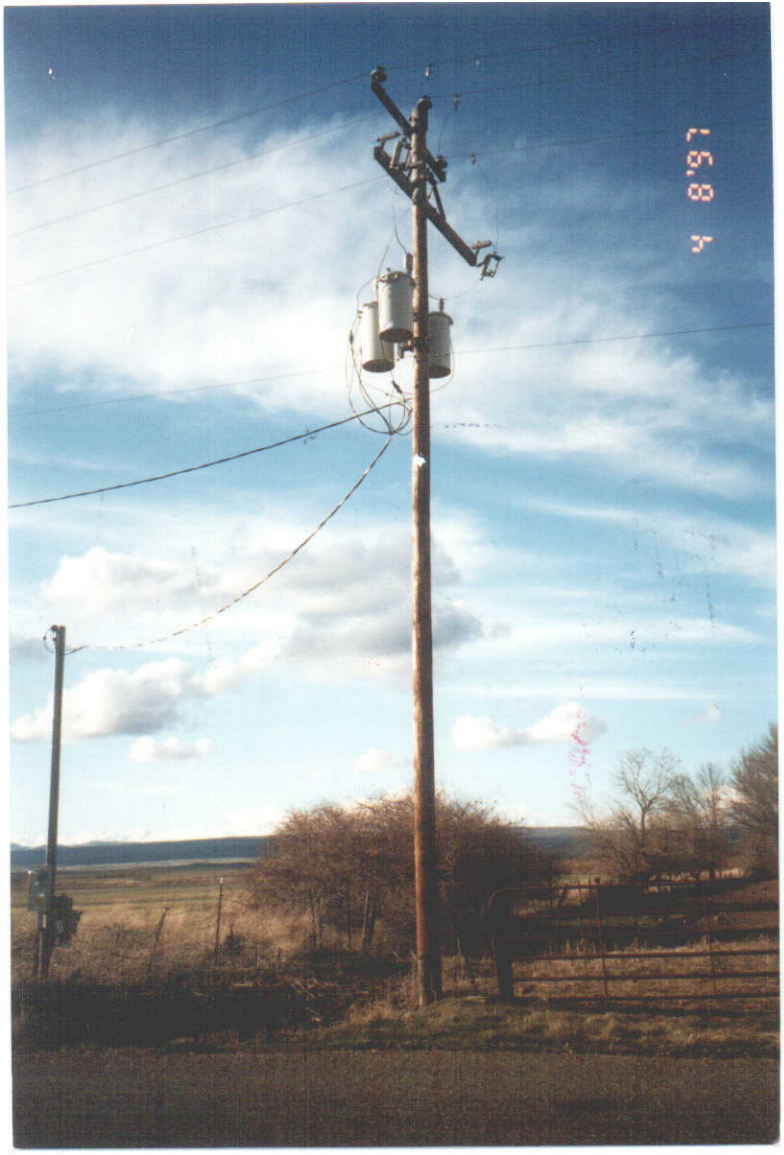
FRANCE
5000 HD

4723
WENDELL

U.S.

U.S.

14


15.8 4


4 8'97



4 '97

1963 A

4 9'97



CENTER PIVOT
LOC 8

INCIDENTAL

Department of Water Resources
PROTESTANT'S
Exhibit U-1
Date Admitted 4/30/97



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Department of Water Resources
PROTESTANT'S
Exhibit U-2
Date Admitted 4/30/97 AM



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SEP 12 2000

Department of Water Resources
PROTESTANT'S
Exhibit U-3
Date Admitted 4/30/97 ADM



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SEP 12 2000

Department of Water Resources
PROTESTANT'S
Exhibit U-4
Date Admitted 4/30/97

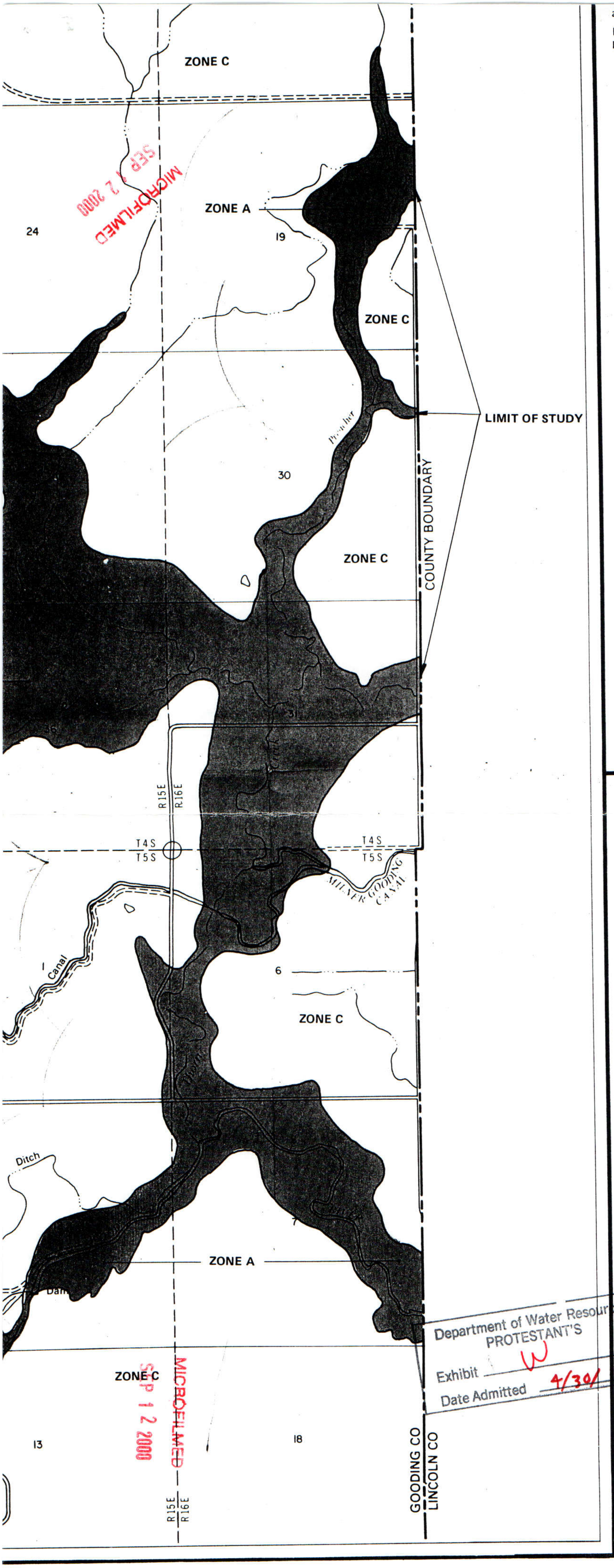


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SEP 12 2000

Department of Water Resources
PROTESTANTS
Exhibit 4-5
Date 4/30/01



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SEP 12 2000



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SEP 12 2000

Department of Water Resources
PROTESTANT'S
Exhibit W
Date Admitted 4/30/97

all planimetric features outside special flood hazard areas.

For adjoining map panels, see separately printed Index To Map Panels.

INITIAL IDENTIFICATION:
MAY 8, 1979

FLOOD HAZARD BOUNDARY MAP REVISIONS:

FLOOD INSURANCE RATE MAP EFFECTIVE:
JUNE 19, 1985

FLOOD INSURANCE RATE MAP REVISIONS:

Refer to the FLOOD INSURANCE RATE MAP EFFECTIVE date shown on this map to determine when actuarial rates apply to structures in the zones where elevations or depths have been established.

To determine if flood insurance is available in this community, contact your insurance agent, or call the National Flood Insurance Program, at (800) 638-6620.

N

APPROXIMATE SCALE
2000 0 2000 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

GOODING COUNTY, IDAHO
(UNINCORPORATED AREAS)

PANEL 150 OF 325
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
160227 0150 B

EFFECTIVE DATE:
JUNE 19, 1985

Federal Emergency Management Agency

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SEP 12 2000

ZONE C

ZONE A

22

23

24

19

TURKEY LAKE

Greek

ZONE A

27

26

25

30

Turkey

Creek

ZONE A

34

35

36

ZONE C

R15E
R16E

T4S
T5S

Gooding

3

2

Main

1

Canal

6

ZONE C

Creek

Ditch

10

11

Robertson

Union

12

Ditch

ZONE A

Dam

ZONE A

Dam

ZONE C

Dam

BIG

Ditch

15

13

18

R15E
R16E

Department of Natural Resources
Exhibit X
Date Admitted 4/10/97 Adm

502 517 516 502 GOA GCA CGC POA EEC EGA FGA PMA TLR GPA PVB PSB BCA DLA STN 393 HSI

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NOS. 4722 AND 4723 OF)
WATER RIGHT NO. 37-07575 IN THE) **FINAL ORDER**
NAME OF NORTH VALLEY MILK, INC.)
)

On July 21, 1997, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with the above captioned matter. None of the parties filed a petition for reconsideration, briefs or exceptions in connection with the Recommended Order. Based upon his understanding of the law and the facts in this matter, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. On October 24, 1989, the department issued water right License No. 37-07575 (the license) as follows:

Ident. No:	37-07575
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	2.21 cubic feet per second (cfs)
Max. ann. vol:	942.5 Acre Feet (AF) when combined with other rights for the same land.
Pt of div:	NW1/4SE1/4 Sec. 11, T5S, R15E, B.M., Gooding County
Use:	Irrigation
Season of use:	April 1 to November 1 each year
Place of use:	354 acres in parts of Sections 10, 11, 14, and 15, T5S, R15E, B.M. as follows:

Sec 10 - SE1/4SE1/4 (19 ac)
Sec 11 - NE1/4SW1/4 (38 ac)
SW1/4SW1/4 (34 ac)
SE1/4SW1/4 (38 ac)
NW1/4SE1/4 (32 ac)
SW1/4SE1/4 (38 ac)
Sec 14 - NW1/4NE1/4 (36 ac)
SW1/4NE1/4 (14 ac)
NE1/4NW1/4 (39 ac)
NW1/4NW1/4 (36 ac)
SW1/4NW1/4 (7 ac)
SE1/4NW1/4 (16 ac)
Sec 15 - NE1/4NE1/4 (7 ac)

(Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

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2. A department representative conducted the proof of beneficial use examination for the license on June 25, 1987 and was accompanied by Mitch Arkoosh who showed the irrigation system. The department issued the license on October 24, 1989. On September 2, 1988, the Arkooshes filed a Notice of Claim to a Water Right in the Snake River Basin Adjudication based on the license.

3. On April 19, 1995, North Valley Milk, Inc. (applicant) submitted Application for Transfer No. 4722 to the department. The application was subsequently amended on September 15, 1995 and on January 8, 1996. The amended application proposed two (2) changes to the license. One change involved the irrigation use. The other change involved a change in the nature of use of a part of the license from irrigation use to stockwater and commercial use. The stockwater and commercial uses are proposed in connection with a planned dairy in Section 10, T5S, R15E, B.M. (Section 10 Dairy) near the original place of use of the water right. The application shows the following:

Ident. No:	**37-07575A**
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	1.38 cfs
Annual vol:	276 AF
Pt of div:	SENWSE Sec. 11, T5S, R15E, B.M.
Use:	Irrigation
Season of use:	April 1 to November 1 each year
Place of use:	69 acres in NESW (35 ac), NWSW (3 ac) and NWSE (31 ac) Section 11, T5S, R15E, B.M.

Ident. No:	**37-07575B**
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	0.38 cfs
Annual vol:	105.5 AF
Pt of div:	NWNE Sec. 10, T5S, R15E, B.M. (2 points)
Use:	Stockwater and commercial
Season of use:	Year-round
Place of use:	Section 10, T5S, R15E, B.M.
Remarks:	1800 milking cows and 500 non-milking cows are planned for this dairy.

4. On May 3, 1995, the applicant also submitted Application for Transfer No. 4723 to the department proposing to change the nature of use of an additional part of the license from irrigation use to stockwater and commercial use to be used in an existing dairy near Wendell, Idaho (Wendell dairy). The application shows the following:

Ident. No:	**37-07575C**
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	0.15 cfs
Annual vol:	47.4 AF
Pt of div:	SWSWNW Sec. 29, T7S, R15E, B.M.
Use:	Stockwater and commercial

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Season of use: Year-round
Place of use: Section 29, T7S, R15E, B.M.

Comments: The commercial use sought under this application is water for an existing dairy with 800 milking cows and 200 non-milking cows.

5. The department published notice of the applications which were protested by John and Doris Robertson, Leslie Renner and Bonnie Arkoosh (Mrs. Michael Arkoosh).

6. On April 10, 1997 the department conducted a hearing in the matter and continued the hearing on April 30, 1997. The applicant was present and was represented by Robert Williams. Tom Arkoosh was present and represented protestant Bonnie Arkoosh (Arkoosh). Protestant Leslie Renner attended the hearing on April 10th but not on April 30th. Protestant Doris Robertson attended the hearing on April 30th but not on April 10th. Both Leslie Renner and Doris Robertson chose not to participate in the hearing as full parties but to retain all full party rights relative to notice and orders issued in the matter.

7. Issues identified by the protestants include the following:

a) The proposed changes will injure other water rights as follows:

- If the applicant changes the method of irrigating the E1/2NE Section 10 from flood irrigation to sprinkler irrigation, protestant Arkoosh would be injured, since Arkoosh would no longer benefit from waste water which has historically flowed south onto Arkoosh property.

b) The proposed changes will constitute an enlargement in use of the original right, since the water right has either been abandoned or forfeited.

c) The proposed changes conflict with the local public interest as described below:

- Through unauthorized discharges, the Section 10 Dairy waste disposal system may pollute Turkey Creek which is tributary to the Big Wood River. Turkey Creek is an intermittent stream located approximately 1/4 to 1/2 mile east of the Section 10 Dairy.

- Through unauthorized discharges, the Section 10 Dairy waste disposal system may flow or seep into the Robertson Ditch or Union Ditch, located approximately 1/4 to 1/2 mile south of the Section 10 Dairy site, ultimately adding contaminates to the Big Wood River.

- The Section 10 Dairy operation may contaminate groundwater and thereby adversely affect domestic wells in the area.

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- The Section 10 Dairy operation will cause property values in the vicinity to decrease.

d) The applications are not consistent with the conservation of water resources within Idaho.

8. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit 1 - Local Water Budget Analysis and Regional Water Budget Analysis for a typical year.

b. Applicant's Exhibit 2 - Local Water Budget Analysis and Regional Water Budget Analysis for a drought year.

c. Applicant's Exhibit 3 - Printouts of diversions from annual reports of Water District No. 37 for years 1992 through 1996.

d. Applicant's Exhibit 4 - Stukenholtz Laboratory, Inc. - Soil Analysis Report.

e. Applicant's Exhibit 5 - NOT OFFERED.

f. Applicant's Exhibit 6 - NOT OFFERED.

g. Applicant's Exhibit 7 - Letter dated August 16, 1996 to Tom Arkoosh from Allen Merritt.

h. Applicant's Exhibit 8 - NOT OFFERED.

i. Applicant's Exhibit 9 - NOT OFFERED.

j. Applicant's Exhibit 10 - Report titled Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575 by Charles E. Brockway, November 26, 1996.

k. Applicant's Exhibit 11 - Gooding County Grandfather Confined Animal Feeding Operation (CAFO) Siting Permit granted to Arkoosh Produce Inc. dated April 3, 1996.

l. Applicant's Exhibit 12 - Water Right License No. 37-07575.

m. Applicant's Exhibit 13 - NOT OFFERED.

n. Applicant's Exhibit 14 - Deed from West One Bank to North Valley Milk, Inc. dated March 15, 1994.

o. Applicant's Exhibit 15 - Letter to Andy Fitzgerald from John and Leslie Renner.

p. Applicant's Exhibit 16 - NOT OFFERED.

q. Applicant's Exhibit [illegible] Dairy Waste System Design prepared by Robert Ohlensehlen.

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SEP 1 2 2000

r. Applicant's Exhibit 18 - NOT OFFERED

s. Applicant's Exhibit 19 - Map of the general vicinity near the proposed Section 10 Dairy. [Note that the large map (2' x 3') was substituted on April 30, 1997 by counsel for the smaller version of the map which was entered as an exhibit on April 10, 1997].

t. Applicant's Exhibit 20 - Petition.

u. Applicant's Exhibit 21 - Local Water Budget Analysis and Regional Water Budget Analysis for a typical year and for a drought year - revised.

v. Protestant's Exhibit A - One (1) page from the Idaho Wellhead Protection Plan, February 1997, listing responsibilities of IDEQ.

w. Protestant's Exhibit B - One (1) page of Table E-1 from the Idaho Wellhead Protection Plan, February 1997.

x. Protestant's Exhibit C - One (1) page of Table 5-1 from the Idaho Wellhead Protection Plan, February 1997.

y. Protestant's Exhibit D - Table 10 - Daily production and composition of manure (feces and urine).

z. Protestant's Exhibit E - Excerpt of testimony from the Jacob Bosma hearing held on October 24, 1994 in connection with transfer No. 4387 of water right No. 37-08487B.

aa. Protestant's Exhibit F - Ordinance No. 62.

ab. Protestant's Exhibit G - NOT OFFERED.

ac. Protestant's Exhibit H - Letter dated May 6, 1993 to Arkoosh & Zidan, Inc. from Dan Noble, vice president of Idaho State Bank.

ad. Protestant's Exhibit I - Letter dated July 26, 1995 to North Valley Milk, Inc. from Conrad J. Aiken.

ae. Protestant's Exhibit J - Letter dated July 20, 1995 to Conrad Aiken from C. Tom Arkoosh.

af. Protestant's Exhibit K thru T - Photographs.

ag. Protestant's Exhibit U - Video tape.

ah. Protestant's Exhibit U-1 - Photograph made from Exhib. U.

ai. Protestant's Exhibit U-2 - Photograph made from Exhib. U.

aj. Protestant's Exhibit U-3 - Photograph made from Exhib. U.

ak. Protestant's Exhibit U-4 - Photograph made from Exhib. U.

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al. Protestant's Exhibit U-5 - Photograph made from Exhib. U.

am. Protestant's Exhibit V - U.S. Geological Survey quadrangle maps showing the vicinity of the Section 10 Dairy.

an. Protestant's Exhibit W - Listing of concerns by protestant Doris Robertson.

ao. Protestant's Exhibit X - Soils map in the vicinity of the Section 10 Dairy.

ap. Protestant's Exhibit Y - Printout of soil types.

aq. Protestant's Exhibit Z - Printout of soil types.

(NOTE: Exhibit No. AA was not assigned to any exhibit).

ar. Protestant's Exhibit AB - NOT OFFERED.

as. Protestant's Exhibit AC - NOT OFFERED.

at. Protestant's Exhibit AD - NOT OFFERED.

au. Protestant's Exhibit AE - NOT OFFERED.

9. Most of the land shown as the place of use for the license has been irrigated using a combination of several different water rights including a natural flow right from the Big Wood River, shares of water from the Big Wood Canal Company, surface water delivered by American Falls Reservoir District No. 2, and groundwater under the license.

10. Water has been diverted from the well as a supplemental use under the license in 1977, 1978, 1979 and perhaps 1980 to provide part of the irrigation water supply for 354 acres during times when there was not a full supply of surface water. In 1995 and 1996, the applicant used the well to irrigate a portion of the licensed place of use.

11. The applicant proposes to change the license as described below:

a) To provide groundwater for the proposed Section 10 Dairy on a 56 acre site near the original place of use. The site is presently irrigated with surface water and is not a part of the licensed place of use;

b) To provide groundwater as the primary right to irrigate 69 acres in Section 11, T5S, R15E, B.M., most of which land has been irrigated with a combination of water rights including groundwater under the license, with surface water from the Big Wood River and with surface water delivered by American Falls Reservoir District No. 2. The applicant plans to discontinue the use of groundwater as a supplemental irrigation right for the remainder of the licensed 354 acre place of use; and

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c) To authorize the present use at an existing dairy near Wendell. This dairy site occupies 20 acres of land which was formerly irrigated with surface water provided by the Northside Canal Company.

12. Analysis of the effect of the applications for transfer on water quantity related issues is relatively complex, since the applications involve changes to land which has been irrigated with both surface water and groundwater and since the applications propose significant changes of the land to be irrigated before and after the transfers.

13. The existing Wendell dairy consists of 800 milking cows and 200 dry cows. An existing well equipped with a 7.5 horsepower motor and pump provides water to the barn and watering troughs. The protestants did not provide any evidence or testimony opposing the transfer of water to this dairy.

14. The shares of canal company water which in the past have been used on the site of the Wendell dairy are now used on other existing irrigated acres (not new acres) adjacent to the dairy.

15. The applicant advised that until the water right authorization for a proposed dairy has been issued by the department, Gooding County will consider an application to them for a Confined Animal Feeding Operation (CAFO) siting permit to be incomplete. The applicant stated that it would be able to comply with the criteria of the Idaho Department of Agriculture and Division of Environmental Quality for the Section 10 Dairy but did not elaborate on how the compliance would be accomplished.

16. The applicant stated it planned to apply to Gooding County for needed approvals associated with the Section 10 Dairy but after being questioned by the protestant, the applicant did not elaborate on how it planned to meet the specific distance requirements of County Ordinance No. 62 including one which provides as follows:

> No CAFO shall be located within two thousand six hundred forty (2,640) feet of the rims of the Snake River Canyon and the Malad River Canyon and Zone "A" flood planes (sic) as set out on the Federal Emergency Management Agency's 1985 Flood Insurance Rate Map for Gooding County.

The applicant's proposed Section 10 Dairy operation including the lagoons, corrals, barn and pivot for land application of liquid dairy waste water is proposed within 2,640 feet of the Zone "A" flood plain. (See Applicant's Exhibit 19 and Protestant's Exhibit V).

17. The applicant has estimated the total consumptive use under the license and has compared that consumption with the estimated consumption if the transfers are approved.

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18. Protestant Arkoosh has filed Claim No. A37-04404A in the Snake River Basin Adjudication (SRBA) claiming the use of 0.56 cfs of wastewater for the irrigation of 56 acres in SENE and NESE Section 10, T5S, R15E, B.M. The priority of use claimed is June 1, 1940.

19. There are a number of existing CAFOs in the vicinity of the proposed Section 10 Dairy including a 1,000 head CAFO of protestant Arkoosh which presently is not operational and a 400 head CAFO of protestant John Renner. These locations are within 1/4 to 1/2 mile of the proposed Section 10 Dairy of the applicant.

20. Protestant Arkoosh stated that their CAFO contaminated their domestic well until they ceased the CAFO operation. The applicant did not refute the claimed contamination and did not offer any operating procedure or plan to minimize or eliminate potential contamination of either surface water or groundwater in the vicinity of the Section 10 Dairy.

21. Water years 1987, 1988, 1991, 1992 and 1994 were severe drought years in Idaho in which surface water supplies were far less than normal in many parts of Idaho.

22. The applicant does not plan to "dry up" acres irrigated under the license, but instead intends to change the source of water from groundwater to surface water for most of the land shown on the license.

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. IDAPA 37.03.08045.01.e.iii (Water Appropriation Rule 45.01.e.iii) provides in pertinent part as follows:

> e. Criteria for determining whether the project conflicts with the local public interest. The director will consider the following, along with any other factors he finds to be appropriate, in determining whether the project will conflict with the local public interest:
>
> iii. Compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions. (Emphasis added).

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SEP 12 2008

3. The applicant carries the burden of coming forward with evidence that the proposed change will not injure other water right holders, will not constitute an enlargement of the use of water and will be consistent with principles of conservation of the water of the state of Idaho.

4. Both the applicant and the protestants have the responsibility of coming forward with evidence regarding matters of public interest of which they are each most cognizant.

5. The applicant has the ultimate burden of persuasion for the criteria of Section 42-222, Idaho Code.

6. The measure of a water right is the extent to which the right has been applied to a beneficial use. The applicant has estimated the extent of use which may have been made under the license based upon calculations and a number of assumptions, but has not determined or shown the extent of actual beneficial use of water under the license.

7. The nature of a supplemental water right is that the right is to be used during times when the primary water right(s) do not provide a full supply of water. If the supplemental right is not needed, it should not be diverted. Under this standard, a supplemental right normally should not be subject to forfeiture for non-use. Licensed water right No. 37-07575, however, has been so infrequently used (not used from 1981 through 1994) including five (5) of the most severe drought years in Idaho, that it is unlikely a significant portion of the right can now be used on a year-round basis without enlarging the water use.

8. The 69 acre tract for which the applicant seeks to change the supplemental groundwater right to a permanent right already has a full supply of water consisting of surface water and supplemental groundwater under the license. Any action of the applicant to change the supplemental right to a primary right by removing the surface water from the tract or other action will enlarge the extent of beneficial use authorized under the supplemental right.

9. Approval of the applications would constitute an enlargement in use of the water right, since all of the land originally irrigated would be irrigated after the transfers, plus a water supply would be provided for two (2) dairies.

10. The applicant met its initial burden of coming forward with evidence relative to local public interest for the Section 10 Dairy. The applicant did not adequately show how it planned to operate the proposed dairy and waste system or meet the zoning ordinances of Gooding County. The applicant's response that it had not yet applied to Gooding County for a CAFO is not sufficient reason to be unable to describe with reasonable detail how it planned to operate the dairy and appurtenant facilities to comply with county ordinances.

11. Based on the evaluation criteria described in IDAPA 37.03.08045.01.e (Water Appropriation Rule 45.01.e), the applicant

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did not meet its ultimate burden of persuasion relative to local public interest for the Section 10 Dairy.

12. The applicant's proposal to change the method of irrigating the E1/2NE Section 10 from surface irrigation to sprinkler irrigation will reduce the amount of wastewater runoff from the land being irrigated. Such a change usually would not be considered to cause legal injury to protestant Arkoosh's right to use wastewater. The general nature of a wastewater right is that it may be used if available but cannot be demanded for the benefit of the wastewater user. The determination of contractual obligations, if any, however, is not within the department's jurisdiction.

13. The department should deny the applications for transfer.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Transfer Nos. 4722 and 4723 are **DENIED.**

Signed this 15th day of September, 1997.

KARL J. DREHER
Director

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 16th day of September, 1997, a true and correct copy of the foregoing **FINAL ORDER** was forwarded, by regular U.S. Mail, to the parties listed:

Andrew Fitzgerald
North Valley Milk Inc
425 N 250 W
Shoshone ID 83352

Robert E Williams III
FREDERICKSEN WILLIAMS
& MESERVY
PO Box 168
Jerome ID 83338

John and Doris Robertson
1326 S 2100 E
Gooding ID 83330

Bonnie Arkoosh
c/o C Thomas Arkoosh Esq
PO Box 32
116 Frourth Ave W
Gooding ID 83330

Leslie Renner
2254 E 1300 S
Gooding ID 83330

Julie L Yarbrough

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

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SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NOS. 4722 AND 4723 OF)
WATER RIGHT NO. 37-07575 IN THE) **RECOMMENDED ORDER**
NAME OF NORTH VALLEY MILK, INC.)
)

This matter having come before the Idaho Department of Water Resources (department) in the form of protested applications for transfer, the department having held a conference and a hearing in the matter, the hearing officer recommends the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On October 24, 1989, the department issued water right License No. 37-07575 (the license) as follows:

Ident. No:	37-07575
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	2.21 cubic feet per second (cfs)
Max. ann. vol:	942.5 Acre Feet (AF) when combined with other rights for the same land.
Pt of div:	NW1/4SE1/4 Sec. 11, T5S, R15E, B.M., Gooding County
Use:	Irrigation
Season of use:	April 1 to November 1 each year
Place of use:	354 acres in parts of Sections 10, 11, 14, and 15, T5S, R15E, B.M. as follows:

Sec 10 - SE1/4SE1/4 (19 ac)
Sec 11 - NE1/4SW1/4 (38 ac)
SW1/4SW1/4 (34 ac)
SE1/4SW1/4 (38 ac)
NW1/4SE1/4 (32 ac)
SW1/4SE1/4 (38 ac)
Sec 14 - NW1/4NE1/4 (36 ac)
SW1/4NE1/4 (14 ac)
NE1/4NW1/4 (39 ac)
NW1/4NW1/4 (36 ac)
SW1/4NW1/4 (7 ac)
SE1/4NW1/4 (16 ac)
Sec 15 - NE1/4NE1/4 (7 ac)

(Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

2. A department representative conducted the proof of beneficial use examination for the license on June 25, 1987 and was accompanied by Mitch Arkoosh who showed the irrigation system. The department issued the license on October 24, 1989. On September 2,

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1988, the Arkooshes filed a Notice of Claim to a Water Right in the Snake River Basin Adjudication based on the license.

3. On April 19, 1995, North Valley Milk, Inc. (applicant) submitted Application for Transfer No. 4722 to the department. The application was subsequently amended on September 15, 1995 and on January 8, 1996. The amended application proposed two (2) changes to the license. One change involved the irrigation use. The other change involved a change in the nature of use of a part of the license from irrigation use to stockwater and commercial use. The stockwater and commercial uses are proposed in connection with a planned dairy in Section 10, T5S, R15E, B.M. (Section 10 Dairy) near the original place of use of the water right. The application shows the following:

Ident. No:	**37-07575A**
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	1.38 cfs
Annual vol:	276 AF
Pt of div:	SENWSE Sec. 11, T5S, R15E, B.M.
Use:	Irrigation
Season of use:	April 1 to November 1 each year
Place of use:	69 acres in NESW (35 ac), NWSW (3 ac) and NWSE (31 ac) Section 11, T5S, R15E, B.M.

Ident. No:	**37-07575B**
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	0.38 cfs
Annual vol:	105.5 AF
Pt of div:	NWNE Sec. 10, T5S, R15E, B.M. (2 points)
Use:	Stockwater and commercial
Season of use:	Year-round
Place of use:	Section 10, T5S, R15E, B.M.
Remarks:	1800 milking cows and 500 non-milking cows are planned for this dairy.

4. On May 3, 1995, the applicant also submitted Application for Transfer No. 4723 to the department proposing to change the nature of use of an additional part of the license from irrigation use to stockwater and commercial use to be used in an existing dairy near Wendell, Idaho (Wendell dairy). The application shows the following:

Ident. No:	**37-07575C**
Priority:	March 28, 1977
Source:	Groundwater
Rate of div:	0.15 cfs
Annual vol:	47.4 AF
Pt of div:	SWSWNW Sec. 29, T7S, R15E, B.M.
Use:	Stockwater and commercial
Season of use:	Year-round
Place of use:	Section 29, T7S, R15E, B.M.

Comments: The commercial use sought under this application is

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water for an existing dairy with 800 milking cows and 200 non-milking cows.

5. The department published notice of the applications which were protested by John and Doris Robertson, Leslie Renner and Bonnie Arkoosh (Mrs. Michael Arkoosh).

6. On April 10, 1997 the department conducted a hearing in the matter and continued the hearing on April 30, 1997. The applicant was present and was represented by Robert Williams. Tom Arkoosh was present and represented protestant Bonnie Arkoosh (Arkoosh). Protestant Leslie Renner attended the hearing on April 10th but not on April 30th. Protestant Doris Robertson attended the hearing on April 30th but not on April 10th. Both Leslie Renner and Doris Robertson chose not to participate in the hearing as full parties but to retain all full party rights relative to notice and orders issued in the matter.

7. Issues identified by the protestant include the following:

a) The proposed changes will injure other water rights as follows:

- If the applicant changes the method of irrigating the E1/2NE Section 10 from flood irrigation to sprinkler irrigation, protestant Arkoosh would be injured, since Arkoosh would no longer benefit from waste water which has historically flowed south onto Arkoosh property.

b) The proposed changes will constitute an enlargement in use of the original right, since the water right has either been abandoned or forfeited.

c) The proposed changes conflict with the local public interest as described below:

- Through unauthorized discharges, the Section 10 Dairy waste disposal system may pollute Turkey Creek which is tributary to the Big Wood River. Turkey Creek is an intermittent stream located approximately 1/4 to 1/2 mile east of the Section 10 Dairy.

- Through unauthorized discharges, the Section 10 Dairy waste disposal system may flow or seep into the Robertson Ditch or Union Ditch, located approximately 1/4 to 1/2 mile south of the Section 10 Dairy site, ultimately adding contaminates to the Big Wood River.

- The Section 10 Dairy operation may contaminate groundwater and thereby adversely affect domestic wells in the area.

- The Section 10 Dairy operation will cause property values in the vicinity to decrease.

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d) The applications are not consistent with the conservation of water resources within Idaho.

8. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit 1 - Local Water Budget Analysis and Regional Water Budget Analysis for a typical year.

b. Applicant's Exhibit 2 - Local Water Budget Analysis and Regional Water Budget Analysis for a drought year.

c. Applicant's Exhibit 3 - Printouts of diversions from annual reports of Water District No. 37 for years 1992 through 1996.

d. Applicant's Exhibit 4 - Stukenholtz Laboratory, Inc. - Soil Analysis Report.

e. Applicant's Exhibit 5 - NOT OFFERED.

f. Applicant's Exhibit 6 - NOT OFFERED.

g. Applicant's Exhibit 7 - Letter dated August 16, 1996 to Tom Arkoosh from Allen Merritt.

h. Applicant's Exhibit 8 - NOT OFFERED.

i. Applicant's Exhibit 9 - NOT OFFERED.

j. Applicant's Exhibit 10 - Report titled Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575 by Charles E. Brockway, November 26, 1996.

k. Applicant's Exhibit 11 - Gooding County Grandfather Confined Animal Feeding Operation (CAFO) Siting Permit granted to Arkoosh Produce Inc. dated April 3, 1996.

l. Applicant's Exhibit 12 - Water Right License No. 37-07575.

m. Applicant's Exhibit 13 - NOT OFFERED.

n. Applicant's Exhibit 14 - Deed from West One Bank to North Valley Milk, Inc. dated March 15, 1994.

o. Applicant's Exhibit 15 - Letter to Andy Fitzgerald from John and Leslie Renner.

p. Applicant's Exhibit 16 - NOT OFFERED.

q. Applicant's Exhibit 17 - Dairy Waste System Design prepared by Robert Ohlensehlen.

r. Applicant's Exhibit 18 - NOT OFFERED

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s. Applicant's Exhibit 19 - Map of the general vicinity near the proposed Section 10 Dairy. [Note that the large map (2' x 3') was substituted on April 30, 1997 by counsel for the smaller version of the map which was entered as an exhibit on April 10, 1997].

t. Applicant's Exhibit 20 - Petition.

u. Applicant's Exhibit 21 - Local Water Budget Analysis and Regional Water Budget Analysis for a typical year and for a drought year - revised.

v. Protestant's Exhibit A - One (1) page from the Idaho Wellhead Protection Plan, February 1997, listing responsibilities of IDEQ.

w. Protestant's Exhibit B - One (1) page of Table E-1 from the Idaho Wellhead Protection Plan, February 1997.

x. Protestant's Exhibit C - One (1) page of Table 5-1 from the Idaho Wellhead Protection Plan, February 1997.

y. Protestant's Exhibit D - Table 10 - Daily production and composition of manure (feces and urine).

z. Protestant's Exhibit E - Excerpt of testimony from the Jacob Bosma hearing held on October 24, 1994 in connection with transfer No. 4387 of water right No. 37-08487B.

aa. Protestant's Exhibit F - Ordinance No. 62.

ab. Protestant's Exhibit G - NOT OFFERED.

ac. Protestant's Exhibit H - Letter dated May 6, 1993 to Arkoosh & Zidan, Inc. from Dan Noble, vice president of Idaho State Bank.

ad. Protestant's Exhibit I - Letter dated July 26, 1995 to North Valley Milk, Inc. from Conrad J. Aiken.

ae. Protestant's Exhibit J - Letter dated July 20, 1995 to Conrad Aiken from C. Tom Arkoosh.

af. Protestant's Exhibit K thru T - Photographs.

ag. Protestant's Exhibit U - Video tape.

ah. Protestant's Exhibit U-1 - Photograph made from Exhib. U.

ai. Protestant's Exhibit U-2 - Photograph made from Exhib. U.

aj. Protestant's Exhibit U-3 - Photograph made from Exhib. U.

ak. Protestant's Exhibit U-4 - Photograph made from Exhib. U.

al. Protestant's Exhibit U-5 - Photograph made from Exhib. U.

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am. Protestant's Exhibit V - U.S. Geological Survey quadrangle maps showing the vicinity of the Section 10 Dairy.

an. Protestant's Exhibit W - Listing of concerns by protestant Doris Robertson.

ao. Protestant's Exhibit X - Soils map in the vicinity of the Section 10 Dairy.

ap. Protestant's Exhibit Y - Printout of soil types.

aq. Protestant's Exhibit Z - Printout of soil types.

(NOTE: Exhibit No. AA was not assigned to any exhibit).

ar. Protestant's Exhibit AB - NOT OFFERED.

as. Protestant's Exhibit AC - NOT OFFERED.

at. Protestant's Exhibit AD - NOT OFFERED.

au. Protestant's Exhibit AE - NOT OFFERED.

9. Most of the land shown as the place of use for the license has been irrigated using a combination of several different water rights including a natural flow right from the Big Wood River, shares of water from the Big Wood Canal Company, surface water delivered by American Falls Reservoir District No. 2, and groundwater under the license.

10. Water has been diverted from the well as a supplemental use under the license in 1977, 1978, 1979 and perhaps 1980 to provide part of the irrigation water supply for 354 acres during times when there was not a full supply of surface water. In 1995 and 1996, the applicant used the well to irrigate a portion of the licensed place of use.

11. The applicant proposes to change the license as described below:

a) To provide groundwater for the proposed Section 10 Dairy on a 56 acre site near the original place of use. The site is presently irrigated with surface water and is not a part of the licensed place of use;

b) To provide groundwater as the primary right to irrigate 69 acres in Section 11, T5S, R15E, B.M., most of which land has been irrigated with a combination of water rights including groundwater under the license, with surface water from the Big Wood River and with surface water delivered by American Falls Reservoir District No. 2. The applicant plans to discontinue the use of groundwater as a supplemental irrigation right for the remainder of the licensed 354 acre place of use; and

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c) To authorize the present use at an existing dairy near Wendell. This dairy site occupies 20 acres of land which was formerly irrigated with surface water provided by the Northside Canal Company.

12. Analysis of the effect of the applications for transfer on water quantity related issues is relatively complex, since the applications involve changes to land which has been irrigated with both surface water and groundwater and since the applications propose significant changes of the land to be irrigated before and after the transfers.

13. The existing Wendell dairy consists of 800 milking cows and 200 dry cows. An existing well equipped with a 7.5 horsepower motor and pump provides water to the barn and watering troughs. The protestants did not provide any evidence or testimony opposing the transfer of water to this dairy.

14. The shares of canal company water which in the past have been used on the site of the Wendell dairy are now used on other existing irrigated acres (not new acres) adjacent to the dairy.

15. The applicant advised that until the water right authorization for a proposed dairy has been issued by the department, Gooding County will consider an application to them for a Confined Animal Feeding Operation (CAFO) siting permit to be incomplete. The applicant stated that it would be able to comply with the criteria of the Idaho Department of Agriculture and Division of Environmental Quality for the Section 10 Dairy but did not elaborate on how the compliance would be accomplished.

16. The applicant stated it planned to apply to Gooding County for needed approvals associated with the Section 10 Dairy but after being questioned by the protestant, the applicant did not elaborate on how it planned to meet the specific distance requirements of County Ordinance No. 62 including one which provides as follows:

> No CAFO shall be located within two thousand six hundred forty (2,640) feet of the rims of the Snake River Canyon and the Malad River Canyon and Zone "A" flood planes (sic) as set out on the Federal Emergency Management Agency's 1985 Flood Insurance Rate Map for Gooding County.

The applicant's proposed Section 10 Dairy operation including the lagoons, corrals, barn and pivot for land application of liquid dairy waste water is proposed within 2,640 feet of the Zone "A" flood plain. (See Applicant's Exhibit 19 and Protestant's Exhibit V).

17. The applicant has estimated the total consumptive use under the license and has compared that consumption with the estimated consumption if the transfers are approved.

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18. Protestant Arkoosh has filed Claim No. A37-04404A in the Snake River Basin Adjudication (SRBA) claiming the use of 0.56 cfs of wastewater for the irrigation of 56 acres in SENE and NESE Section 10, T5S, R15E, B.M. The priority of use claimed is June 1, 1940.

19. There are a number of existing CAFOs in the vicinity of the proposed Section 10 Dairy including a 1,000 head CAFO of protestant Arkoosh which presently is not operational and a 400 head CAFO of protestant John Renner. These locations are within 1/4 to 1/2 mile of the proposed Section 10 Dairy of the applicant.

20. Protestant Arkoosh stated that their CAFO contaminated their domestic well until they ceased the CAFO operation. The applicant did not refute the claimed contamination and did not offer any operating procedure or plan to minimize or eliminate potential contamination of either surface water or groundwater in the vicinity of the Section 10 Dairy.

21. Water years 1987, 1988, 1991, 1992 and 1994 were severe drought years in Idaho in which surface water supplies were far less than normal in many parts of Idaho.

22. The applicant does not plan to "dry up" acres irrigated under the license, but instead intends to change the source of water from groundwater to surface water for most of the land shown on the license.

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. IDAPA 37.03.08045.01.e.iii (Water Appropriation Rule 45.01.e.iii) provides in pertinent part as follows:

> e. Criteria for determining whether the project conflicts with the local public interest. The director will consider the following, along with any other factors he finds to be appropriate, in determining whether the project will conflict with the local public interest:
>
> iii. Compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions. (Emphasis added).

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3. The applicant carries the burden of coming forward with evidence that the proposed change will not injure other water right holders, will not constitute an enlargement of the use of water and will be consistent with principles of conservation of the water of the state of Idaho.

4. Both the applicant and the protestants have the responsibility of coming forward with evidence regarding matters of public interest of which they are each most cognizant.

5. The applicant has the ultimate burden of persuasion for the criteria of Section 42-222, Idaho Code.

6. The measure of a water right is the extent to which the right has been applied to a beneficial use. The applicant has estimated the extent of use which may have been made under the license based upon calculations and a number of assumptions, but has not determined or shown the extent of actual beneficial use of water under the license.

7. The nature of a supplemental water right is that the right is to be used during times when the primary water right(s) do not provide a full supply of water. If the supplemental right is not needed, it should not be diverted. Under this standard, a supplemental right normally should not be subject to forfeiture for non-use. Licensed water right No. 37-07575, however, has been so infrequently used (not used from 1981 through 1994) including five (5) of the most severe drought years in Idaho, that it is unlikely a significant portion of the right can now be used on a year-round basis without enlarging the water use.

8. The 69 acre tract for which the applicant seeks to change the supplemental groundwater right to a permanent right already has a full supply of water consisting of surface water and supplemental groundwater under the license. Any action of the applicant to change the supplemental right to a primary right by removing the surface water from the tract or other action will enlarge the extent of beneficial use authorized under the supplemental right.

9. Approval of the applications would constitute an enlargement in use of the water right, since all of the land originally irrigated would be irrigated after the transfers, plus a water supply would be provided for two (2) dairies.

10. The applicant met its initial burden of coming forward with evidence relative to local public interest for the Section 10 Dairy. The applicant did not adequately show how it planned to operate the proposed dairy and waste system or meet the zoning ordinances of Gooding County. The applicant's response that it had not yet applied to Gooding County for a CAFO is not sufficient reason to be unable to describe with reasonable detail how it planned to operate the dairy and appurtenant facilities to comply with county ordinances.

11. Based on the evaluation criteria described in IDAPA 37.03.08045.01.e (Water Appropriation Rule 45.01.e), the applicant

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did not meet its ultimate burden of persuasion relative to local public interest for the Section 10 Dairy.

12. The applicant's proposal to change the method of irrigating the E1/2NE Section 10 from surface irrigation to sprinkler irrigation will reduce the amount of wastewater runoff from the land being irrigated. Such a change usually would not be considered to cause legal injury to protestant Arkoosh's right to use wastewater. The general nature of a wastewater right is that it may be used if available but cannot be demanded for the benefit of the wastewater user. The determination of contractual obligations, if any, however, is not within the department's jurisdiction.

13. The department should deny the applications for transfer.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Transfer Nos. 4722 and 4723 are **DENIED**.

Signed this 21st day of July, 1997.

L. Glen Saxton

L. GLEN SAXTON
Hearing Officer

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SEP 12 2000

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 21st day of July, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing **RECOMMENDED ORDER** to the following:

Andrew Fitzgerald
North Valley Milk, Inc.
425 N 250 W
Shoshone, ID 83352

Bonnie Arkoosh
c/o C. Tom Arkoosh, Esq.
P.O. Box 32
116 Fourth Ave. West
Gooding, ID 83330

Robert E. Williams, III
Fredericksen, Williams & Meservy
P.O. Box 168
Jerome, ID 83338

Leslie Renner
2254 E 1300 S
Gooding, ID 83330

John & Doris Robertson
1326 S 2100 E
Gooding, ID 83330

Deborah Drew-Ellis
Deborah Drew-Ellis
Legal Secretary

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SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR TRANSFER NOS. 4722 OF WATER RIGHT NO. 37-07575B AND 4723 OF WATER RIGHT NO. 37-07575C BOTH IN THE NAME OF NORTH VALLEY MILK, INC.	**ORDER** **AUTHORIZING DISCOVERY**

On June 14, 1996, C. Tom Arkoosh, requested the department to issue an order Authorizing Discovery pursuant to IDAPA 37.01.01521-531 (Rules of Procedure 521 through Rule 531).

The Director of the department of Water Resources (Director) hereby authorizes the parties to engage in discovery commencing with the date of this order. The parties shall complete discovery five days prior to the date of any hearing set on the applications in this matter. Discovery shall be conducted pursuant to IDAPA 37.01.01520-532 (Rules of Procedure 520 through 532). The parties are directed to answer or otherwise respond to discovery in accordance with the department's Rules of Procedure and the Idaho Rules of Civil Procedure, as appropriate.

In accordance with Rule 520, the scope of discovery shall be governed by Rule 26(b) of the Idaho Rules of Civil Procedure, unless otherwise provided by statute, rule or order of the Director.

DATED this 19th day of June, 1996.

L. GLEN SAXTON, Chief
Water Allocation Bureau

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SEP 12 2000

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 19th day of June, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER AUTHORIZING DISCOVERY** to the following:

Andrew Fitzgerald
North Valley milk Inc,
425 N 250 W
Shoshone, ID 83352

Bonnie Arkoosh
c/o C Tom Arkoosh esq
P.O. Box 32
Gooding, ID 83330

Leslie Renner
2254 E 1300 S
Gooding, ID 83330

John & Doris Robertson
1326 S 2100 E
Gooding, ID 83330

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

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Form 1-222
12-92

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED Transfer No. 4723
MAY 08 1995
Department of Water Resources
Southern Region

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant North Valley Milk, Inc. Phone 886-7716

Post Office address 425 N 2500 W Shoshone ID 83352.

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 _____
2. Describe the reason for the proposed changes We want to provide water for a dairy with 800 milking and 200 dry cows.

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

1.

Right Number	Priority	Amount .15(cfs/ac-ft)	Nature of Use	Period of Use
37-07575C	3-28-1977	~~.15~~ / 34.7	Stockwater	1-1 to 12-31
		~~.15~~ / 12.7	Commercial	1-1 to 12-31
		.15		to
				47.4 to

2. Total amount of water being transferred 0.15 cubic feet per second and/or ~~47.4~~ 60.8 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NW	29	7S	15E	Gooding	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	15E	29							C/S										

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Total acres _____

PART 1

6. General Information:

a. Description of diversion system Existing well with 7.5 hp pump to a mainline that services a barn and watering troughs.

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:
the land will be dried up of all water. We recognize the irrigation right is supplemental. We are willing to exchange some of our decreed surface water as a mitigation if this transfer is approved.

d. Remarks:
Corporate officers are Clement Fitzgerald - Pres; Jerome Fitzgerald - Vice Pres. and Andy Fitzgerald - Sec-Treas.

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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SEP 12 2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 37-07575 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Groundwater tributary to _____
4. Date or priority 3-28-1977
5. Water is used for the following purpose:
   amount 2.21 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7																7

MICROFILMED SEP 12 2000

Total acres 354

9. Describe any other water rights used for the same purpose as described above BWCC + American Falls Res. District shares, 37-00577, 00600A

PART 2

Transfer No. 4723

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 0.15 cfs for Irrig. purposes from 4-1 to ~~10-31~~ 11-1
(cfs/ac-ft)
amount 63.8 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	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	14		3	11		1	3	7				24						24

Total acres 24

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

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MICROFILMED
SEP 12 2000

Total acres _____

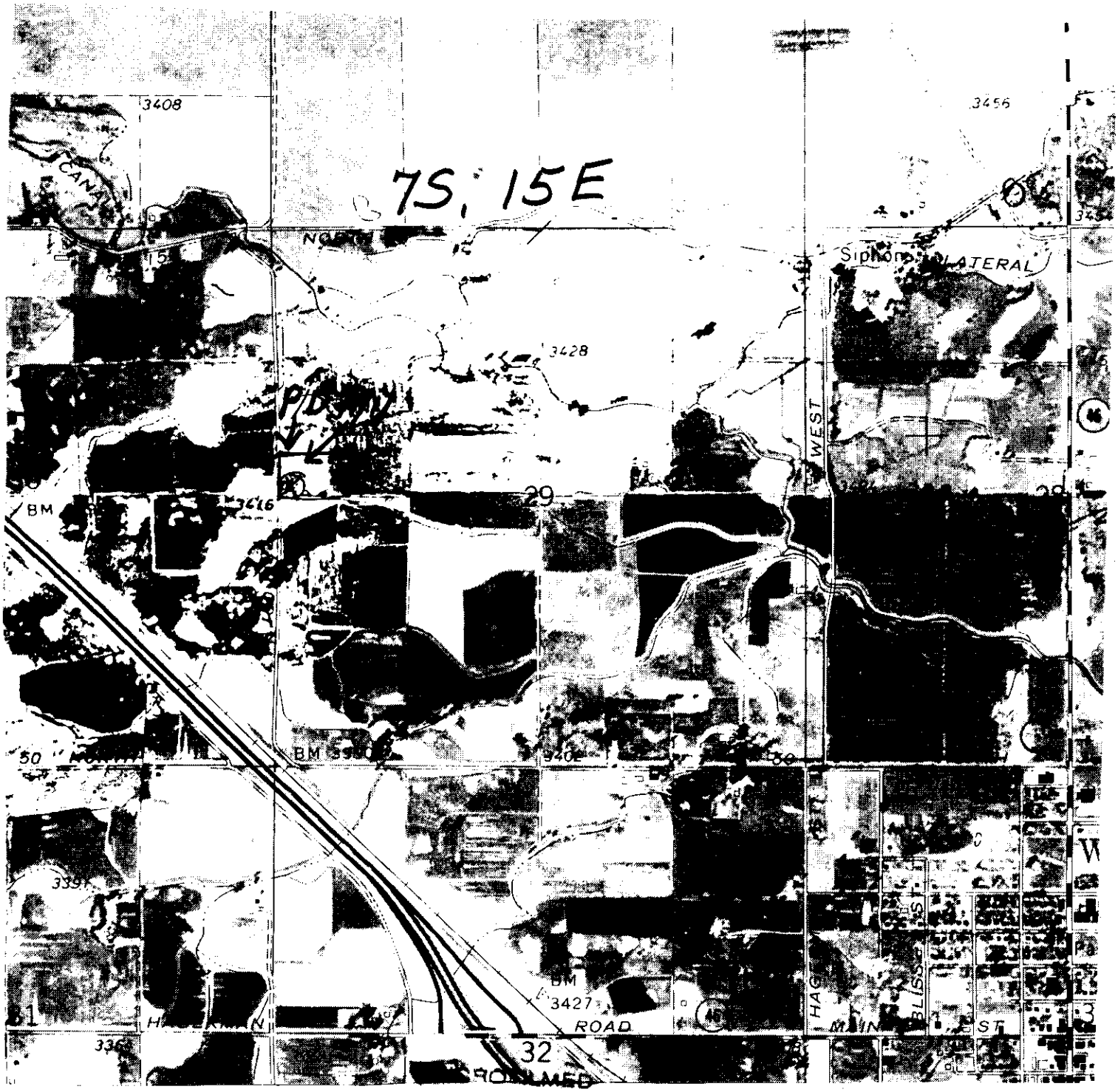
Transfer No. 4723

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 4723

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (~~cfs/ac-ft~~)	Hours/days/year	Period of Use
	Stockwater	.08cfs/34.7afa	365/3 milkings	1-1 to 12-31
	Commercial	.03cfs/12.7"	" "	1-1 to 12-31

2. Quantity and quality of return flows and location of discharge:
Dairy waste water will discharge to pond and then land applied to adjacent fields.

3. Describe effects on other water uses resulting from the proposed change:
The acres being converted to dairy use will be dried up of all water. The remaining irrigation use will continue

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.

North Valley Milk, Inc.
by Andrew Fitzgerald Secy
(Signature of Applicant)

Subscribed and sworn to before me this 3RD day of MAY, 1995.

Kelly K. Christensen
(Notary Public)

My commission expires 3-2-98

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 3 attachments

Received by MTS Date 5-3-95 Protest filed by

Prelim. check by JF Fee $100 (S018050)

Receipted by MTS Date 5-3-95

Published in Gooding Co. Leader Copies of protest forwarded by

Pub. dates 10/11 & 10/18/95 Hearing held by Date

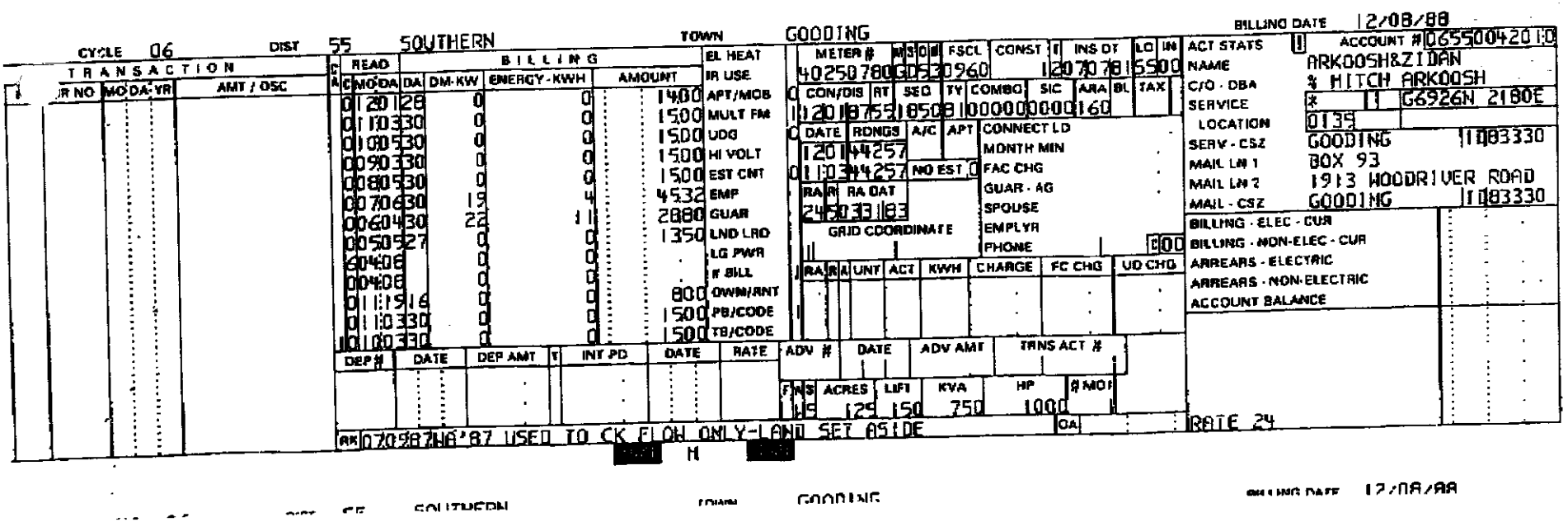
Watermaster recommendation requested on N/A Recommended for ☐ approval ☐ denial

rec'd. by

Copy of transfer sent to lien holder

RECEIVED
MAY 03 1995
Department of Water Resources
Southern Region

MICROFILMED
SEP 12 2000



CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/08/88

TRANSACTION: JR NO | MO DA YR | AMT / OSC

READ: C A | MO DA

BILLING: DA | DM-KW | ENERGY-KWH | AMOUNT

MO	DA	DA	DM-KW	ENERGY-KWH	AMOUNT	
0	12	01	28	0	0	14.00 EL HEAT
0	11	03	30	0	0	15.00 IR USE
0	10	05	30	0	0	15.00 APT/MOB
0	09	03	30	0	0	15.00 MULT FM
0	08	05	30	0	0	15.00 UDG
0	07	06	30	19	4532	45.32 HI VOLT
0	06	04	30	22	2880	28.80 EST CNT
0	05	05	27	0	0	13.50 EMP
	04	04	06			GUAR
	04	04	06			LND LRD
0	11	11	91	0	0	8.00 LG PWR
0	11	03	30	0	0	15.00 # BILL
0	10	03	30	0	0	15.00 OWN/RNT
						PB/CODE
						TB/CODE

DEP # | DATE | DEP AMT | T | INT PD | DATE | RATE

METER # | MS | IO | FSCL | CONST | T | INS DT | LO | IN

40250780 | 05 | 30960 | 12 07 78 | 55 00

CON/DIS | RT | SEC | TY | COMBO | SIC | ARA | BL | TAX

12 08 87 55 | 18508 | 00000000 | 160

DATE | RDNGS | A/C | APT

12 01 | 04257

11 03 | 04257 | NO EST

RA | R | RA DAT

24 | 03 | 33 | 83

GRID COORDINATE

CONNECT LD

MONTH MIN

FAC CHG

GUAR - AG

SPOUSE

EMPLYR

PHONE | E | 00

RA | RA | UNT | ACT | KWH | CHARGE | FC CHG | UD CHG

ADV # | DATE | ADV AMT | TRNS ACT #

F | NS | ACRES | LIFT | KVA | HP | # MOT

49 | 129 | 150 | 750 | 1000

OA

ACT STATS | I | ACCOUNT # 065500420 | 0

NAME ARKOOSH&ZIDAN

C/O - DBA % MITCH ARKOOSH

SERVICE * | | G6926N 2180E

LOCATION 0139

SERV - CSZ GOODING | 83330

MAIL LN 1 BOX 93

MAIL LN 2 1913 WOODRIVER ROAD

MAIL - CSZ GOODING | 83330

BILLING - ELEC - CUR

BILLING - NON-ELEC - CUR

ARREARS - ELECTRIC

ARREARS - NON-ELECTRIC

ACCOUNT BALANCE

RATE 24

RK 07 09 87 WA'87 USED TO CK FLOW ONLY-LAND SET ASIDE

[redacted] H [redacted]

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/08/88

NTR

MICROFILMED

0008

[redacted] M14 [redacted]

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/90

ID	OR NO	MO DA YR	AMT / DSC	C A	READ MO DA	DA	DM-KW	ENERGY-KWH	AMOUNT		
003	20255	111690	TOFF-CYCLE 14	F	01115	14	0	0	700	APT/MOB	0
1 CAM		111690	356.46	3	01101	30	65	4255	14554	MULT FM	1
			PYMT TOTINT	6	01002	30	72	13387	45746	UDG	0
002	96800	111990	444.42-	6	00831	30	62	13229	52191	HI VOLT	
			1155-001139-B	6	00802	30	85	25780	92071	EST CNT	0
002	96800	111990	730.16		00702	30	84	31053	105958	EMP	
			1155-001123-3	4	00601	30	71	31279	103067	GUAR	
002	96800	111990	2,213.15		00502	20	70	14288	48825	LND LRD	
			1155-001126-5	T	00412		0	0	.	LG PWR	0
010*	62998	111990	1,293.91		00103		0	0	.	# BILL	1
002	96800	111990	3,047.44-		00103	30	0	0	1500	OWN/RNT	
			1155-001114-5	L	7N 1204	30	0	0	1500	PB/CODE	
002	96800	111990	1,996.43-		01102	30	0	0	1500	TB/CODE	
			1155-001112-7								
002	96800	111990	104.35								
			1155-001117-5								
000	AE522	112390	CSSN								
903*	00000	120690									

EL HEAT
IR USE

DEP #	DATE	DEP AMT	T	INT PD	DATE	RATE
		.		.		
		.		.		

RK 090790WR

METER #	M S D D	FSCL	CONST	T	INS DT	LO	IN
40250780	GD6B	0960	1	2	070781	5SD	0

CON/DIS	RT	SEQ	TY	COMBO	SIC	ARA	BL	TAX
11H5	20	551840	B1	00041	0000	160		

DATE	RDNGS	A/C	APT
111589909			
110189909	NO EST 0		

RA	R	RA DAT
24	5	033183

GRID COORDINATE
0

CONNECT LO .
MONTH MIN .
FAC CHG .
GUAR - AG .
SPOUSE
EMPLYR SELF
PHONE 9348464 ED0

RA	R	R	UNT	ACT	KWH	CHARGE	FC CHG	UD CHG
.						.	.	.
						.	.	.

ADV #	DATE	ADV AMT	TRNS ACT #

F	WS	ACRES	LIFT	KVA	HP	# MOT
	W6	125	150	750	1000	1

OA

ACT STATS I ACCOUNT # 0655004201:1
NAME GREEN HORN FARMS
C/O - DBA & MITCH ARKOOSH
SERVICE 1374 E 2175 E
LOCATION 0135
SERV - CSZ GOODING ID83330
MAIL LN 1 BOX 93
MAIL LN 2
MAIL - CSZ GOODING ID83330

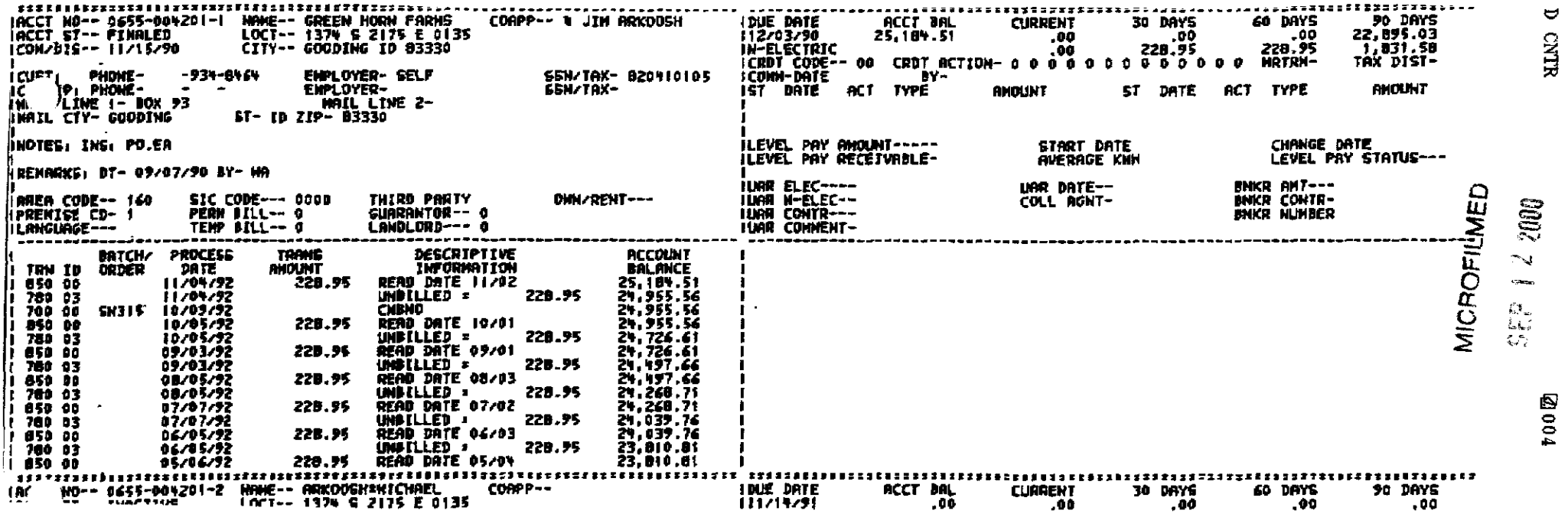
BILLING - ELEC - CUR	.
BILLING - NON-ELEC - CUR	.
ARREARS - ELECTRIC	.
ARREARS - NON-ELECTRIC	.
ACCOUNT BALANCE	.

RECORD CNTR
MICROFILMED
SEP 12 2000
006

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/90

ID	OR NO	MO DA YR	AMT / DSC	C A	READ MO DA	DA	DM-KW	ENERGY-KWH	AMOUNT	EL HEAT / IR USE	METER #	M S D D	FSCL	CONST	T	INS DT	LO	IN

ACT STATS I ACCOUNT # 0655004201:1
NAME GREEN HORN FARMS



ACCT NO-- 0655-004201-1 NAME-- GREEN HORN FARMS COAPP-- % JIM ARKOOSH
ACCT ST-- FINALED LOCT-- 1374 S 2175 E 0135
COM/DIS-- 11/15/90 CITY-- GOODING ID 83330

CUST PHONE- -934-8464 EMPLOYER- SELF SSN/TAX- 820410105
C /P PHONE- - - EMPLOYER- SSN/TAX-
MA LINE 1- BOX 93 MAIL LINE 2-
MAIL CTY- GOODING ST- ID ZIP- 83330

NOTES: ING: PD.EA

REMARKS: DT- 09/07/90 BY- MA

AREA CODE-- 160 SIC CODE--- 0000 THIRD PARTY OWN/RENT---
PREMISE CD- 1 PERM BILL-- 0 GUARANTOR-- 0
LANGUAGE--- TEMP BILL-- 0 LANDLORD--- 0

DUE DATE ACCT BAL CURRENT 30 DAYS 60 DAYS 90 DAYS
12/03/90 25,184.51 .00 .00 .00 22,895.03
N-ELECTRIC .00 228.95 228.95 1,831.58
CRDT CODE-- 00 CRDT ACTION- 0 0 0 0 0 0 0 0 0 0 0 0 0 MRTRN- TAX DIST-
COMM-DATE BY-
ST DATE ACT TYPE AMOUNT ST DATE ACT TYPE AMOUNT

LEVEL PAY AMOUNT----- START DATE CHANGE DATE
LEVEL PAY RECEIVABLE- AVERAGE KWH LEVEL PAY STATUS---

UAR ELEC---- UAR DATE-- BNKR AMT---
UAR N-ELEC-- COLL AGNT- BNKR CONTR-
UAR CONTR--- BNKR NUMBER
UAR COMMENT-

TRN ID	BATCH/ ORDER	PROCESS DATE	TRANS AMOUNT	DESCRIPTIVE INFORMATION		ACCOUNT BALANCE
850 00		11/04/92	228.95	READ DATE 11/02		25,184.51
780 03		11/04/92		UNBILLED =	228.95	24,955.56
700 00	SN31S	10/09/92		CNBNO		24,955.56
850 00		10/05/92	228.95	READ DATE 10/01		24,955.56
780 03		10/05/92		UNBILLED =	228.95	24,726.61
850 00		09/03/92	228.95	READ DATE 09/01		24,726.61
780 03		09/03/92		UNBILLED =	228.95	24,497.66
850 00		08/05/92	228.95	READ DATE 08/03		24,497.66
780 03		08/05/92		UNBILLED =	228.95	24,268.71
850 00		07/07/92	228.95	READ DATE 07/02		24,268.71
780 03		07/07/92		UNBILLED =	228.95	24,039.76
850 00		06/05/92	228.95	READ DATE 06/03		24,039.76
780 03		06/05/92		UNBILLED =	228.95	23,810.81
850 00		05/06/92	228.95	READ DATE 05/04		23,810.81

AC NO-- 0655-004201-2 NAME-- ARKOOSH,MICHAEL COAPP--
ACCT-- 1374 S 2175 E 0135

DUE DATE ACCT BAL CURRENT 30 DAYS 60 DAYS 90 DAYS
11/19/91 .00 .00 .00 .00 .00

MICROFILMED
SEP 12 2000
0004
D CNTR

```
ACCT NO-- 0655-004201-3  NAME-- ARKOOSH PRODUCE      COAPP-- % JIM ARKOOSH
ACCT ST-- INACTIVE       LOCT-- T37N R 21?E E 0135
CON/DIS-- 10/30/92       CITY-- GOODING ID 83330

CUST:   PHONE- 208-934-8464 H   EMPLOYER-                    SSN/TAX- 520412943T
CO-APP: PHONE-     -     -      EMPLOYER-                    SSN/TAX-
MAIL LINE 1- BOX 93                MAIL LINE 2-
MAIL CTY- GOODING          ST- ID ZIP- 83330

NOTES: ING: PD E ON L

REMARKS: DT- 08/15/91 BY- W. 8/91 RD 37681 METER TESTS OK BY MTR DPT-IS 125 HP

AREA CODE-- 160     SIC CODE--- 0000     THIRD PARTY          OWN/RENT---
PREFERENCE CD- 2    PERM BILL-- 0        GUARANTOR-- 0
LANGUAGE---         TEMP BILL-- 0        LANDLORD--- 0
```

TRN	ID	BATCH/ ORDER	PROCESS DATE	TRANS AMOUNT	DESCRIPTIVE INFORMATION		ACCOUNT BALANCE
780	06	96800	11/17/92	.16-			0.00
750	10	CHECK	11/17/92	6,818.74	#: 00355695		0.16
300	02	96800	11/17/92	1,782.46-	01 1155-001139-9		6,818.58-
300	02	96800	11/17/92	270.15-	01 1155-001137-6		5,036.12-
300	02	96800	11/17/92	2,493.12-	01 1155-001117-6		4,765.97-
300	02	96800	11/17/92	2,150.92-	01 1155-001119-6		2,272.85-
811	CM		11/04/92		850-00		
850	00		11/04/92	.05-	READ DATE 11/02		121.93-
780	04		11/04/92		UNBILLED =	.05-	121.88-
811	CM	TN6B1	11/02/92		800-03		
701	03		11/02/92	77.88-	IRRG TOTINT		121.88-
800	03	TN6B1	11/02/92	13.67			121.88-
780	04		11/02/92		UNBILLED =	.83-	135.55-
850	00		10/05/92	13.95	READ DATE 10/01		135.55-

```
DUE DATE       ACCT BAL      CURRENT      30 DAYS      60 DAYS      90 DAYS
11/18/92            .00          .00          .00          .00          .00
IN-ELECTRIC                      .00          .00          .00          .00
CRDT CODE-- 00  CRDT ACTION- 0 F 0 0 0 0 0 0 T 0 0 0 0  MATRH-     TAX DIST-
COMM-DATE            BY-
ST  DATE   ACT  TYPE       AMOUNT        ST  DATE   ACT  TYPE       AMOUNT

LEVEL PAY AMOUNT-----        START DATE                  CHANGE DATE
LEVEL PAY RECEIVABLE-        AVERAGE KWH                 LEVEL PAY STATUS---

UAR ELEC----                 UAR DATE--                  BNKR AMT---
UAR N-ELEC--                 COLL AGNT-                  BNKR CONTR-
UAR CONTR---                                             BNKR NUMBER
UAR COMMENT-
```

METER NO	S	TYP	D	PH	F-GCL	CONST	INS/RM/CHG	T-YR READ	CURR	PREV	DEMAND
140250780G	D	2	5	3	96.0	0000	07/07/81	81	73433	73433	
					* C	READ	DAYS	DEM-KWH	ENERGY-KWH	BILL AMT-MTR	*
RATE--- 24					RD	10/30	29	0	0	14.50	*
REV CLS 5					RD	10/01	30	0	0	15.00	*
RATE DT 03/31/83					RD	09/01	30	0	0	15.00	*AREA CD 160
MTR LOC 00					RD	08/03	30	100	19,588	831.25	*INSTR-- 00
MUL FAM 1					RD	07/02	30	100	45,793	1,567.37	*ROUTE-- 55
APTNO#- 0					RD	06/03	30	84	53,908	1,747.79	*SEQ---- 1940
IRG USE					RD	05/04	20	85	15,073	515.09	*KWH EST
ELC HT-					RD	04/14	00	0	0	0.00	*LNDLORD 0
HIH VLT 0					RA	10/28	25	68	2,019	69.00	*LAG PWR
UNGRD-- 0					RA	10/03	30	85	14,053	480.22	*
CONN LD					RE	09/03	30	85	56,317	1,790.48	*
MNTH MN					RA	08/02	30	86	43,094	1,388.20	*
FAC CHG					RE	07/03	30	86	33,679	1,135.45	*

```
ARG YR- 92    G ACRES LIFT    KVA     HORSEPOWR WHDT  DEMAND/HP COMP CODE---  0
          M S 00125 0150 1    25.0    1    125.0    |
                         2    25.0    2              KWH TAX REF--
                         3    25.0    3              PROP TAX REF-
                                      4              FINANCE CODE- G

IRRG YR- 93    G ACRES LIFT    KVA     HORSEPOWR WHDT  DEMAND/HP COMP CODE---  0
          M G 00125 0150 1    25.0    !    125.0    |
                         2    25.0    2              KWH TAX REF--
                         3    25.0    3              PROP TAX REF-
                                      4              FINANCE CODE-

          COMBINATION NO.- 00055    WDCHECK CODE   0
EXCHANGE CREDIT---   MONTH 08/92     KWH-      19,588   FARM FACTOR-  1
```


12 IPCO RECORD CNTR 002
MICROFILMED

MICROFILMED
SEP 12 2000
001

```
ACCT NO-- 0655-004201-3  NAME-- ARKOOSH PRODUCE      COAPP-- % JIM ARKOOSH
ACCT ST-- INACTIVE       LOCT-- 1374 S 2175 E 0135  ID  24
CON/DIS-- 10/30/92       CITY-- GOODING ID 83330

CUST:   PHONE- 208-934-8464 W   EMPLOYER-                    SSN/TAX- 520412943T
CO-APP: PHONE-   -   -          EMPLOYER-                    SSN/TAX-
MAIL LINE 1- BOX 93                MAIL LINE 2-
MAIL CTY- GOODING          ST- ID ZIP- 83330

NOTES: INS: PD E ON L

REMARKS: DT- 08/15/91 BY- MA 8/91 RD 37681 METER TESTS OK BY MTR DPT-IS 12% MP

AREA CODE-- 160     SIC CODE--- 0000     THIRD PARTY          OWN/RENT---
USAGE CD- 2         PERM BILL-- 0        GUARANTOR-- 0
USAGE---            TEMP BILL-- 0        LANDLORD--- 0
```

TRN	ID	BATCH/ ORDER	PROCESS DATE	TRANS AMOUNT		DESCRIPTIVE INFORMATION	ACCOUNT BALANCE
750	10	CHECK	12/17/92	684.69	#:	00364699	0.00
740	00	96092	12/17/92	86.37-			684.69-
300	02	96800	12/17/92	115.53-	01	1155-001139-9	598.32-
300	02	96800	12/17/92	127.06-	01	1155-001137-6	482.79-
300	02	96800	12/17/92	147.36-	01	1155-001117-6	355.73-
300	02	96800	12/17/92	208.37-	01	1155-001114-6	208.37-
780	06	96800	11/17/92	.16-			0.00
750	10	CHECK	11/17/92	6,818.74	#:	00355695	0.16
300	02	96800	11/17/92	1,782.46-	01	1155-001139-9	6,818.58-
300	02	96800	11/17/92	270.15-	01	1155-001137-6	5,036.12-
300	02	96800	11/17/92	2,493.12-	01	1155-001117-6	4,765.97-
300	02	96800	11/17/92	2,150.92-	01	1155-001114-6	2,272.85-
871	CM		11/04/92		850-00		
850	00		11/04/92	.05-	READ DATE 11/02		121.93-

```
METER NO  S TYP D PH F-SCL CONST INS/RM/CHG  CURR   PREV  RT-ANNIV  RTE  SEQ RC
402507806 D  2  S  3  96.0 00001  07/07/81  73433  73433   10/92    55 1950  S
```

MRC	ACC	READ	DAYS	DEM-KW	BLC-KW	ENERGY-KWH	BILL AMT
0		10/30/00	29	0		0	14.50
0		10/01/00	30	0		0	15.00
0		09/01/00	30	0		0	15.00
0		08/03/00	30	100		19,588	831.25
0		07/02/00	30	100		45,793	1,567.37
0		06/03/00	30	84		53,908	1,747.79
0		05/04/00	28	85		15,073	515.09
0		04/14/00	00	0		0	0.00
A		10/28/00	25	68		2,019	69.00
A		10/03/00	30	85		14,053	480.22
E		09/03/00	30	85		56,317	1,740.48
A		08/02/00	30	86		43,094	1,388.20
E		07/03/00	30	86		33,679	1,135.45

Metered

```
ACCT NO-- 0655-004222-3  NAME-- JOHANNSEN:WILLIAM E COAPP-- JOHANNSEN:JOYCE
ACCT ST-- ACTIVE         LOCT-- 1925 WOOD RIVER RD   ID  92
CONNECT-- 09/02/87       CITY-- GOODING ID 83330     CNTR
```

```
DUE DATE       ACCT BAL      CURRENT      30 DAYS      60 DAYS      90 DAYS
11/10/92          .00          .00          .00          .00          .00
N-ELECTRIC                     .00          .00          .00          .00
CRDT CODE-- 00  CRDT ACTION- 0 0 0 0 0 0 0 0 0 0 0 0 0 0  MRTRN-    TAX DIST-
ST  DATE   ACT       AMOUNT                ST  DATE   ACT  TYPE      AMOUNT

CONN-DATE          BY-
LEVEL PAY AMOUNT-----          START DATE              CHANGE DATE
LEVEL PAY RECEIVABLE-          AVERAGE KWH             LEVEL PAY STATUS---
URR ELEC----                   URR DATE--              BNKR AMT---
URR N-ELEC--                   COLL AGNT-              BNKR CONTR-
URR CONTR---                                           BNKR NUMBER
URR COMMENT-
```

```
METER NO  S TYP D PH F-SCL CONST INS/RM/CHG  CURR   PREV  RT-ANNIV  RTE  SEQ RC
402507806 D  2  S  3  96.0 00001  07/07/81  73433  73433   10/92    55 1950  S

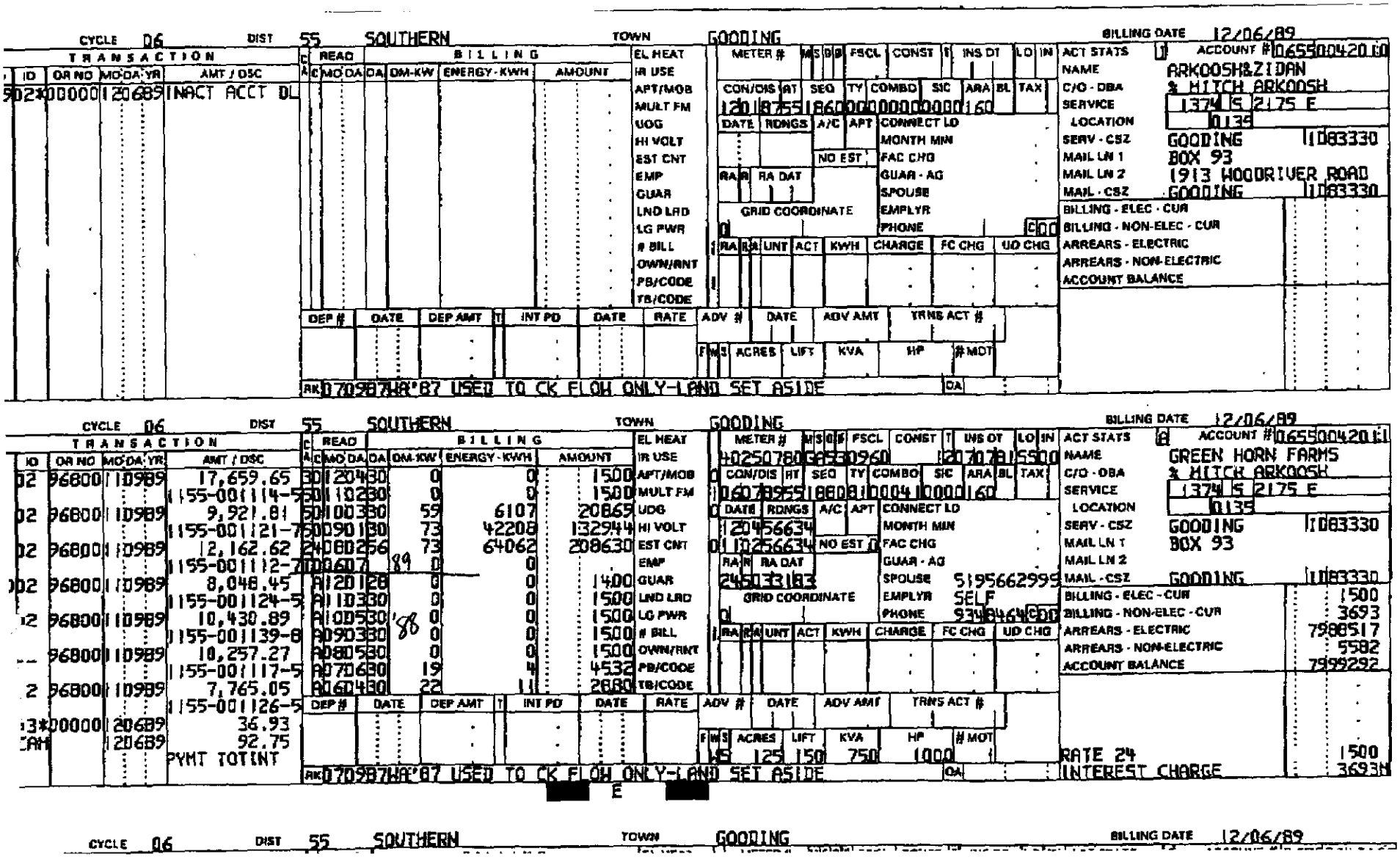
RATE.....24          AREACD.....160       HEADER #.....
ELEC HT....          LOC CODE...00        19 CONT KW...    0
HIH VLT....0         INS CODE...00        CONT RATE....
IRG USE....          UNGRD......0         CONT RATE....
LG POWER...          LANDLD.....0         STANDBY......    0
MULT FAM...1         APTNOS.....0         +S& AMT......    0
CONN LD....          # APTNOS...          CAP CHG......
MNTH MIN...          T R/C......          MILEAGE CHG..
PAC CHG....          DN EST.....0         %& PACCHG....
ESTCNT.....0         CHG ST.....0         BLC START....10/30/92
KWH EST....          KCHGS......  0
```

```
IRRG YR- 93     S ACRES% LIFT    KVA     HORSEPOWR #HOT   DEMAND/HP COMP CODE---
                N S 0012% 0150 1   25.0   1   125.0    1
                               2   25.0   2                KWH TAX REF--
                               3   25.0   3                PROP TAX REF-
                                          4                FINANCE CODE- 5

IRRG YR- 94     S ACRES% LIFT    KVA     HORSEPOWR #HOT   DEMAND/HP COMP CODE---  0
                N S 0012% 0150 1   25.0   1   125.0    1
                               2   25.0   2                KWH TAX REF--
                               3   25.0   3                PROP TAX REF-
                                          4                FINANCE CODE-

          COMBINATION NO.- 00055    MDCHECK CODE   0
EXCHANGE CREDIT---    MONTH 08/92    KWH-     19,588    FARM FACTOR-  1
```

```
DUE DATE       ACCT BAL      CURRENT      30 DAYS      60 DAYS      90 DAYS
12/23/93         155.77       196.60          .00          .00          .00
N-ELECTRIC                     49.17          .00          .00          .00
```



CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/89

TRANSACTION: ID | OR NO | MO DA YR | AMT / DSC
502* 00000 120689 INACT ACCT DL

BILLING: C | READ A C MO DA | OA | DM-KW | ENERGY-KWH | AMOUNT
EL HEAT / IR USE / APT/MOB / MULT FM / UOG / HI VOLT / EST CNT / EMP / GUAR / LND LRD / LG PWR / # BILL / OWN/RNT / PB/CODE / TB/CODE

METER # | MS | DS | FSCL | CONST | T | INS DT | LO | IN
CON/DIS | RT | SEQ | TY | COMBO | SIC | ARA | BL | TAX
120 | 8755 | 1860 | 0000000000 | 160
DATE | RDNGS | A/C | APT | CONNECT LD
NO EST | MONTH MIN | FAC CHG
RA | R | RA DAT | GUAR - AG | SPOUSE | EMPLYR | PHONE
GRID COORDINATE
RA | R | A | UNT | ACT | KWH | CHARGE | FC CHG | UD CHG

ACT STATS | ACCOUNT # 065500420 | LO
NAME ARKOOSH&ZIDAN
C/O - DBA % MITCH ARKOOSH
SERVICE 1374 S 2175 E
LOCATION 0139
SERV - CSZ GOODING | 1083330
MAIL LN 1 BOX 93
MAIL LN 2 1913 WOODRIVER ROAD
MAIL - CSZ GOODING | 1083330
BILLING - ELEC - CUR
BILLING - NON-ELEC - CUR
ARREARS - ELECTRIC
ARREARS - NON-ELECTRIC
ACCOUNT BALANCE

DEP # | DATE | DEP AMT | T | INT PD | DATE | RATE
ADV # | DATE | ADV AMT | TRNS ACT #
F | MS | ACRES | LIFT | KVA | HP | # MOT

RK 07098 7HA '87 USED TO CK FLOW ONLY-LAND SET ASIDE | OA

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/89

TRANSACTION: ID | OR NO | MO DA YR | AMT / DSC
02 | 96800 | 110989 | 17,659.65
155-001114-5 | 50 | 110230 | 0 | 0 | 1500
02 | 96800 | 110989 | 9,921.81
155-001121-7 | 50 | 100330 | 59 | 6107 | 20865
02 | 96800 | 110989 | 12,162.62
155-001112-7 | 50 | 090130 | 73 | 42208 | 132944
02 | 96800 | 110989 | 8,048.45
155-001124-5 | 24 | 080256 | 73 | 64062 | 208630
02 | 96800 | 110989 | 10,430.89
155-001139-8 | A | 110330 | 0 | 0 | 1500
02 | 96800 | 110989 | 10,257.27
155-001117-5 | A | 100530 | 0 | 0 | 1500
2 | 96800 | 110989 | 7,765.05
155-001126-5 | A | 090330 | 0 | 0 | 1500
3* 00000 | 120689 | 36.93
AM | 120689 | 92.75
PYMT TOTINT | A | 080530 | 0 | 0 | 1500
A | 070630 | 19 | 4 | 4532
A | 060430 | 22 | 11 | 2680

BILLING: C | READ A C MO DA | OA | DM-KW | ENERGY-KWH | AMOUNT
EL HEAT / IR USE / APT/MOB / MULT FM / UOG / HI VOLT / EST CNT / EMP / GUAR / LND LRD / LG PWR / # BILL / OWN/RNT / PB/CODE / TB/CODE
'89 | '88

METER # | MS | DS | FSCL | CONST | T | INS DT | LO | IN
4025078 | GE | 530960 | 120707 | 815500
CON/DIS | RT | SEQ | TY | COMBO | SIC | ARA | BL | TAX
060785 | 5518 | 8800 | 100041 | 0000 | 160
DATE | RDNGS | A/C | APT | CONNECT LD
120456634 | MONTH MIN
NO EST | FAC CHG
RA | R | RA DAT | GUAR - AG | SPOUSE 5195662995
1025663 | 4
246033183 | EMPLYR SELF | PHONE 934846400
GRID COORDINATE
RA | R | A | UNT | ACT | KWH | CHARGE | FC CHG | UD CHG

ACT STATS | ACCOUNT # 065500420 | LO
NAME GREEN HORN FARMS
C/O - DBA % MITCH ARKOOSH
SERVICE 1374 S 2175 E
LOCATION 0135
SERV - CSZ GOODING | 1083330
MAIL LN 1 BOX 93
MAIL LN 2
MAIL - CSZ GOODING | 1083330
BILLING - ELEC - CUR 1500
BILLING - NON-ELEC - CUR 3693
ARREARS - ELECTRIC 7588517
ARREARS - NON-ELECTRIC 5582
ACCOUNT BALANCE 7999292

DEP # | DATE | DEP AMT | T | INT PD | DATE | RATE
ADV # | DATE | ADV AMT | TRNS ACT #
F | MS | ACRES | LIFT | KVA | HP | # MOT
45 | 125 | 150 | 750 | 1000

RATE 24 1500
INTEREST CHARGE 3693N

RK 07098 7HA '87 USED TO CK FLOW ONLY-LAND SET ASIDE | OA

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/89

208 368 6912 IPCO RECORD CNTR 007

MICROFILMED

```
ACCT NO-- 0655-004201-2  NAME-- ARKOOSH&MICHAEL      COAPP--
ACCT ST-- INACTIVE       LOCT-- 1374 S 2175 E 0135
CON/DIS-- 10/28/91       CITY-- GOODING ID 83330

CUST:   PHONE- 208-934-8017 H   EMPLOYER-                    SSN/TAX- 519566299E
CO-APP: PHONE-     -     -      EMPLOYER-                    SSN/TAX-
MAIL LINE 1- 714 3RD AVE E          MAIL LINE 2-
MAIL CTY- GOODING          ST- ID ZIP- 83330

NOTES: ING: PO E ON L

REMARKS: DT- 08/15/91 BY- MA 8/91 RD 37681 METER TESTS OK BY MTR DPT-IS 125 HP

AREA CODE-- 160     SIC CODE--- 0000     THIRD PARTY          OWN/RENT---
PRFNIGE CD- 1       PERM BILL-- D        GUARANTOR-- 0
L/    AGE---        TEMP BILL-- 0        LANDLORD--- 0
```

DUE DATE	ACCT BAL	CURRENT	30 DAYS	60 DAYS	90 DAYS
11/14/91	.00	.00	.00	.00	.00
N-ELECTRIC		.00	.00	.00	.00

CRDT CODE-- 00 CRDT ACTION- 0 0 0 0 0 0 0 0 0 0 0 0 0 0 NRTRM- TAX DIST-
COMM-DATE BY-

ST	DATE	ACT	TYPE	AMOUNT	ST	DATE	ACT	TYPE	AMOUNT

LEVEL PAY AMOUNT----- START DATE CHANGE DATE
LEVEL PAY RECEIVABLE- AVERAGE KWH LEVEL PAY STATUS---

UAR ELEC---- UAR DATE-- BNKR AMT---
UAR M-ELEC-- COLL AGNT- BNKR CONTR-
UAR CONTR--- BNKR NUMBER
UAR COMMENT-

[redacted] C17 [redacted]

TRN	ID	BATCH/ ORDER	PROCESS DATE	TRANS AMOUNT	DESCRIPTIVE INFORMATION	ACCOUNT BALANCE
280	03	91937	04/06/92		DCH CHGD/DLET NOTES	0.00
280	03	91935	04/06/92		DCH CHGD/DLET NOTES	0.00
280	02	91936	04/06/92		DCH CHGD/DLET NOTES IND	0.00
280	02	91939	04/06/92		DCH CHGD/DLET NOTES IND	0.00
750	10	CHECK	12/19/91	109.33	#: 00297591	0.00
740	00	96091	12/19/91	109.33-		109.33-
280	03	90508	12/06/91		DCH CHGD/DLET NOTES	0.00
280	03	90506	12/06/91		DCH CHGD/DLET NOTES	0.00
280	02	90507	12/06/91		DCH CHGD/DLET NOTES IND	0.00
280	02	90505	12/06/91		DCH CHGD/DLET NOTES IND	0.00
501	00	55179	11/04/91	69.00-		0.00
800	03	MP241	10/29/91	69.00		69.00
760	CM	MP241	10/29/91		800-03	
501	00	55162	10/25/91	222.83-		0.00

METER NO	S	TYP	D	PH	F-SCL	CONST	INS/RM/CHG	T-YR READ	CURR	PREV	DEMAND
402507B0G	D	2	5	3	96.0	0000	07/07/81	01	39071	37052	
				# C	READ DAYS	DEM-KW	ENERGY-KWH		BILL AMT-MTR		*
RATE--- 24				*0	10/28	25	68	2,019	69.00		*
REV CLS 5				*0	10/03	30	85	14,063	480.22		*
RATE DT 03/31/83				*4	09/03	30	85	56,317	1,740.98		*AREA CD 160
MTR LOC 00				*0	08/02	30	86	43,094	1,388.20		*INSTR-- 00
MUL FAM 1				*4	07/03	30	96	33,679	1,135.45		*ROUTE-- 55
APTMOB- 0				*0	06/04	07	0	0	3.50		*SEQ---- 1920
IRG USE				*0	05/28	00	0	0	0.00		*KWH EST
ELC HT-				*A	11/15	14	0	0	7.00		*LNDLORD 0
HIH VLT 0				*A	11/01	30	65	9,259	145.54		*LRG PWR
UNGRD-- 0				*A	10/02	30	72	13,387	457.46		*
CONN LD				*A	08/31	30	62	13,229	521.91		*
MNTH NN				*A	08/02	30	85	25,780	920.71		*
FAC CHG				*A	07/02	30	84	31,053	1,059.58		*

```
IRRG YR- 92     S ACRES LIFT    KVA    HORSEPOWR %HDT  DEMAND/HP COMP CODE---
          W S 00125 0150 1   25.0  1    125.0    1
                         2   25.0  2               KWH TAX REF--
                         3   25.0  3               PROP TAX REF-
                               4                   FINANCE CODE- S

IRRG YR- 93     S ACRES LIFT    KVA    HORSEPOWR %HDT  DEMAND/HP COMP CODE---
          W S 00125 0150 1   25.0  1    125.0    1
                         2   25.0  2               KWH TAX REF--
                         3   25.0  3               PROP TAX REF-
                               4                   FINANCE CODE-

          COMBINATION NO.- 00000   NOCHECK CODE   0
 EXCHANGE CREDIT---   MONTH 11/91   KWH-      2,019   FARM FACTOR-  1
```

```
ACCT NO-- 0655-004201-3  NAME-- ARKOOSH PRODUCE      COAPP-- % JIM ARKOOSH
```

DUE DATE	ACCT BAL	CURRENT	30 DAYS	60 DAYS	90 DAYS
11/18/92	.00	.00	.00	.00	.00

388 6912 IPCO RECORD CNTR 003
MICROFILMED

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/91

TRANSACTION

ID	OR NO	MO	DA	YR	AMT / DSC

BILLING

C A	READ MO	DA	DA	DM-KW	ENERGY-KWH	AMOUNT
	01	15	14	0	0	700
	01	10	30	65	4259	14554
	01	00	30	72	13387	45746
	00	83	30	62	13229	52191
	00	80	30	85	25780	92071
	00	70	30	84	31053	105958
	40	60	30	71	31279	103067
	00	50	20	70	14288	48825
	00	41	2	0	0	
	00	10	3	0	0	
	00	10	30	0	0	1500
	71	20	30	0	0	1500
R	01	10	30	0	0	1500

↑ 90

DEP #	DATE	DEP AMT	T	INT PD	DATE	RATE

RR 090790HR

EL HEAT	
JR USE	
APT/MOB	
MULT FM	
UDG	
HI VOLT	
EST CNT	
EMP	
GUAR	
LND LRD	
LG PWR	
# BILL	
OWN/RNT	
PB/CODE	
TB/CODE	

METER # 40250780 MS DS GD5B0960 FSCL CONST T INS DT LO IN
12D707B1655D0

CON/DIS RT SEQ TY COMBO SIC ARA BL TAX
1 1 1 15 90 55 1 880 81 0041 0000 160

DATE	RDNGS	A/C	APT
11 15	89909		
01 10	89909		NO EST D

RA R RA DAT
24 50 3B1B3

GRID COORDINATE

CONNECT LD
MONTH MIN
FAC CHG
GUAR - AG
SPOUSE
EMPLYR SELF
PHONE 9348464 CD

RA	R	A	UNT	ACT	KWH	CHARGE	FC CHG	UD CHG

ADV # DATE ADV AMT TRNS ACT #

F	MS	ACRES	LIFT	KVA	HP	# MOT
	MS	125	150	750	1000	1

OA

ACT STATS C ACCOUNT # 06550042011
NAME GREEN HORN FARMS
C/O - DBA & JIM ARKOOSH
SERVICE 1374 S 2175 E
LOCATION 0135
SERV - CSZ GOODING ID 83330
MAIL LN 1 BOX 93
MAIL LN 2
MAIL - CSZ GOODING ID 83330
BILLING - ELEC - CUR
BILLING - NON-ELEC - CUR
ARREARS - ELECTRIC
ARREARS - NON-ELECTRIC
ACCOUNT BALANCE

RATE 24

[redacted] H16 [redacted]

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/91

TRANSACTION

ID	OR NO	MO	DA	YR	AMT / DSC
02	90505	12	06	91	RMKS-ADD LOC
02	90507	12	06	91	RMKS-ADD LOC
03	90506	12	06	91	RMKS-ADD INS
03	90508	12	06	91	RMKS-ADD INS

Turn on '91
'90

BILLING

C A	READ MO	DA	DA	DM-KW	ENERGY-KWH	AMOUNT
	01	02	82	68	2019	6980
F	01	00	30	85	14053	48022
S	40	90	30	85	56317	174048
	00	80	30	86	43094	138820
	40	70	30	86	33679	113545
	00	60	40	7	0	350
	00	52	8	0	0	
A	11	15	14	0	0	700
A	10	10	30	65	4259	14554
A	10	00	30	72	13387	45746
A	08	31	30	62	13229	52191
A	08	02	30	85	25780	92071
A	80	70	30	84	31053	105958

DEP #	DATE	DEP AMT	T	INT PD	DATE	RATE

RR 081591NRR/91 RO 37681 METER TESTS OK BY HTR DPT-IS 125 HP

EL HEAT	
JR USE	
APT/MOB	
MULT FM	
UDG	
HI VOLT	
EST CNT	
EMP	
GUAR	
LND LRD	
LG PWR	
# BILL	
OWN/RNT	
PB/CODE	
TB/CODE	

METER # 40250780 MS DS GD5B0960 FSCL CONST T INS DT LO IN
12D707B1655B9

CON/DIS RT SEQ TY COMBO SIC ARA BL TAX
1 10 28 16 55 22 60 81 0000 0000 160

DATE	RDNGS	A/C	APT
10 26	89071		
10 03	87052		NO EST D

RA R RA DAT
24 50 3B1B3

GRID COORDINATE

CONNECT LD
MONTH MIN
FAC CHG
GUAR - AG
SPOUSE
EMPLYR
PHONE 9344817 CD

RA	R	A	UNT	ACT	KWH	CHARGE	FC CHG	UD CHG

ADV # DATE ADV AMT TRNS ACT #

F	MS	ACRES	LIFT	KVA	HP	# MOT
	MS	125	150	750	1250	1

OA

ACT STATS C ACCOUNT # 06550042012
NAME ARKOOSH*MICHAEL
C/O - DBA
SERVICE 1374 S 2175 E
LOCATION 0135
SERV - CSZ GOODING ID 83330
MAIL LN 1 714 3RD AVE E
MAIL LN 2
MAIL - CSZ GOODING ID 83330
BILLING - ELEC - CUR
BILLING - NON-ELEC - CUR
ARREARS - ELECTRIC
ARREARS - NON-ELECTRIC
ACCOUNT BALANCE

RATE 24

CYCLE 06 DIST 55 SOUTHERN TOWN GOODING BILLING DATE 12/06/91

208 388 6912 IPCO RECORD CNTR

MICROFILMED SEP 11 1992 005

G-002845 E002080

DEED

FOR VALUE RECEIVED, West One Bank, Idaho, Successor by merger to Idaho State Bank duly organized and existing under the laws of the State of Idaho, Grantor, does hereby grant, bargain, sell and convey unto

NORTH VALLEY MILK, INC., an Idaho Corporation

Grantee, whose address is

the following described real property situated in GOODING

County, State of IDAHO

SEE ATTACHED "EXHIBIT A"

TOGETHER WITH THE FOLLOWING DESCRIBED WATER RIGHTS:

135 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0599

130 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0600A

AND 174.63 INCHES OF AMERICAN FALLS SUPPLEMENTAL WATER.

AND TOGETHER WITH 142 SHARES OF BIG WOOD CANAL COMPANY WATER.

TO HAVE AND TO HOLD, The said premises, with their appurtenances unto the said Grantee and heirs and assigns forever.

IN WITNESS WHEREOF, The Grantor, pursuant to its By-Laws has caused its name to be hereunto subscribed by its Assistant Vice President

this 15th day of March , 1994 .

156186

WEST ONE BANK, IDAHO

BY: John Carnahan
John B. Carnahan

NOTARY PUBLIC (SEAL)

STATE OF IDAHO COUNTY OF GOODING
FIRST AMERICAN TITLE
Filed for record at the request of
35 min. past 3 o'clock p m. this 18
of March, 1994 Fee #12.00
JOHN A. MYERS Recorder
By Helen K. Pratt Deputy

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 15th day of March , 1994 , before me a Notary Public in and for said State, personally appeared John B. Carnahan , known to me to be the Assistant Vice President of West One Bank, Idaho, who executed this instrument on behalf of said Bank, and acknowledged to me that such association executed the same.

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

MICROFILMED
SEP 12 2000

Debra M. Bradshaw
Notary Public for Idaho
Residing at Melba , Idaho
My commission expires: 7/15/94

m\B&SDEED1

T# 4723

EXHIBIT A

The Southeast Quarter of the Southeast Quarter, East 150.0 feet of the Southwest Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho. EXCEPT tract described as follows:

BEGINNING at the Northwest corner of said Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southwest Quarter of the Southeast Quarter, 150.0 feet;
Thence South parallel with the East boundary of said Southwest Quarter of the Southeast Quarter, 950.00 feet;
Thence East parallel with the North boundary of said South One-half of the Southeast Quarter, 400.00 feet;
Thence North parallel with the West boundary of said Southeast Quarter of the Southeast Quarter, 350.00 feet;
Thence East parallel with the North boundary of said Southeast Quarter of the Southeast Quarter, 1070.00 feet more or less to the East boundary of said Southeast Quarter of the Southeast Quarter of Section 10;
Thence North along the East boundary of said Southeast Quarter of the Southeast Quarter, 600.00 feet to the Northeast corner of said Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southeast Quarter of the Southeast Quarter, 1320.00 feet more or less to THE POINT OF BEGINNING.

AND

The Southwest Quarter of the Southwest Quarter of Section 11, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The East One-half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The North One-half of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter and the West One-half of the Southeast Quarter of Section 11, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

EXHIBIT A CONTINUED

MICROFILMED
SEP 12 2000

LESS AND EXCEPTING:

A Parcel of land being a part of the Southeast Quarter of the Northeast Quarter of Section 10, Part of the Northeast Quarter of the Southeast Quarter of Section 10 and part of the Northwest Quarter of the Southwest Quarter of Section 11, all of which is located in Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho and more particularly described as follows:

COMMENCING at the Southeast corner of said Section 10;
Thence North 00° 34' 58" East along the East boundary of Section 10 for a distance of 1329.70 feet to the Southeast corner of the Northeast Quarter of the Southeast Quarter of Section 10 and being the TRUE POINT OF BEGINNING;
Thence North 89° 54' 58" West along the South boundary of the Northeast Quarter of the Southeast Quarter of Section 10 for a distance of 1316.36 feet to the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 10;
Thence North 00° 22' 50" East along the West boundary of the Northeast Quarter of the Southeast Quarter for a distance of 1329.36 feet;
Thence North 00° 22' 50" East along the West boundary of the Southeast Quarter of the Northeast Quarter of Section 10 for a distance of 24.09 feet;
Thence North 65° 38' 29" East for a distance of 158.26 feet;
Thence North 56° 24' 44" East for a distance of 82.50 feet;
Thence North 43° 09' 43" East for a distance of 106.13 feet;
Thence North 69° 09' 19" East for a distance of 90.17 feet;
Thence South 80° 27' 08" East for a distance of 79.68 feet;
Thence South 70° 06' 44" East for a distance of 63.82 feet;
Thence North 88° 35' 31" East for a distance of 55.80 feet;
Thence North 84° 26' 50" East for a distance of 91.09 feet;
Thence North 83° 24' 29" East for a distance of 77.81 feet;
Thence North 70° 30' 14" East for a distance of 71.27 feet;
Thence North 35° 23' 39" East for a distance of 61.13 feet;
Thence North 09° 10' 56" East for a distance of 60.88 feet;
Thence South 41° 18' 31" East for a distance of 371.92 feet to a Point on the Arc of a 100° 50' 18" curve Right which is a point on the centerline of a canal;
Thence along the Arc of the 100° 50' 18" curve Right for a distance of 95.37 feet to the point of tangent, said Arc having a long chord bearing and distance of South 74° 50' 20" East, 83.07 feet;
Thence continuing along the center of the canal on the following courses:

MICROFILMED
SEP 12 2000

South 25° 47' 46" East, 89.37 feet;
South 20° 43' 42" East, 187.27 feet;
South 52° 43' 06" East, 51.74 feet;
South 60° 41' 03" East, 179.27 feet;
South 69° 06' 31" East, 113.99 feet;
South 65° 34' 48" East, 25.91 feet;
South 80° 58' 21" East, 35.61 feet;
South 83° 25' 49" East, 100.88 feet;
North 85° 34' 43" East, 35.12 feet;

Thence leaving the center of the canal South 04° 04' 11" East for a distance of 951.22 feet to a point on the South boundary of the Northwest Quarter of the Southwest Quarter of Section 11;

Thence South 89° 39' 09" West along the South boundary of the Northwest Quarter of the Southwest Quarter for a distance of 533.39 feet to the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 11 and being the TRUE POINT OF BEGINNING.

AND

The Northwest Quarter of the Northeast Quarter and the North One-half of the Northwest Quarter and the Southwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northwest Quarter of Section 14, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The Northeast Quarter of the Northeast Quarter of Section 15, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

East 150 feet of the Northwest Quarter of the Northeast Quarter of Section 15, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

END OF EXHIBIT A

MICROFILMED
SEP 12 2000

Form 1-222
12-92

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4722

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant North Valley Milk, Inc. Phone 886-7916

Post Office address 425 N 250 W, Shoshone, ID 83352

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 T. 4722 is being amended to move the dairy site 1/4 mile west to flatter ground.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
37-07575A	3-28-1977	1.38/276	Irrig.	4-1	to	10-31
37-07575B	"	0.38/77.7	Stockwater	1-1	to	12-31
		0.38/27.8	Commercial	"	to	"
					to	

2. Total amount of water being transferred 1.38/0.38 cubic feet per second and/or 381.5 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SE	11	5S	15E	Gooding	Existing irrigation (Part A) well
		NW	NE	10	"	"	"	2 wells for new dairy

5. Lands irrigated or place of use:

	Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
				NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
A)	5S	15E	11									35	3				31			69
B)	5S	15E	10		C,S	C,S														

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SEP 12 2000

Total acres 69

PART 1

6. General Information:

a. Description of diversion system A) Well, motor, pump, mainline to 3-tower pivot with end gun, various handlines. B) Two connected wells & pumps for the dairy.

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 south of county road will be sprinkled with 2 pivots, plus handlines in one corner. The rest of the ground south of the road will no longer be irrigated.

d. Remarks:
Use is for 1800 milking cattle & 500 dry stock

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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SEP 12 2000

Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 37-07575 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Groundwater tributary to _____

4. Date or priority 3-28-1977

5. Water is used for the following purpose:

   amount 2.21 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		39	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7																7
							MICROFILMED												

SEP 12 2008

Total acres 354

9. Describe any other water rights used for the same purpose as described above BWCC & AFRD shares, 37-00599, 00600A

PART 2

Transfer No. 4722

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 2.06 cfs for Irrig. purposes from 4-1 to 11-1
(cfs/ac-ft)
amount 878.7 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	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
55	15E	10																19	19
		11									38		34 ~~40~~	38		32	38		180
		14		36	(NW)		39	33		16									1248
		15	7																7

Total acres 330

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

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

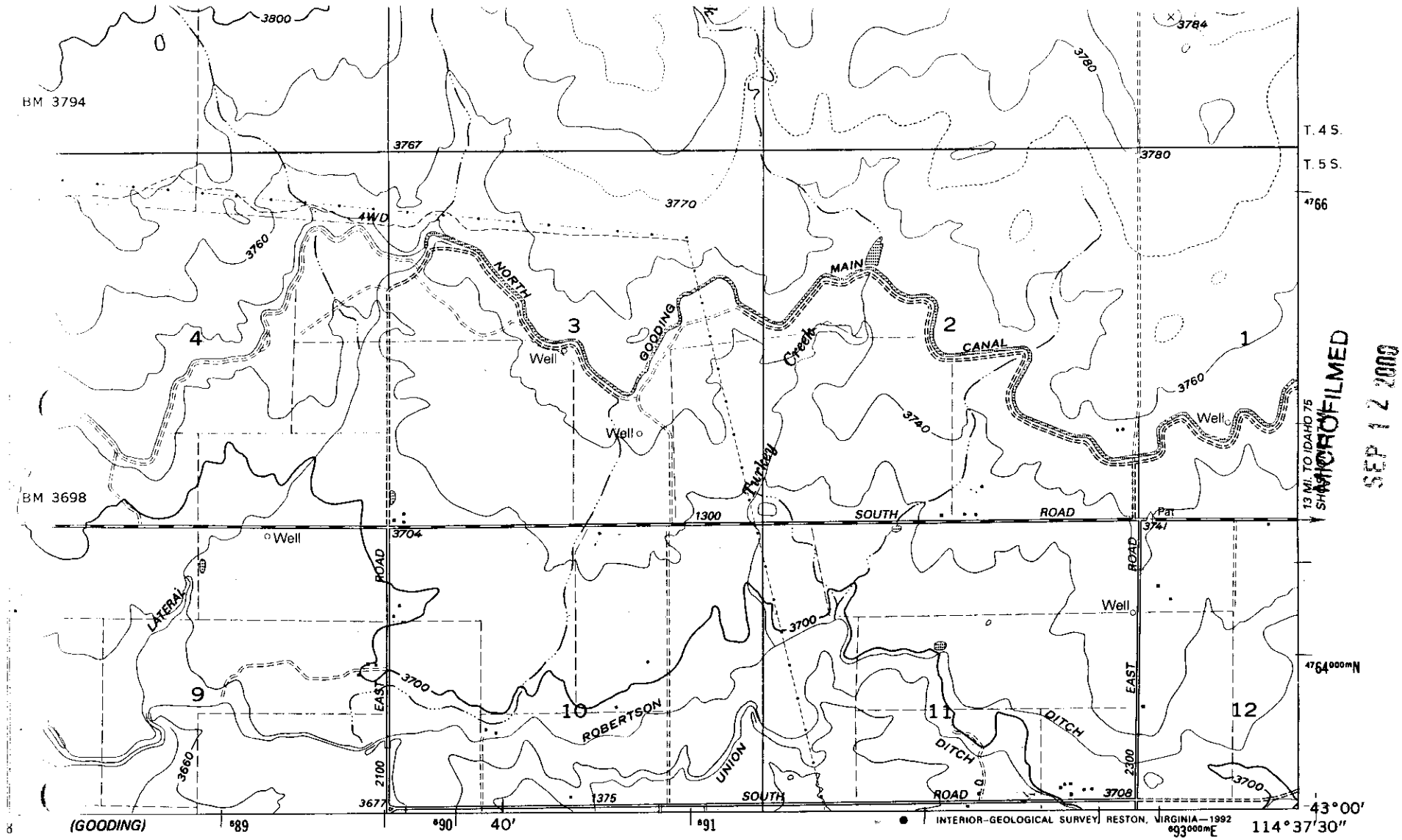
Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

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SEP 12 2000

Total acres _____



T #47722
MICROFILMED
SEP 12 2000

SCALE 1:24 000

0 1 MILE

2000 3000 4000 5000 6000 7000 FEET

0 1 KILOMETER

ITOUR INTERVAL 20 FEET
IFS REPRESENT 10-FOOT CONTOURS
LODETIC VERTICAL DATUM OF 1929

WITH NATIONAL MAP ACCURACY STANDARDS
RVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
RAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

ROAD CLASSIFICATION

Primary highway, hard surface

Secondary highway, hard surface

Light-duty road, hard or improved surface

Unimproved road

Interstate Route U. S. Route State Route

IDAHO

QUADRANGLE LOCATION

THORN CREEK SW, IDAHO

43114-A6-TF-024

1957
REVISED 1992
DMA 3070 II SW-SERIES V893

INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA—1992

Z-71

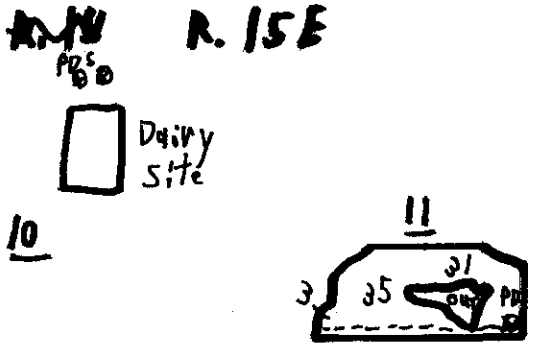
Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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SEP 12 2000

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 4722

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Stockwater	0.38/77.7	365 days/year	1-1 to 12-31
	Commercial Use		"	" to "

2. Quantity and quality of return flows and location of discharge:
Wastewater will be controlled per EPA & DEQ rules.

3. Describe effects on other water uses resulting from the proposed change:
Amount of irrigated land will decrease.

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.

Andrew Fitzgerald Sec-Trs
(Signature of Applicant)

Subscribed and sworn to before me this 8th day of January, 19 96.

J E Stanton
(Notary Public)

My commission expires 10-25-2000

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 0 attachments

Received by J E Stanton Date 1-8-96 Protest filed by

Prelim. check by Fee $50. 5018774

Receipted by Date 1-8-96

Published in Harney Co. Leader Copies of protest forwarded by

Pub. dates 1/17 & 1/24/96 Hearing held by Date

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

rec'd. by

Copy of transfer sent to lien holder

MICROFILMED
SEP 12 2000

G-002845 E002080

DEED

FOR VALUE RECEIVED, West One Bank, Idaho, Successor by merger to Idaho State Bank duly organized and existing under the laws of the State of Idaho, Grantor, does hereby grant, bargain, sell and convey unto

NORTH VALLEY MILK, INC., an Idaho Corporation

Grantee, whose address is

the following described real property situated in GOODING

County, State of IDAHO

SEE ATTACHED "EXHIBIT A"

TOGETHER WITH THE FOLLOWING DESCRIBED WATER RIGHTS:

135 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0599

130 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0600A

AND 174.63 INCHES OF AMERICAN FALLS SUPPLEMENTAL WATER.

AND TOGETHER WITH 142 SHARES OF BIG WOOD CANAL COMPANY WATER.

TO HAVE AND TO HOLD, The said premises, with their appurtenances unto the said Grantee and heirs and assigns forever.

IN WITNESS WHEREOF, The Grantor, pursuant to its By-Laws has caused its name to be hereunto subscribed by its Assistant Vice President

this 15th day of March , 1994 .

156186

WEST ONE BANK, IDAHO

BY: John Carnahan
John B. Carnahan

NOTARY PUBLIC (SEAL)

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of FIRST AMERICAN TITLE
35 min. past 3 o'clock P m. this 18
of March, 1994 Fee $12.00
JOHN A. MYERS Recorder
By Helen K. Pratt Deputy

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 15th day of March , 1994 , before me a Notary Public in and for said State, personally appeared John B. Carnahan , known to me to be the Assistant Vice President of West One Bank, Idaho, who executed this instrument on behalf of said Bank, and acknowledged to me that such association executed the same.

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

MICROFILMED
SEP 12 2000

Notary Public for Idaho
Residing at Melba , Idaho
My commission expires: 7/15/94

m\B&SDEED1

T# 4722

EXHIBIT A

The Southeast Quarter of the Southeast Quarter, East 150.0 feet of the Southwest Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho. EXCEPT tract described as follows:

BEGINNING at the Northwest corner of said Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southwest Quarter of the Southeast Quarter, 150.0 feet;
Thence South parallel with the East boundary of said Southwest Quarter of the Southeast Quarter, 950.00 feet;
Thence East parallel with the North boundary of said South One-half of the Southeast Quarter, 400.00 feet;
Thence North parallel with the West boundary of said Southeast Quarter of the Southeast Quarter, 350.00 feet;
Thence East parallel with the North boundary of said Southeast Quarter of the Southeast Quarter, 1070.00 feet more or less to the East boundary of said Southeast Quarter of the Southeast Quarter of Section 10;
Thence North along the East boundary of said Southeast Quarter of the Southeast Quarter, 600.00 feet to the Northeast corner of said Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southeast Quarter of the Southeast Quarter, 1320.00 feet more or less to THE POINT OF BEGINNING.

AND

The Southwest Quarter of the Southwest Quarter of Section 11, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The East One-half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The North One-half of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter and the West One-half of the Southeast Quarter of Section 11, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

MICROFILMED
SEP 12 2008

EXHIBIT A CONTINUED

LESS AND EXCEPTING:

A Parcel of land being a part of the Southeast Quarter of the Northeast Quarter of Section 10, Part of the Northeast Quarter of the Southeast Quarter of Section 10 and part of the Northwest Quarter of the Southwest Quarter of Section 11, all of which is located in Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho and more particularly described as follows:

COMMENCING at the Southeast corner of said Section 10;
Thence North 00° 34' 58" East along the East boundary of Section 10 for a distance of 1329.70 feet to the Southeast corner of the Northeast Quarter of the Southeast Quarter of Section 10 and being the TRUE POINT OF BEGINNING;
Thence North 89° 54' 58" West along the South boundary of the Northeast Quarter of the Southeast Quarter of Section 10 for a distance of 1316.36 feet to the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 10;
Thence North 00° 22' 50" East along the West boundary of the Northeast Quarter of the Southeast Quarter for a distance of 1329.36 feet;
Thence North 00° 22' 50" East along the West boundary of the Southeast Quarter of the Northeast Quarter of Section 10 for a distance of 24.09 feet;
Thence North 65° 38' 29" East for a distance of 158.26 feet;
Thence North 56° 24' 44" East for a distance of 82.50 feet;
Thence North 43° 09' 43" East for a distance of 106.13 feet;
Thence North 69° 09' 19" East for a distance of 90.17 feet;
Thence South 80° 27' 08" East for a distance of 79.68 feet;
Thence South 70° 06' 44" East for a distance of 63.82 feet;
Thence North 88° 35' 31" East for a distance of 55.80 feet;
Thence North 84° 26' 50" East for a distance of 91.09 feet;
Thence North 83° 24' 29" East for a distance of 77.81 feet;
Thence North 70° 30' 14" East for a distance of 71.27 feet;
Thence North 35° 23' 39" East for a distance of 61.13 feet;
Thence North 09° 10' 56" East for a distance of 60.88 feet;
Thence South 41° 18' 31" East for a distance of 371.92 feet to a Point on the Arc of a 100° 50' 18" curve Right which is a point on the centerline of a canal;
Thence along the Arc of the 100° 50' 18" curve Right for a distance of 95.37 feet to the point of tangent, said Arc having a long chord bearing and distance of South 74° 50' 20" East, 83.07 feet;
Thence continuing along the center of the canal on the following courses:

South 25° 47' 46" East, 89.37 feet;
South 20° 43' 42" East, 187.27 feet;
South 52° 43' 06" East, 51.74 feet;
South 60° 41' 03" East, 179.27 feet;
South 69° 06' 31" East, 113.99 feet;
South 65° 34' 48" East, 25.91 feet;
South 80° 58' 21" East, 35.61 feet;
South 83° 25' 49" East, 100.88 feet;
North 85° 34' 43" East, 35.12 feet;

Thence leaving the center of the canal South 04° 04' 11" East for a distance of 951.22 feet to a point on the South boundary of the Northwest Quarter of the Southwest Quarter of Section 11;

Thence South 89° 39' 09" West along the South boundary of the Northwest Quarter of the Southwest Quarter for a distance of 533.39 feet to the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 11 and being the TRUE POINT OF BEGINNING.

AND

The Northwest Quarter of the Northeast Quarter and the North One-half of the Northwest Quarter and the Southwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northwest Quarter of Section 14, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The Northeast Quarter of the Northeast Quarter of Section 15, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

East 150 feet of the Northwest Quarter of the Northeast Quarter of Section 15, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

END OF EXHIBIT A

MICROFILMED
SEP 12 2000


4
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6.8
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OUT
T#4722

DEPARTMENT OF WATER RESOURCES
1301 N. ORCHARD ST.
BOISE, ID 83706-2237

DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST. EAST
TWIN FALLS, ID 83301-6105

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07575

Priority: March 28, 1977

Maximum Diversion Rate: 2.21 CFS
Maximum Diversion Volume:[1] 942.5 AF

This is to certify, that ARKOOSH & ZIDAN INC.
RT. 1 BOX 204
GOODING, ID 83330 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 28, 1977; and has submitted Proof of Beneficial Use on April 24, 1987. An examination indicates that the works have a diversion capacity of 2.210 cfs of water from a **GROUNDWATER** source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 01/01	2.21 CFS	942.5 AF

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 11, Township 05S, Range 15E
GOODING County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
05S	15E	10	SESE	19					19
		11	NESW	38	SWSW	34	SESW	38	
			NWSE	32	SWSE	38			180
		14	NWNE	36	SWNE	14	NENW	39	
			NWNW	36	SWNW	7	SENW	16	148
		15	NENE	7					7

Total number of acres irrigated: 354

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 reflect cropping patterns or acceptable standards of water delivery 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. A totalizing measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
6. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre lands above.

MICROFILMED
NOV 0 . 1989

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07575

CONDITIONS/REMARKS:

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 24TH day of OCTOBER, 1989.

Acting for R. Keith Higginson, Director

MICROFILMED
NOV 02 1989

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 37-7575 IN THE NAME OF ARKOOSH & ZIDAN, INC.) ORDER OF REINSTATEMENT

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use be submitted on or before May 1, 1982; and,

WHEREAS, the Department extended the proof due date to May 1, 1987; and,

WHEREAS, Section 42-218a Idaho Code provides that the Department notify a permit holder sixty days prior to the proof due date; and,

WHEREAS, the Department sent notice to the permit holder by certified mail that proof was due with instructions as to the steps to be taken to make said proof; and,

WHEREAS, the Department notified the permit holder that the permit lapsed for failure of the permit holder to submit proof of beneficial use form and proper fee; and,

WHEREAS, on April 24, 1987, the permit holder submitted the proof of beneficial use for and fee for this water right; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing as to why said permit should be reinstated by submitting the proof of beneficial use form and fee timely;

MICROFILMED

OCT 09 1987

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 37-7575 be REINSTATED with no advance in priority.

Dated this 28 day of September, 1987.

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

MICROFILMED
OCT 09 1987

Form 204
7/80

Identification No. 37-7575

RECEIVED
MAR 12 1982
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use on a water right permit

RECEIVED
MAR 10 1982
Department of Water Resources
Southern District Office

Arkoosh & Zidan Inc. (Name) of Route #1 Box 204, Gooding (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. 37-7575.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before May 1, 1982.

That he has heretofore performed the following work described under said permit:

Well has been dug & about 160 acres are being irrigated with a gravity system.

Costing $ 20,000.

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit: We want to exchange water with the Big Wood Canal Co. ~~Northside Canal Co. & American Falls~~ Reservoir District #2, but have not been able to ~~exchange~~ arrange this. The outcome of these efforts will determine how the rest of the ground is developed.

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to May 1, 1987.

Arkoosh & Zidan Inc.
By Mischa Arkoosh - Director
(Signature)*

*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit the statement of beneficial use is extended to May 1, 1987.

Signed this 22nd day of March, 1982.

L. Glen Saxton
Chief, Operations Bureau

$15.00 fee received by [illegible] Date 3-18-82 Receipt # 22646

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING DEVICE REQUIREMENT FOR PERMIT NO. 37-7575

ORDER

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows: "The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 1st day of June 1981.

L. Glen Saxton

GLEN SAXTON
Chief, Operations Bureau

MICROFILMED

Identification No. 37-7575

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho

(TYPE OR PRINT IN INK)

1. Name of applicant Arkoosh & Zidan Inc. Phone: 934-5014

   post office address Rte. #1, Gooding, Id. 83330

2. Source of water supply groundwater which is a tributary of _____

3. a. Location of point of diversion is NW ~~SE~~ ¼ of SE ¼ of Section 11 Township 5S

   Range 15E., B.M. Gooding County; additional points of diversion if any: _____

   T6S R15E per tel. con. w/ George Arkoosh 3-24-77

   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼

   of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

   Amount 13.96 cfs (cfs or acre-feet per annum) for irrig. purpose from April 1 to Nov. 1 (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

   Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated:

   a. 13.96 cubic feet per second and/or

   b. _____ acre feet per annum.

6. Proposed diverting works:

   a. Description of ditches, flumes, pumps, headgates, etc. well, motor & pump

   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____

   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.

   c. Proposed well diameter is 20 inches; proposed depth of well is 250 feet.

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.

   b. Estimated construction cost is $ 25,000.00 .

8. Description of proposed uses:

   a. If water is **not** for irrigation:

   (1) Give the place of use of water: _____ ¼ of _____ ¼ of Section _____ Township _____

   Range _____ B.M.

   (2) Amount of power to be generated: _____ hp under _____ feet of head.

   (3) List number of each kind of livestock to be watered _____

   (4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

   (5) If water is to be used for other purposes describe: _____

MICRO

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
5S	15E	11						40	40		40	40	40	40		40	40		320
		10	40			40									40			15	135
		3													40			40	80
		15	8																8
		14		40	20		40	35	10	10									155

Total number of acres to be irrigated 698.00

c. Describe any other water rights used for the same purposes as described above. Wood River water
290 shares - 300" American Falls

9. a. Who owns the property at the point of diversion Applicant

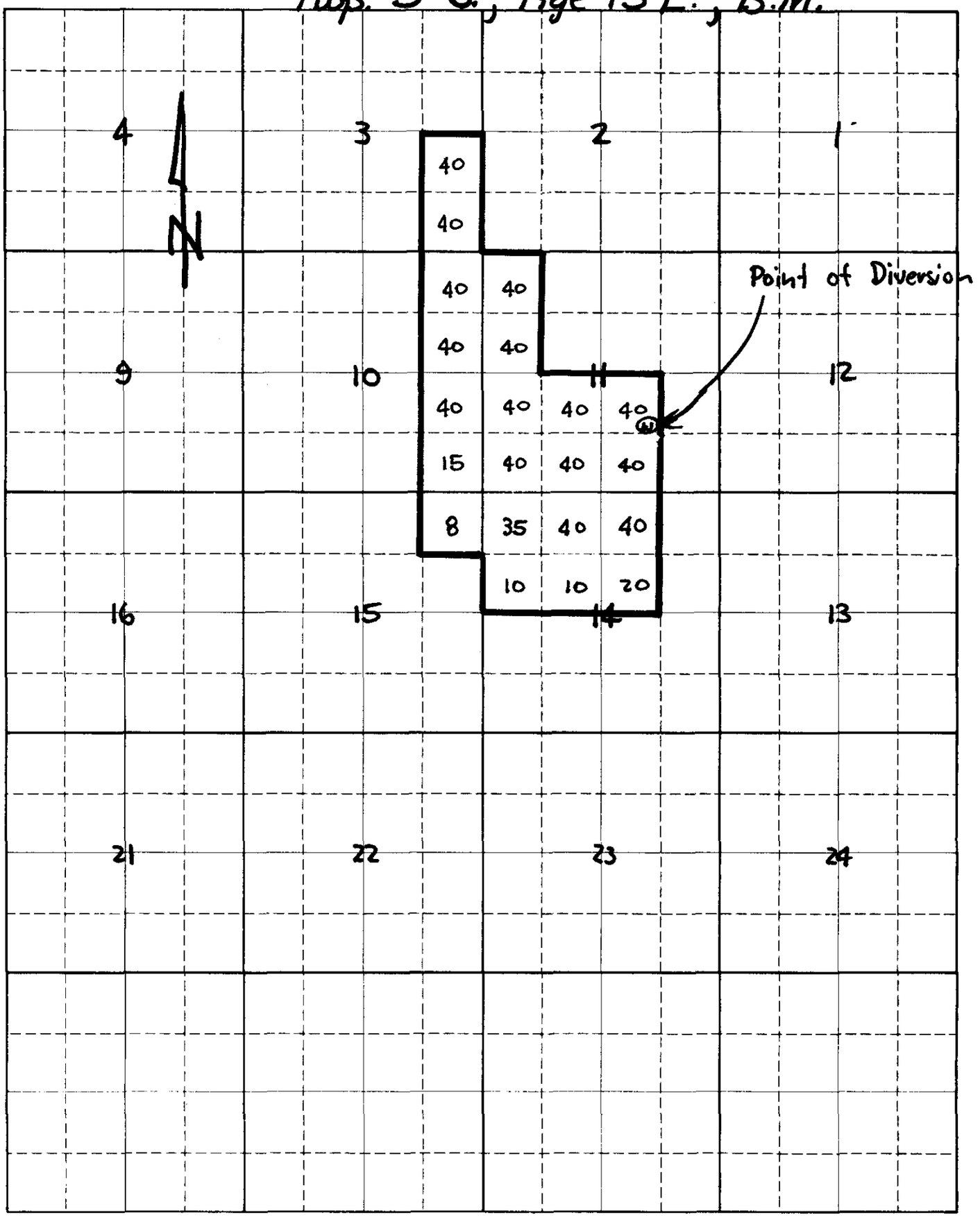
b. Who owns the land to be irrigated or place of use Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Twp. 5 S., Rge 15 E., B.M.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Ashcook Cedars Inc
Leroy Ashcook Pres.
(Applicant)

Proposed Priority 3/28/77

Received by ADM Date 3-28-77 Time 2:00 p.m.
Preliminary check by 7 B Fee $ 155.00 Rec'd. #2391
Receipted by SB Date 3/28/77
Publication prepared by SB Date 3/28/77
Published in Gooding County Leader
Publication dates 4/7 & 4/14/77
Publication approved SB Date 4/5/77
Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for (approval) denial by mls

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7575, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

   a. SUBJECT TO ALL PRIOR WATER RIGHTS.

   b. Proof of construction of works and application of water to beneficial use shall be submitted on or before May 1, 19 82.

   c. Other: A measuring device of a type approved by the Director shall be permanently installed and maintained as part of the diverting works.

   The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

Witness my hand this 31 day of May 19 77.

Deputy Director

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
County of Gooding }

Kim R. Crompton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 7 day of April 19 77, and the date of the last publication was on the 14 day of April 19 77

Kim R. Crompton

Subscribed and sworn to before me this 14 day of April, 19 77.
(SEAL)

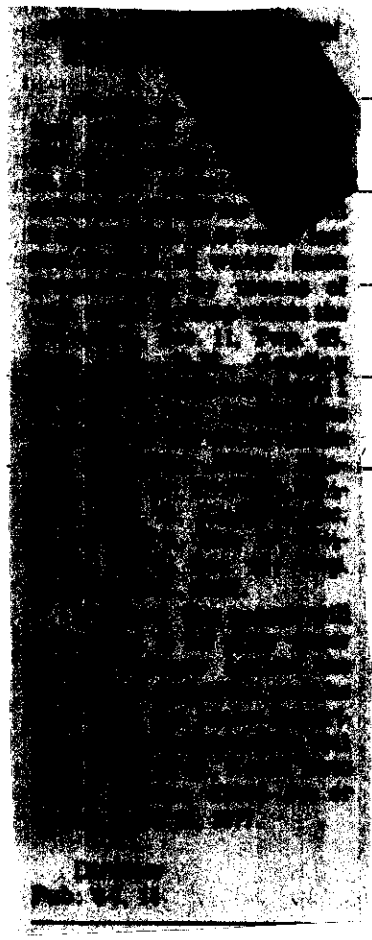
Carmen Harris
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice	40	40
Number of Insertions	2	2
Lines tabular at 315c		
Lines straight at 40 21c		8.40
Subsequent lines at 40 15c		6.—
TOTAL COST		14.40

COPY OF NOTICE



OK
SB
4-19-77

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APR 19 1977
Department of Water Resources
Southern District Office

PUBLICATION RATES
(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

19360

No. 1175

See folder 2 for

Correspondence

after

December, 1996

FREDERICKSEN, WILLIA[illegible] & MESERVY
ATTORNEYS AT LAW
117 South Adams Street
P. O. Box 168
Jerome, Idaho 83338-0168

RECEIVED
DEC 31 1996
Department of Water Resources



EUGENE D. FREDERICKSEN
ROBERT E. WILLIAMS
JAMES C. MESERVY

TELEPHONE: (208) 324-2303
TELECOPIER: (208) 324-3135

December 30, 1996

L. Glen Saxton
State of Idaho
Dept. of Water Resources
1301 N Orchard St., Statehouse Mail
Boise, Idaho 83720-9000

RE: 4 Bros. Dairy, Inc. Transfer Application
Water Right 37-07575

Dear Mr. Saxton:

Enclosed please find a copy of a Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575 which is now the subject of a pending transfer application. Currently, the transfer application concerning Water Right 37-07575 is docketed concurrently with transfer application pending for Water Right 37-02622. My client 4 Bros. Dairy, Inc. respectfully requests that the water rights transfer applications be separated and that the hearing on Water Right 37-07575 be set as soon as possible.

Please contact me with any questions you may have.

Very truly yours,

FREDERICKSEN, WILLIAMS & MESERVY

ROBERT E. WILLIAMS III

REW:jl
cc: Client
cc: Tom Arkoosh, Esq.
Encls.

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DEC 3 1 1996
Department of Water Resources

Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575

Four Brothers Dairy, Inc.

Gooding County, Idaho

Prepared by Brockway Engineering, PLLC

Charles E. Brockway, P.E.

November 26, 1996

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Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575

Four Brothers Dairy, Inc.

Gooding County, Idaho

Prepared by Brockway Engineering, PLLC

Charles E. Brockway, P.E.

November 26, 1996

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Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575

Four Brothers Dairy, Inc.

Prepared by Brockway Engineering P.L.L.C.
C.E. Brockway P.E.
November 26, 1996

PURPOSE OF EVALUATION

The purpose of this evaluation is to provide a determination of differences between historical and projected water use if the proposed transfers are allowed. This analysis therefore addresses the regional impact of the proposed transfers, conservation of the resource, and provides insight into the potential interference with senior rights.

The report also provides an analysis of potential local well interference due to pumping of new wells on the proposed dairy sites

GENERAL

The lands irrigated under water right 37-07575 are located in Sections 10,11, and 14 T5S R15E in Gooding county. It is proposed to transfer water from this right to a proposed dairy site located in the NW1/4 NE1/4 and the SW1/4 NE1/4 section 10 of T5S R15E in Gooding County and an existing dairy in Section 29 T7S R15E. Figure 1 shows the locations of the current place of use and proposed dairy sites.

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HYDROLOGY

This Eastern Snake Plain aquifer encompasses about 10,000 square miles north of the Snake River from Hagerman to St. Anthony. The Snake Plain Aquifer has been the subject of several hydrologic studies to define the geologic structure, hydrologic and hydraulic characteristics and directions of flow. The U.S. Geological Survey study under the Regional Aquifer Systems Analysis program, completed in 1990 was the most comprehensive study of the aquifer and resulted in water table configuration data, estimated flow magnitudes and directions, and a computer model of the aquifer. Studies by the Idaho Department of Water Resources are now on-going to define the response of the aquifer to historical and potential new development. These studies are helpful in evaluating the effects, both regional and local, of changes in water use associated with water right changes.

The direction of flow in the Snake Plain aquifer is generally west or southwest as determined from water level elevation contours. Figure 2 shows water table contours and approximate flow directions as determined from the 1987 USGS Hydrologic Atlas HA-703 map developed for the USGS Regional Aquifer Systems Analysis program. The flow westward trending flow lines culminate in various springs in the Hagerman/Malad river area.

The land at the current place of use and at both dairy sites overlies the Eastern Snake River Plain Aquifer. This aquifer consists of very permeable to medium permeability basalt flows and interbed flows. Ground water flow in the

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aquifer is essentially from east to west with depths to water from 100 to 165 feet depending on the ground surface elevation. The basalt sequences include fine grained interbed materials including clay, basalt sequences, and brecciated lava sequences. Drillers logs adjacent to the area indicate significant similar materials to depths of 400 feet. Hydraulic conductivity values for the aquifer underlying the area are estimated at 500 ft/day which is typical of basalt aquifers in the area[1]. Based on an effective saturated depth of 200 feet, the transmissivity is estimated at 100000 ft^2/day. The water table gradient is approximately 25 ft/mile resulting in an estimated 30 cfs of water per mile width of the aquifer flowing continuously toward the west. The basalt aquifer system underlying the area is recharged primarily from irrigation water percolating below the root zone of crops and leakage from canal and lateral systems, underflow from the northern streams and precipitation on the plain.

Response of the water table in the vicinity of the proposed Four Brothers Dairy is best depicted by the hydrograph of the U.S. Geological Survey observation well 5S 15E 35DBD2 which is located approximately 2 miles east and 3 miles south of the proposed dairy. This well has been measured at least twice each year since 1972. Generally the water level elevation fluctuates about 10 feet annually from a low in May to highs in September. The hydrograph for this well is shown on Figure 3. Water levels in this well appear to be recovering from the 1987-94 drought period

[1] Lindholm, G. F. (1996). *Summary of the Snake River Plain Regional Aquifer-System analysis in Idaho and Eastern Oregon.* USGS Prof. Paper 1408-A.

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TRANSFER PROPOSAL

Transfers 4722 and 4723 filed by North Valley Milk, Inc., predecessor to Four Brothers Dairy, propose to split water right 37-07575 and to change the nature of use to provide water for a dairy in Section 10, T5S R15E and for a dairy near Wendell in Section 29 T7S R15E. ~~Permit~~ 37-07575 currently is utilized for irrigation of 354 acres in Sections 10, 11, 14 and 15 T5S R15E with an authorized diversion of 2.21 cfs. and an authorized annual ~~consumptive use~~ of 1080 acre feet. Transfer 4722 proposes to split the right to provide 0.38 cfs of water from two wells in the NW1/4 NE1/4 Section 10 for a new dairy (37-07575B) and 1.38 cfs for continued irrigation of 69 acres in Section 11 (37-0757A). Transfer 4723 would further split the right to provide 0.25 cfs of water to a proposed dairy in Section 29, T7S R15E . Based on the proposed transfers, the total irrigated area from the well on the original place of use after the transfer will be 69 acres with the well serving as the sole source ~~of~~ irrigation water.

At the dairy site in Section 10 T5S R15E, the area which would be occupied by the dairy facilities (approximately 56 acres) is currently irrigated. This area will no longer be irrigated. The dairy near Wendell is served currently from a well on the dairy which is situated on a 20-acre site formerly irrigated with surface water. Those canal shares are currently used on other land adjacent to the dairy.

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SOILS

Primarily wind-blown silt loam soils overly the basalt with typical cemented layers at 24 to 36 inches. These soils have depths ranging up to 60 inches as indicated in the USDA Natural Resources Conservation Service (formerly Soil Conservation Service) Soil Classification. Row crops and alfalfa are currently produced on these areas. The soil complexes are suitable for irrigation with lagoon effluent provided they are irrigated under water and nutrient guidelines to maintain adequate hydraulic loadings and balance nutrient uptake with crop requirements.

WATER BUDGET

To assist in preparation of the proposed transfers, dairy water use projections have been prepared by the Idaho Department of Water Resources. A similar analysis was prepared by Brockway Engineering using the IDWR Dairy Water Use Worksheet as a guide. Based on this analysis, diversion volumes and consumptive use associated with dairies supporting a selected number of milking cows and non-milking cows are calculated. The dairy water use worksheets for both proposed dairies area provided in Appendix A. My understanding is that, according to the IDWR dairy worksheet and application for amendment of the permit, there will be 800 head of milking cows and 200 non-milking cows on the Wendell site and 1800 milking cows and 500 non-milking cows on the Section 10 site.

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Consumptive use by irrigated crops was estimated using published data[2]. Using the Shoshone 1WNW weather station, the annual consumptive use for alfalfa is 994 mm/year (39.1 inches/year). 3.25 AF/ac

A comparison of estimated consumptive use from all sources between the historical (all irrigation) water use on the farm and the projected (w/ two dairies) consumptive use is shown in Table 1. Consumptive use for the dairies is taken from the IDWR type worksheets and the crop consumptive use is computed using the annual alfalfa consumptive use. The areas occupied by the dairies were formerly irrigated so there is a reduction in irrigated acreage of 56 and 20 acres for the Sec 10 and Wendell dairies respectively.

The water budget analysis shows that the estimated total annual historical consumptive use is 628 acre feet with partial irrigation of 354 acres on the farm and 56 and 20 acres irrigated respectively on the Sec 10 and Wendell dairy sites. With the dairies constructed and operating, the estimated annual consumptive use from all sources irrigated with the well and consumptive use from the dairy operations is 378 acre feet or a reduction of 250 acre feet.

[2] Allen, R.G. and C. E. Brockway (1983). *Estimating Consumptive Irrigation Requirements for Crops in Idaho.* University of Idaho, Moscow, Idaho.

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Table 1. Water budget analysis for historical and projected use.

	Historical Use (ac-ft/year)			Projected Use (ac-ft/year)		
	Original farm	Dairy site (Sec. 10)	Dairy site (Wendell)	Original farm	Dairy site (Sec. 10)	Dairy site (Wendell)
Irrigated acres	354*	56	20	69	0	0
Stockwater CU	0	0	0	0	77.7	34.7
Commercial CU	0	0	0	0	27.8	12.7
Irrigation CU	381	182	65	225	0	0
TOTAL CU	381	182	65	225	106	47
Total Historical	**628**					
Total Projected	**378**					

* Well provided an estimated 33% of irrigation demand for these acres

LOCAL HYDROLOGY AND WELL EFFECTS

The proposed dairy in Sec 10 contemplates diversion of 0.38 cfs from two wells in the NW1/4 NE1/4 of Section 10 near the dairy facilities. These wells will be developed in fractured basalt as are adjacent wells in the area. Based on estimated aquifer properties from USGS studies and driller's logs from local wells, the aquifer hydraulic conductivity is estimated as 500 ft/day. With a saturated depth of 200 ft, the transmissivity is estimated at 10^5 ft^2/day. The storativity is estimated to be 0.15.

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These wells will be diverting from the basalt aquifer in areas of relatively high transmissivity and will therefore cause small local drawdown of the water table. An analysis of the drawdown from a single well pumping 0.38 cfs from the aquifer with a transmissivity of 10^5 ft^2/day shows extremely small declines in the water table as expected. The well interference computation, given in Appendix A, shows a drawdown in the pumped well of only 0.55 feet and a drawdown 1/4 mile away of only 0.12 feet for a well pumping 0.38 cfs continuously. The wells will not pump continuously so these estimated drawdowns are conservative and will not interfere with operation of neighboring domestic or irrigation wells. Drillers logs of nearby domestic wells indicate well depths of 200 to 300 feet with static water levels varying from 120 to 165 feet. Several wells, where pumping rate and drawdown were measured by the driller, indicate very small drawdown or no drawdown for pumping rates of 10-15 gpm. Therefore, the projected local drawdown of the proposed dairy well will not change pumping levels significantly in any adjacent wells.

Decreasing the discharge from the irrigation well in Section 11 from 2.21 to 1.38 cfs as proposed under the transfers will significantly decrease the drawdown in water levels at the well and away from the well. Also shown in Appendix A is the calculation of estimated drawdown from the well pumping 1.38 cfs as proposed, and the difference in drawdown resulting from a decrease in discharge from 2.21 to 1.38 cfs. The decrease in drawdown at the well is over 1.0 feet and the drawdown decrease at ¼ mile from the well is 0.23 feet.

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CONCLUSIONS

1. The transfers associated with applications 4722 and 4723 will result in a decrease in net consumptive use under water right 37-07575. The estimated decrease will amount to 250 acre feet per year.

2. Utilization of sprinkler irrigation on the remaining irrigated areas increases irrigation efficiency and planned use of water conservation practices on the dairies decreases diversion requirements and is not wasteful. These practices are consistent with accepted procedures for conservation of the water resource.

3. Pumping from the dairy wells proposed for these transfers will not result in significant local drawdown in neighboring wells. The drawdown from pumping 0.38 cfs, as proposed on Transfer 4722, will result in a maximum drawdown of 0.12 feet at a distance of 1320 feet (1/4 mile) from the well after 120 days of continuous pumping. Continuous pumping is not contemplated so the estimated drawdown is conservative.

4. Reduction of the maximum discharge from the irrigation well in Section 11 from 2.21 cfs to the proposed 1.38 cfs will decrease local water level drawdown significantly. It is estimated that the decrease in drawdown at the well will be more than 1.0 feet and the difference at ¼ mile from the well will be about0.23 feet after continuous pumping of 120 days.

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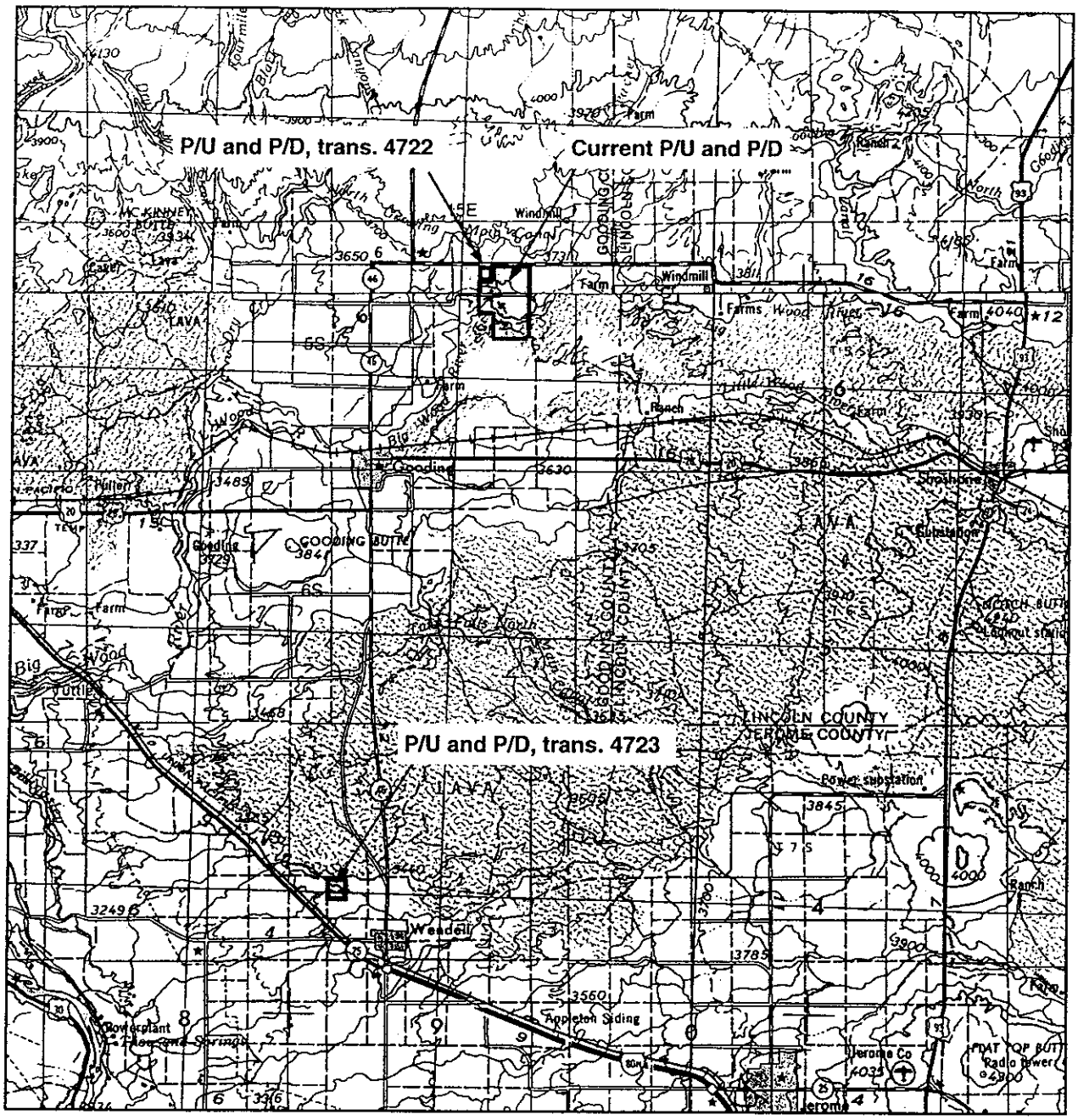


Figure 1. Vicinity map for transfer applications 4722 and 4723 (license 37-07575) for North Valley Milk, Inc.

Brockway Engineering, PLLC 11/25/96

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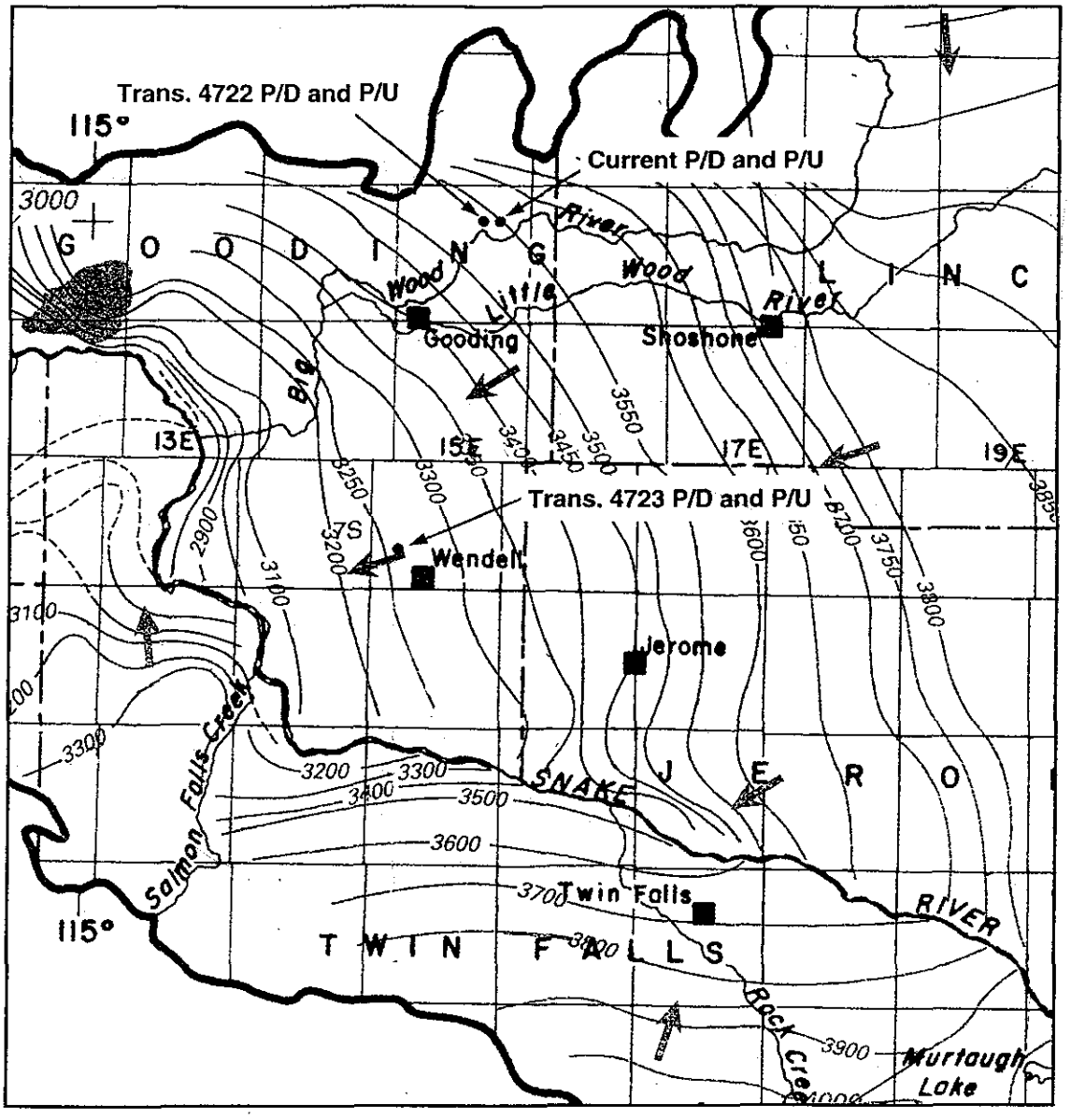
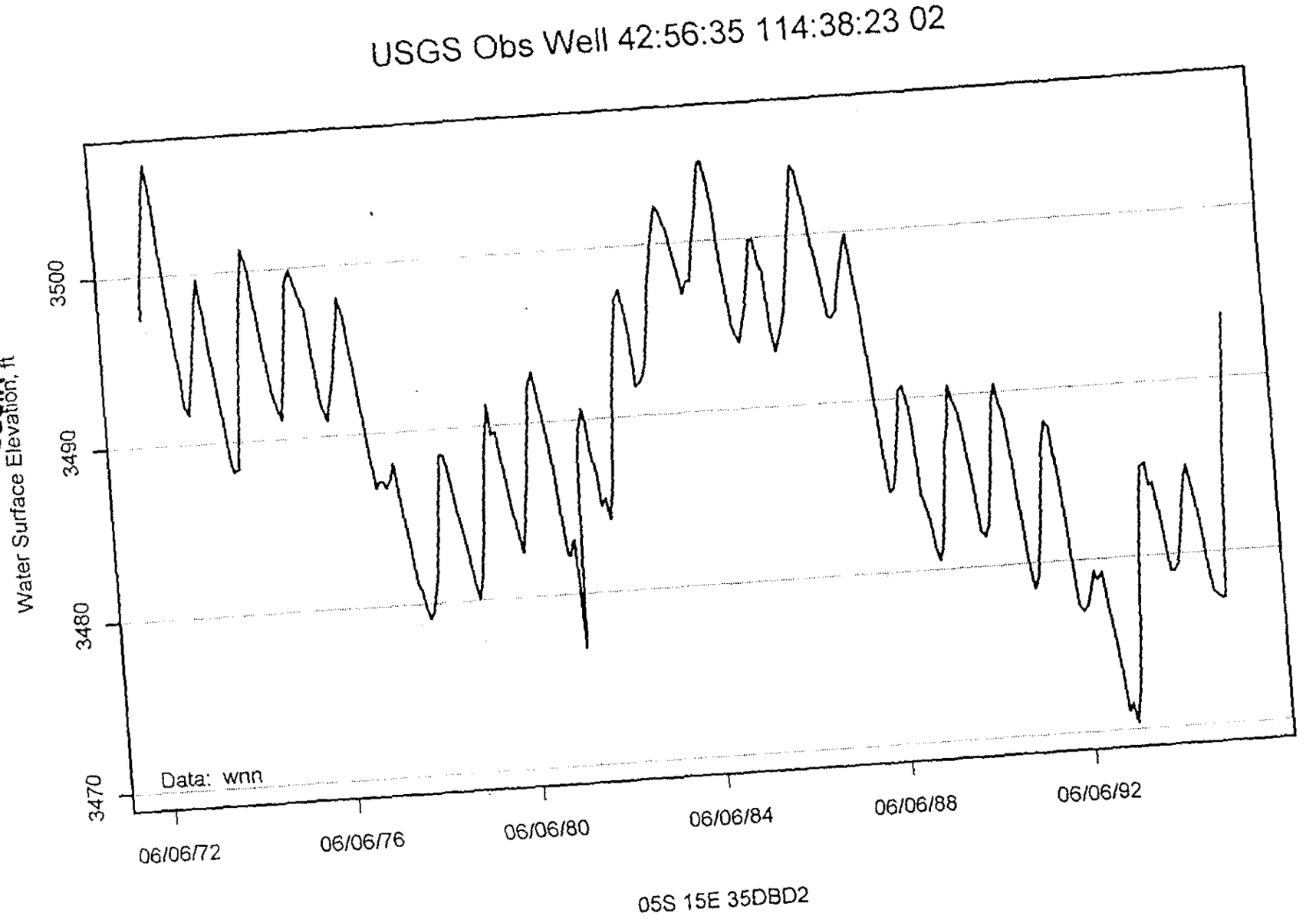


Figure 2. A portion of USGS Atlas HA-703 showing Spring 1980 water table configuration for North Valley Milk, Inc. transfer applications 4722 and 4723 (license 37-07575).

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APPENDIX A

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SEP 12 2003

IDAHO DEPARTMENT OF WATER RESOURCES

DAIRIDWR2.xls

FILE # or NAME ----- Four Brothers Sec10
REVIEWER ---------- ceb
DATE ---------- November 1, 1996

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE ---	1800
NUMBER OF NONMILKING CATTLE ----------	500
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES;	
IF ANAEROBIC, ENTER ZERO ----------	5.0
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) ----------	3.3
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMAT R AUTOMATIC, OR 3 IF	
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS -	2
NUMBER OF MILKINGS PER DAY ----------	3

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

	PUMP 1	PUMP 2 EMERGE	PUMP 3 EMERGENCY
PUMP HORSEPOWER (HP) ----------			
LIFT (FT) ----------			
DISCHARGE PRESSURE (PSI) ----------			
FRICTION LOSSES (FT) ----------			

CALCULATIONS

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

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): **

MILKING CATTLE @35 GPD/HD ----------	1.17
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	1.17
NONMILKING CATTLE @12 GPD/HD ----------	0.11
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.11
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	1.28

DIVERSION VOLUME (AF/YEAR):

STOCKWATER	
MILKING CATTLE @35 GPD/HD ----------	70.6
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	71.0
NONMILKING CATTLE @12 GPD/HD ----------	6.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	6.7
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	77.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT -------	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR ----------	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING ------	27.2
TOTAL ----------	27.8
TOTAL DIVERSION VOLUME ----------	105.6

CONSUMPTIVE USE VOLUME (AF\YEAR):

STOCKWATER	
MILKING ----------	10.4
NONMILKING ----------	0.0
TOTAL ----------	10.4
COMMERCIAL ----------	16.7
TOTAL CONSUMPTIVE USE ----------	27.1

EQUIVALENT IRRIGATED ACREAGE-DIVERSION

NORMAL IRRIGATION DIVERSION RATE MINERS INCHES /ACRE			1.00
AREA SEASONALIRRIGATION DIVERSION VOL. AF/ACRE			4.00
EQUIVALENT IRRIGATED ACREAGE ACRES			26.39
MAXIMUM EQUIVALENT DIV. RATE	26.39	IN. OR CFS	0.53

EQUIVALENT IRRIGATED ACREAGE-CONSUMPTIVE USE

AREA AVG. ALFALFA CONSUMPTIVE USE INCHES/YEAR	39.10
EQUIVALENT ALFALFA ACREAGE C.U. FOR DAIRY C.U.-ACRES	8.31

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ
Format modified and equivalent irrigated acreage addedby C.E. Brockway P.E. 10/15/94

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IDAHO DEPARTMENT OF WATER RESOURCES

Dairidwr.xls

FILE # or NAME ----- Four Brothers Wendell
REVIEWER ---------- ceb
DATE ---------- November 1, 1996

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE ---	800
NUMBER OF NONMILKING CATTLE ----------	200
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO ----------	3.0
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) ----------	3.3
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMAT R AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS -	2
NUMBER OF MILKINGS PER DAY ----------	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): **

MILKING CATTLE @35 GPD/HD ----------	0.52
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	0.52
NONMILKING CATTLE @12 GPD/HD ----------	0.04
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.04
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	0.56

DIVERSION VOLUME (AF/YEAR):

STOCKWATER	
MILKING CATTLE @35 GPD/HD ----------	31.4
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	32.0
NONMILKING CATTLE @12 GPD/HD ----------	2.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	2.7
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	34.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT -------	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR ----------	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING ------	12.1
TOTAL ----------	12.7
TOTAL DIVERSION VOLUME ----------	47.4

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ
Format modified and equivalent irrigated acreage addedby C.E. Brockway P.E. 10/15/94

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

	PUMP 1	PUMP 2 EMERGE	PUMP 3 EMERGENCY
PUMP HORSEPOWER (HP) ----------	7.50		
LIFT (FT) ----------	190		
DISCHARGE PRESSURE (PSI) ----------	50		
FRICTION LOSSES (FT) ----------	2.0		

CALCULATIONS

THEORETICAL FLOW RATE (CFS) ** ------	0.15	0.00	0.00
DIVERSION VOLUME (AFA) *** ----------	108.8	0.0	0.0

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

CONSUMPTIVE USE VOLUME (AF\YEAR):

STOCKWATER		
MILKING ----------		4.6
NONMILKING ----------		0.0
TOTAL ----------		4.6
COMMERCIAL ----------		10.0
TOTAL CONSUMPTIVE USE ----------		14.6
EQUIVALENT IRRIGATED ACREAGE-DIVERSION		
NORMAL IRRIGATION DIVERSION RATE MINERS INCHES /ACRE		1.00
AREA SEASONALIRRIGATION DIVERSION VOL. AF/ACRE		4.00
EQUIVALENT IRRIGATED ACREAGE ACRES		11.85
MAXIMUM EQUIVALENT DIV. RATE	11.85 IN. OR CFS	0.24
EQUIVALENT IRRIGATED ACREAGE-CONSUMPTIVE USE		
AREA AVG. ALFALFA CONSUMPTIVE USE INCHES/YEAR		39.10
EQUIVALENT ALFALFA ACREAGE C.U. FOR DAIRY C.U.-ACRES		4.49

POTENTIAL WELL DRAWDOWN . OUR BROTHERS DAIRY-SEC 10 WELDIN1.xls TRANSFER A. CATION

C.E. BROCKWAY NOVEMBER 2, 1996

AQUIFER PROPERTIES BASED ON USBR GROUNDWTER MANUAL-ALLUVIAL SYSTEM

EST. HOLE DIA. 8 INCHES

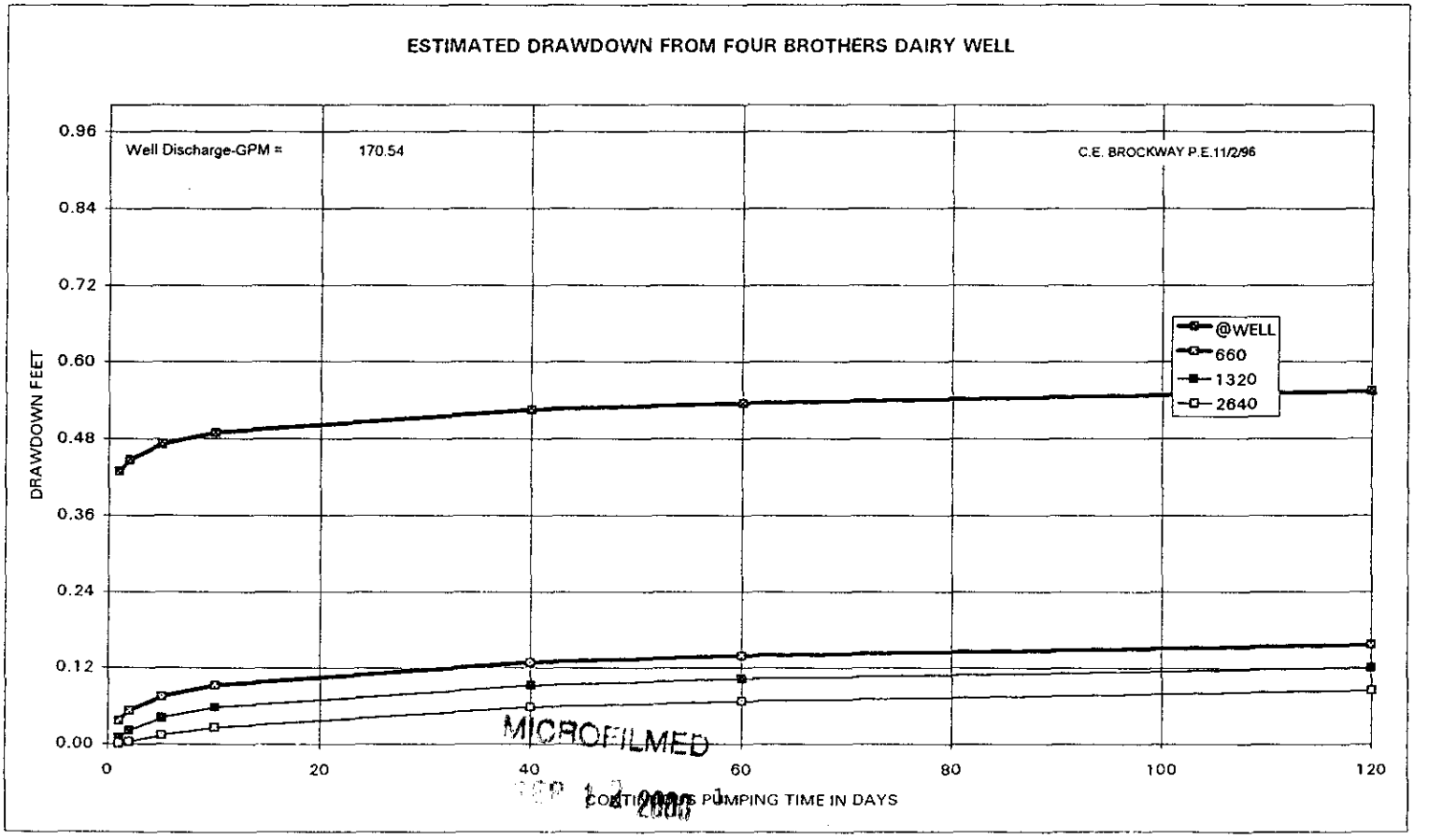
USING THEIS FORMULA S=114.6*Q/T*W(U)
S= DRAWDOWN IN FT
Q= PUMPING RATE GPM
T= COEFFICIENT OF TRANSMISSIBILITY GPD/FT
W(U)= WELL FUNCTION OF 'U'

W(U)=-.5772-LOGeU +U-U^2/(2*2!)+U^3/(3*3!)-U^4/(4*4!) .....
U=1.87*r^2*S/(T*t)
r=DISTANCE IN FT. FROM CENTER OF PUMPED WELL TO DRAWDOWN POINT
S=COEFFICIENT OF STORAGE
T=COEFFICIENT OF TRANSMISSIBILITY, GPD/FT
t= TIME SINCE PUMPING STARTED, DAYS

INPUT		K=	152.90	M/DAY	ALLUVIAL AQUIFER
r1=	0.333 FT	K=	501.51	FT/DAY	
r2=	660 FT	K=	0.00580454	CFS/FT^2	
r3=	1320 FT	K=	3.74E+03	GPD/FT^2	
r4=	2640 FT	SAT. DEPTH EST.=	200	FT	
r5=	5280 FT	TRANSMISSIVITY=	748256	GPD/FT	
S=	0.15	TRANSMISSIVITY=	1.16E+00	FT^2/SEC	
T=	748256 GPD/FT	TRANSMISSIVITY=	100034.2	FT^2/DAY	
Q/WEL	170.54 GPM =	0.380 CFS			

TIME	TIME	U	WELL	DRAW	SPEC.	U	WELL	DRAW	U	WELL	DRAW	U	WELL	DRAW
	t	w/r1	FUNCT.	DOWN	CAP	W/r2	FUNCT.	DOWN @	W/r3	FUNCT	DOWN	W/r4	FUNCT.	DOWN @
MIN	DAYS	0.3333333	W(U)1	@WELL	GPM/FT	660	W(U)2	660	1320	W(U)3	1320	2640	W(U)4	2640
1440	1	4.165E-08	16.4167	0.43	398	1.633E-01	1.3919	0.04	6.532E-01	0.4090	0.01	2.613E+00	0.0214	0.00
2880	2	2.083E-08	17.1099	0.45	382	8.165E-02	2.0082	0.05	3.266E-01	0.8436	0.02	1.306E+00	0.1341	0.00
7200	5	8.330E-09	18.0261	0.47	362	3.266E-02	2.8768	0.08	1.306E-01	1.5846	0.04	5.225E-01	0.5333	0.01
14400	10	4.165E-09	18.7193	0.49	349	1.633E-02	3.5539	0.09	6.532E-02	2.2156	0.06	2.613E-01	1.0101	0.03
57600	40	1.041E-09	20.1056	0.53	325	4.082E-03	4.9280	0.13	1.633E-02	3.5539	0.09	6.532E-02	2.2156	0.06
86400	60	6.942E-10	20.5111	0.54	318	2.722E-03	5.3321	0.14	1.089E-02	3.9539	0.10	4.355E-02	2.5998	0.07
172800	120	3.471E-10	21.2042	0.55	308	1.361E-03	6.0239	0.16	5.443E-03	4.6416	0.12	2.177E-02	3.2716	0.09

DAYS	@WELL	660	1320	2640 DISTANCE FEET
1	0.43	0.04	0.01	0
2	0.447	0.05	0.02	0.00
5	0.47	0.08	0.04	0.01
10	0.49	0.09	0.06	0.03
40	0.53	0.13	0.09	0.06
60	0.54	0.14	0.10	0.07
120	0.55	0.16	0.12	0.09



MICROFILMED

POTENTIAL WELL DRAWDOWN — FOUR BROTHERS IRRIGATION WELL SECTION 11 — WELLINT2.xls

C.E. BROCKWAY NOVEMBER 2, 1996

AQUIFER PROPERTIES BASED ON USBR GROUNDWTER MANUAL-ALLUVIAL SYSTEM

EST. HOLE DIA 8 INCHES

USING THEIS FORMULA S=114.6*Q/T*W(U)

S= DRAWDOWN IN FT

Q= PUMPING RATE GPM

T= COEFFICIENT OF TRANSMISSIBILITY GPD/FT

W(U)= WELL FUNCTION OF 'U'

W(U)=-.5772-LOGeU +U-U^2/(2*2!)+U^3/(3*3!)-U^4/(4*4!) .....

U=1.87*r^2*S/(T*t)

r=DISTANCE IN FT. FROM CENTER OF PUMPED WELL TO DRAWDOWN POINT

S=COEFFICIENT OF STORAGE

T=COEFFICIENT OF TRANSMISSIBILITY, GPD/FT

t= TIME SINCE PUMPING STARTED, DAYS

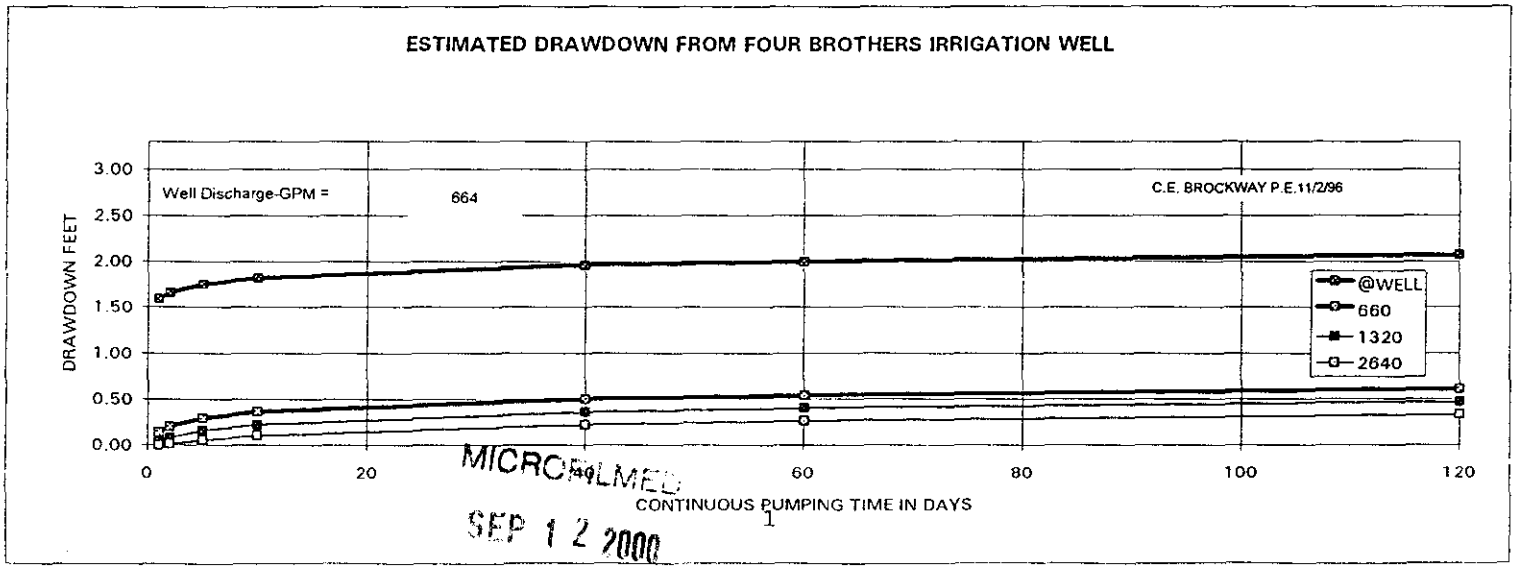
INPUT					
r1=	0.500 FT	K=	152.90	M/DAY	ALLUVIAL AQUIFER
r2=	660 FT	K=	501.51	FT/DAY	
r3=	1320 FT	K=	0.00580454	CFS/FT^2	
r4=	2640 FT	K=	3.74E+03	GPD/FT^2	
r5=	5280 FT	SAT. DEPTH EST.=	200	FT	
S=	0.15	TRANSMISSIVITY=	748256	GPD/FT	
T=	748256 GPD/FT	TRANSMISSIVITY=	1.16E+00	FT^2/SEC	
Q/WEL	664 GPM =	1.48 CFS	TRANSMISSIVITY=	100034.2	FT^2/DAY

TIME MIN	TIME t DAYS	U w/r1 0.5	WELL FUNCT. W(U)1	DRAW DOWN @WELL	SPEC. CAP GPM/FT	U W/r2 660	WELL FUNCT. W(U)2	DRAW DOWN @ 660	U W/r3 1320	WELL FUNCT. W(U)3	DRAW DOWN 1320	U W/r4 2640	WELL FUNCT. W(U)4	DRAW DOWN @ 2640
1440	1	9.372E-08	15.6058	1.59	418	1.633E-01	1.3919	0.14	6.532E-01	0.4090	0.04	2.613E+00	0.0214	0.00
2880	2	4.686E-08	16.2989	1.66	401	8.165E-02	2.0082	0.20	3.266E-01	0.8436	0.09	1.306E+00	0.1341	0.01
7200	5	1.874E-08	17.2152	1.75	379	3.266E-02	2.8768	0.29	1.306E-01	1.5846	0.16	5.225E-01	0.5333	0.05
14400	10	9.372E-09	17.9084	1.82	365	1.633E-02	3.5539	0.36	6.532E-02	2.2156	0.23	2.613E-01	1.0101	0.10
57600	40	2.343E-09	19.2947	1.96	338	4.082E-03	4.9280	0.50	1.633E-02	3.5539	0.36	6.532E-02	2.2156	0.23
86400	60	1.562E-09	19.7001	2.00	331	2.722E-03	5.3321	0.54	1.089E-02	3.9539	0.40	4.355E-02	2.5998	0.26
172800	120	7.810E-10	20.3933	2.07	320	1.361E-03	6.0239	0.61	5.443E-03	4.6416	0.47	2.177E-02	3.2716	0.33

Q=1.38 CFS DAYS	@WELL	660	1320	2640	DISTANCE FEET
1	1.59	0.14	0.04	0	
2	1.658	0.20	0.09	0.01	
5	1.75	0.29	0.16	0.05	
10	1.82	0.36	0.23	0.10	
40	1.96	0.50	0.36	0.23	
60	2.00	0.54	0.40	0.26	
120	2.07	0.61	0.47	0.33	

Q=2.21 CFS DAYS	@WELL	660	1320	2640	DISTANCE FEET
1	2.37	0.21	0.06	0.00	
2	2.48	0.31	0.13	0.02	
5	2.62	0.44	0.24	0.08	
10	2.72	0.54	0.34	0.15	
40	2.93	0.75	0.54	0.34	
60	2.99	0.81	0.60	0.39	
120	3.10	0.92	0.71	0.50	

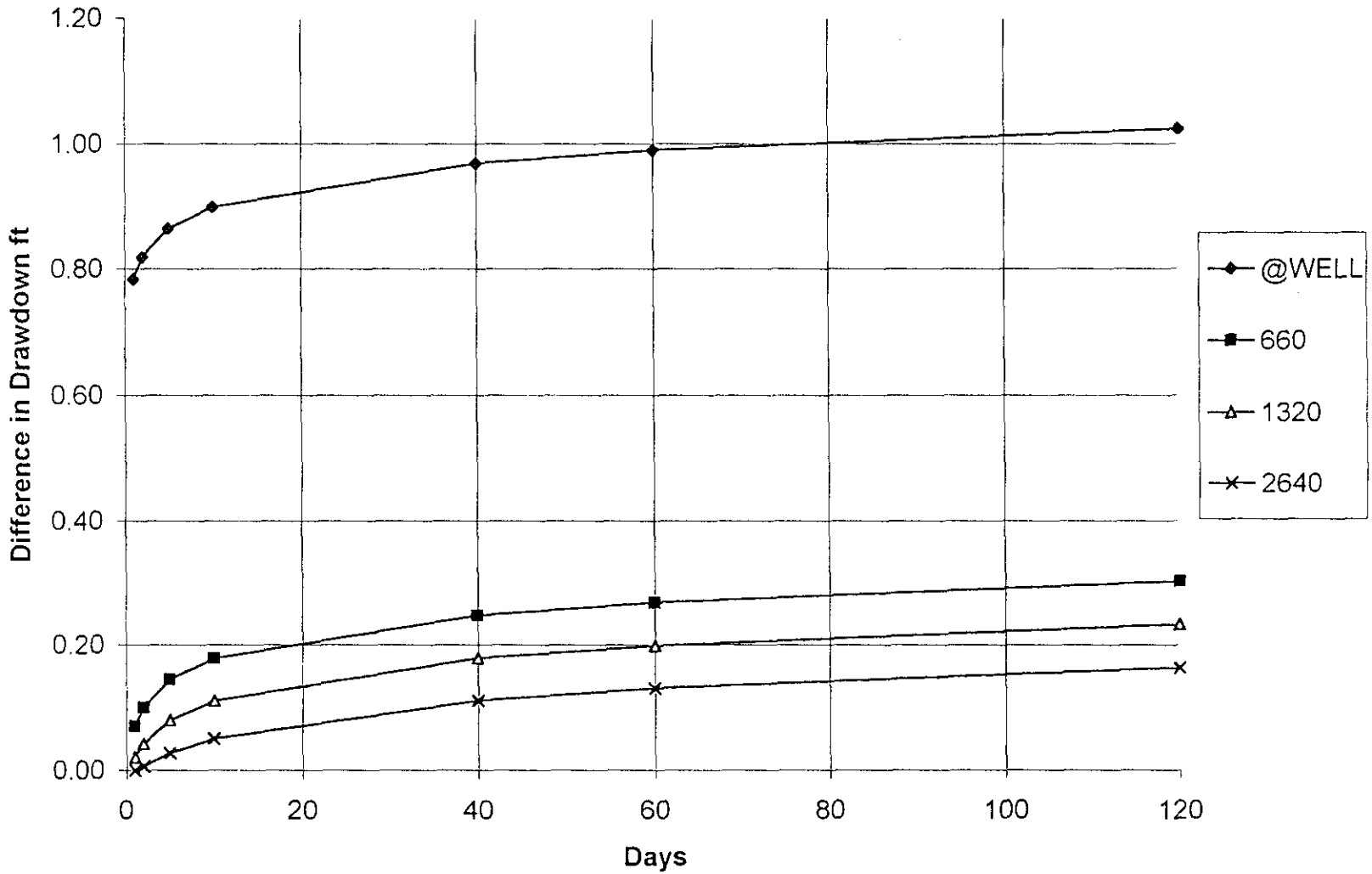
DIFFERENCE	@WELL	660	1320	2640
1	0.78	0.07	0.02	0.00
2	0.82	0.10	0.04	0.01
5	0.86	0.14	0.08	0.03
10	0.90	0.18	0.11	0.05
40	0.97	0.25	0.18	0.11
60	0.99	0.27	0.20	0.13
120	1.02	0.30	0.23	0.16



MICROFILMED
SEP 12 2000

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Four Brothers Irrigation Well Sec 11 Drawdown Differences
Discharge Difference 2.21- to 1.38 cfs



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 16, 1996

RECEIVED
JAN 17 1997
Department of Water Resources

Tom Arkoosh
PO Box 32
Gooding, ID 83330

RE: Improper use of well complaint

Dear Tom:

On your complaint, I have investigated the use of the well located in SE¼NW¼SE¼, Section 11, Twp. 5S, Rge. 15E, B.M. On August 1, 1996, I met with Andrew Fitzgerald, owner, to review the use of the water associated with properties purchased by North Valley Milk, Inc. in 1994 from West One Bank as evidenced by Deed 156186. As you know these properties and deed include license 37-07575. The above described well use is authorized under license 37-07575 with associated conditions.

I found that the well is presently providing water to irrigate the lands in the NE¼SW and NW¼SE¼, Section 11, Twp. 5S, Rge. 15E., B.M. Andrew Fitzgerald explained that the canal shares (73 shares of Big Wood Canal Company) which had previously been associated with these lands have been transferred off to augment other shares on his other farm north of Shoshone. He further explained that the well has had the pump modified and presently provides approximately 1.2 cfs for irrigation of the approximate 70 acres. I did not measure the well output but have requested that Andrew provide documentation of this change to the pump. The other rights associated with the deed are being used on the other lands included in the deed as these rights are authorized.

Assuming the well indeed provides 1.2 cfs or less than 1.40 cfs, I must conclude that the well is being used as authorized under the license. Before concluding this, I have discussed the matter of the canal shares being moved off with the department's legal staff and administration. I have learned that recent licenses may indeed be conditioned to prevent this from happening but the conditions of license 37-07575 do not prevent this from happening.

As you may know the issue of the use of "supplemental wells" is a topic presently being discussed in the department's effort to negotiate rules for management of the Eastern Snake Plain Aquifer. Since there is not presently a rule to prevent the canal shares from being removed like the scenario of this well and the license conditions do not prevent removal of the shares I do not currently plan on limiting use of this well unless I determine that the well delivers more than 1.40 cfs.

MICROFILMED
SEP 12 2000

If you have questions about the rule making effort I suggest you contact Norm Young at (208) 327-7910. If you have further questions about this matter we can discuss them at the conference scheduled for August 21, 1996 in Gooding or you can contact my office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Andrew Fitzgerald
Norm Young

MICROFILMED
SEP 12 2000

From: DWR03::DWR60::AMERITT 22-AUG-1996 10:
To: DWR03::GSAXTON
CC: AMERRITT
Subj: FYI

37-07575

FROM: Allen Merritt DATE: August 22, 1996

TO: Transfer Files: #4722 & #4723

SUBJECT: 2nd Prehearing Conference

Yesterday on 8/~~20~~21/96 I conducted the second prehearing conference for the above referenced transfers at Gooding City Hall. The attached attendance list shows all parties were represented except protestant, Leslie Renner.

The conference was very short. The applicant and protestant's exchanged verbally the present contemplated witness lists.

Applicant proposes to have:
-Dr. Brockway testify as expert plus submit a report hopefully by 9/9.
-Bob Ohlenselen testify.
-Andrew Fitzgerald testify.

Protestants propose to have:
-Sheryl Chapman testify as expert.

Applicant wishes to depose Bonnie or George Arkoosh.

I informed the protestants that the applicant had recently filed two additional transfers to essentially provide water to the same two dairy projects but using a different water right as the basis. The protestants wanted to know if they needed to file additional protests and I told them yes they would. I indicated that I would attempt to get these applications in the paper ASAP and that if the hearing was scheduled in October and if they were also protested that I would like to see a combined hearing on all transfers at once instead of having to go through the same thing again. All at the conference seemed to agree.

On returning to the office I found the recent applications and this day I am going to staff the applications with Georgia and turn them over to Mary for advertising prep.

No hearing date was set but will be after Oct 1.

MICROFILMED
SEP 1 2 2000

INTER-DEPARTMENT MEMO

TO: North Valley Milk Files

SUBJECT: Hearing

FROM: ADM

DATE: 10/3/96

I called Robert Williams III (324-2303) and asked if NVM wanted to set hearing. He indicated they were writing a report from Brockway and would call back to schedule hearing.

MICROFILMED

SEP 12 2000

( ) For your information

( ) Response required

ADM

signature

INTER-DEPARTMENT MEMO

TO: North Valley Milk Files

SUBJECT: Hearing

FROM: ADM

DATE: 10/3/86

I called Robert Williams III (324-2303) and asked if NVM wanted to set hearing. He indicated they were waiting a report from Brockway and would call back to schedule hearing.

( ) For your information

( ) Response required

ADM
signature

FROM: Allen Merritt DATE: August 22, 1996

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MICROFILMED
SEP 12 2000

RE: T# 4722 & T# 4723, WR# 37-07575 Pt
(North Valley Milk, Inc.)

PLACE: Multi-purpose Room, Gooding City Hall; Gooding, ID

DATE: 10:00 a.m., Wednesday, August 21, 1996

HEARING OFFICER: ~~Glen Saxton~~

ASSISTED BY: Allen D. Merritt

ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Doris Robertson	1326 S 2100 E	
John C Robertson	" "	
Kent Allcock	POB 132 Gooding	Jennie Allcock
[illegible]	405N 250W	
Robert Williams	117 S. Adams, Jerome	North Valley Milk (4 Cross Ranch)
Jerome P. Fitzgerald	2852 S 1800E Wendell	North Valley Milk Inc.

MICROFILMED
SEP 12 2000

FROM: Allen Merritt DATE: August 22, 1996

TO: Transfer Files: #4722 & #4723

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(North Valley Milk, Inc.)

PLACE: Multi-purpose Room, Gooding City Hall; Gooding, ID

DATE: 10:00 a.m., Wednesday, August 21, 1996

HEARING OFFICER: ~~Clar[illegible]~~

ASSISTED BY: Allen D. Merritt

ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Doris Robertson	1326 S 2100 E	
John C Robertson	" "	
Tom Arkoosh	POB 132 Gooding	Penoyer Arkoosh
[illegible]	425N 250W	
Robert L Williams	117 S. Adams, Jerome	North Valley Milk (4 Cross Ranch).
Jerome P. Fitzgerald	2852 S 1800E Wendell	North Valley Milk Inc.

MICROFILMED
SEP 12 2000

State of Idaho
Department of Water Resources

RECEIVED
OCT 26 1989
Department of Water Resources
Southern Region Office

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07575

Priority: March 28, 1977

Maximum Diversion Rate: 2.21 CFS
Maximum Diversion Volume: 942.5 AF

This is to certify, that ARKOOSH & ZIDAN INC.
RT. 1 BOX 204
GOODING, ID 83330 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 28, 1977; and has submitted Proof of Beneficial Use on April 24, 1987. An examination indicates that the works have a diversion capacity of 2.210 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 01/01	2.21 CFS	942.5 AF

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 11, Township 05S, Range 15E GOODING County

100624

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
05S	15E	10	SESE	19					19
		11	NESW	38	SWSW	34	SESW	38	
			NWSE	32	SWSE	38			180
		14	NWNE	96	SWNE	14	NENW	39	
			NWNW	36	SWNW	7	SENW	16	148
		15	NENE	7					7
				231		156		93	

Total number of acres irrigated: 354

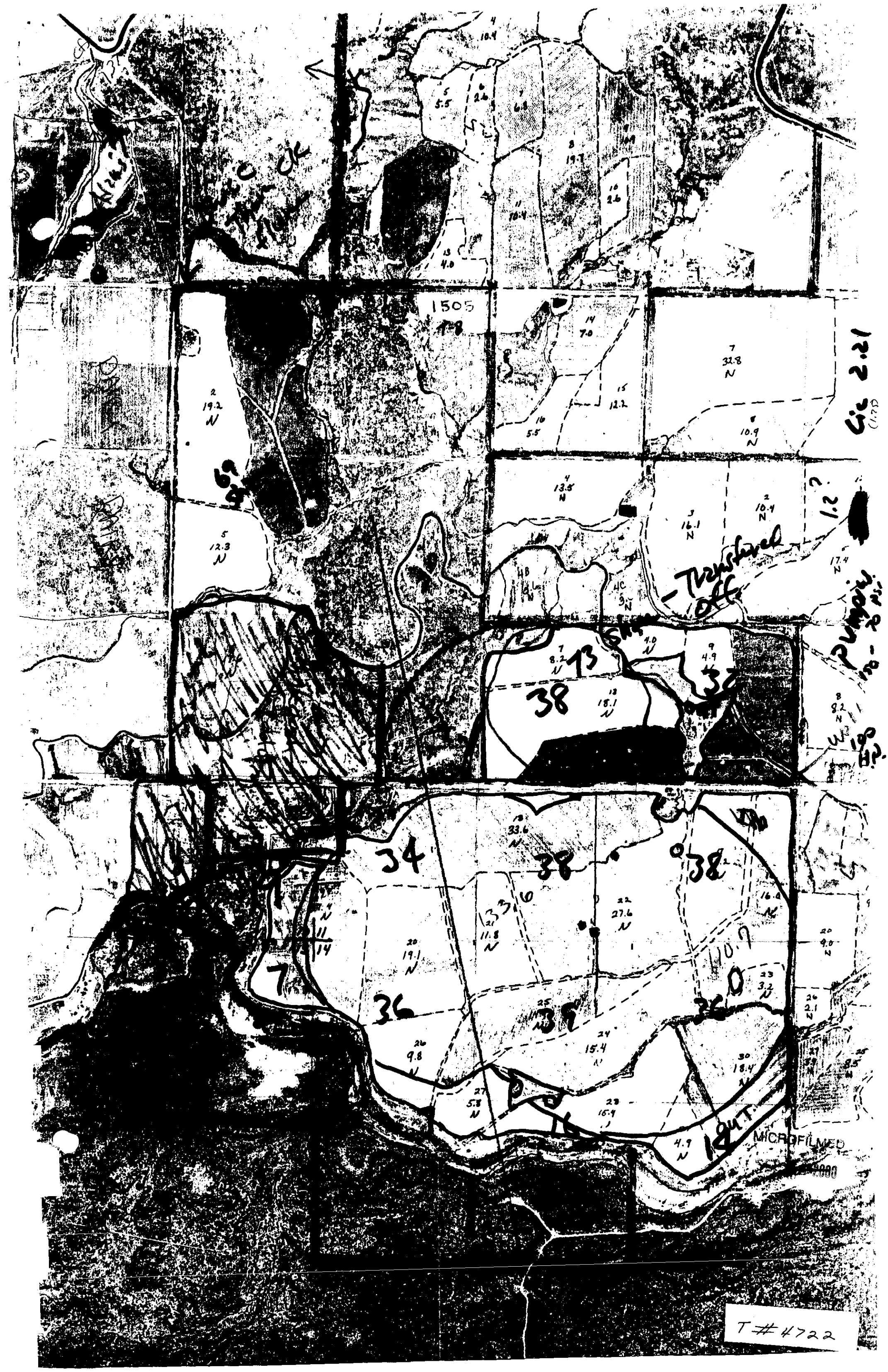
93
156
231
480

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 reflect cropping patterns or acceptable standards of water delivery 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. A totalising measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
6. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for the lands above.

1.4

MICROFILMED
SEP 12 2000


1505
Fig 2.21
Transfered Off
MICROFILMED
T #4722

G-002845 E002080

DEED

FOR VALUE RECEIVED, West One Bank, Idaho, Successor by merger to Idaho State Bank duly organized and existing under the laws of the State of Idaho, Grantor, does hereby grant, bargain, sell and convey unto

NORTH VALLEY MILK, INC., an Idaho Corporation

Grantee, whose address is

the following described real property situated in GOODING

County, State of IDAHO

SEE ATTACHED "EXHIBIT A"

TOGETHER WITH THE FOLLOWING DESCRIBED WATER RIGHTS:

135 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0599

130 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0600A

AND 174.63 INCHES OF AMERICAN FALLS SUPPLEMENTAL WATER.

AND TOGETHER WITH 142 SHARES OF BIG WOOD CANAL COMPANY WATER.

TO HAVE AND TO HOLD, The said premises, with their appurtenances unto the said Grantee and heirs and assigns forever.

IN WITNESS WHEREOF, The Grantor, pursuant to its By-Laws has caused its name to be hereunto subscribed by its Assistant Vice President

this 15th day of March , 1994 .

156186

WEST ONE BANK, IDAHO

BY: John Carnahan
John B. Carnahan

NOTARY PUBLIC (SEAL)

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of FIRST AMERICAN TITLE
35 min. past 3 o'clock p m. this 18
of March , 1994 Fee $12.00
JOHN A. MYERS Recorder
By Helen K. Pratt Deputy

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 15th day of March , 1994 , before me a Notary Public in and for said State, personally appeared John B. Carnahan , known to me to be the Assistant Vice President of West One Bank, Idaho, who executed this instrument on behalf of said Bank, and acknowledged to me that such association executed the same.

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

MICROFILMED
SEP 12 2000

Notary Public for Idaho
Residing at Melba , Idaho
My commission expires: 7/15/94

m\B&SDEED1

T-4
4722

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 16, 1996

Tom Arkoosh
PO Box 32
Gooding, ID 83330

RE: Improper use of well complaint

Dear Tom:

On your complaint, I have investigated the use of the well located in SE¼NW¼SE¼, Section 11, Twp. 5S, Rge. 15E, B.M. On August 1, 1996, I met with Andrew Fitzgerald, owner, to review the use of the water associated with properties purchased by North Valley Milk, Inc. in 1994 from West One Bank as evidenced by Deed 156186. As you know these properties and deed include license 37-07575. The above described well use is authorized under license 37-07575 with associated conditions.

I found that the well is presently providing water to irrigate the lands in the NE¼SW and NW¼SE¼, Section 11, Twp. 5S, Rge. 15E., B.M. Andrew Fitzgerald explained that the canal shares (73 shares of Big Wood Canal Company) which had previously been associated with these lands have been transferred off to augment other shares on his other farm north of Shoshone. He further explained that the well has had the pump modified and presently provides approximately 1.2 cfs for irrigation of the approximate 70 acres. I did not measure the well output but have requested that Andrew provide documentation of this change to the pump. The other rights associated with the deed are being used on the other lands included in the deed as these rights are authorized.

Assuming the well indeed provides 1.2 cfs or less than 1.40 cfs, I must conclude that the well is being used as authorized under the license. Before concluding this, I have discussed the matter of the canal shares being moved off with the department's legal staff and administration. I have learned that recent licenses may indeed be conditioned to prevent this from happening but the conditions of license 37-07575 do not prevent this from happening.

As you may know the issue of the use of "supplemental wells" is a topic presently being discussed in the department's effort to negotiate rules for management of the Eastern Snake Plain Aquifer. Since there is not presently a rule to prevent the canal shares from being removed like the scenario of this well and the license conditions do not prevent removal of the shares I do not currently plan on limiting use of this well unless I determine that the well delivers more than 1.40 cfs.

MICROFILMED
SEP 12 2000

If you have questions about the rule making effort I suggest you contact Norm Young at (208) 327-7910. If you have further questions about this matter we can discuss them at the conference scheduled for August 21, 1996 in Gooding or you can contact my office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Andrew Fitzgerald
Norm Young

MICROFILMED
SEP 12 2000



Lands presently being irrigated by well in background. Blue pipeline is from pump diverting ditch water. Systems not connected.



Well associated with transfers # 4722 & # 4723.

MICROFILMED
MAY 2 1 2008

Well associated with new transfer
#4897 & #4998.

MICROFILMED
SEP 12 2003

RECEIVED
AUG 15 1996
DEPARTMENT OF WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 WATER RIGHT NO. 37-07575 PARTS	NOTICE OF AMENDED PURPOSE OF SET MEETING
NORTH VALLEY MILK, INC., Applicant JOHN & DORIS ROBERTSON, LESLIE RENNER, AND BONNIE ARKOOSH, Protestants	

North Valley Milk, Inc., applicant, has filed with the Department of Water Resources two (2) applications to transfer. The Department received protests against the approval of said applications from the above captioned protestants. The conference held on February 28, 1996 did not resolve the matter.

The Department set the matter for formal hearing for Wednesday, August 21, 1996 at 10:00 a.m. in the Multi-purpose Room, Gooding City Hall, 308 5th Ave. West; Gooding, ID.

On agreement with the applicant and Tom Arkoosh, attorney for Bonnie Arkoosh, the purpose of the hearing is changed from a formal hearing to that of a prehearing conference. The purpose of changing the meeting is to allow all parties to better prepare for a formal hearing which will be re-scheduled at a later date.

At the prehearing conference all parties must be prepared to disclose potential witness lists, thus far prepared, as well as provide copies of potential exhibits, thus far prepared, to all parties.

The prehearing conference will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the department. A copy of the rules may be obtained from the department upon request.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within five (5) days prior to the conference.

Dated this 12th day of August, 1996.

Allen D. Merritt, P.E.
Southern Region Manager

MICROFILMED
SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of August, 1996, a true and correct copy of the Notice of Amended Purpose of Set Meeting was forwarded with all required charges prepared, by the method indicated below, to the parties listed:

Mary Baldwin
Secretary

ANDREW FITZGERALD SEC-TREAS NORTH VALLEY MILK INC 425 N 250 W SHOSHONE ID 83352	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
ROBERT E WILLIAMS ESQ 117 S ADAMS ST JEROME ID 83338	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
BONNIE ARKOOSH C/O C TOM ARKOOSH ESQ PO BOX 32 GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
LESLIE RENNER 2254 E 1300 S GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
JOHN & DORIS ROBERTSON 1326 S 2100 E GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____

MICROFILMED
SEP 12 200

'ER-DEPARTMENT MEMO--1

FROM Gary Spackman

DATE 7/26/96

TO Glen Saxton

SUBJECT: Subpoena & discovery for North Valley Milk, Inc.

Attached is a request for issuance of a subpoena to force attendance by Chuck Brockway at a deposition. I told Tom Arkoosh that he should coordinate w/Brockway when notice is so short, and that we wouldn't issue the subpoena unless he first arranged an acceptable time. Arkoosh was initially upset, but after a discussion with Arkoosh, Robert Williams & Allen Merritt, the parties agreed to change the hearing scheduled on August 21 to a pre hearing conference and to hold the hearing the week of October 7, 1996. Allen is preparing the necessary order.

Gary

SIGNATURE

MICROFILMED
SEP 12 2000

FAX TRANSMISSION

LAW OFFICES
116 4TH AVE. W., P.O. BOX 32
GOODING, ID 83330
(208) 934-8872
FAX: (208) 934-8873

To: Hearing Officer
Transfers No. 4722 and 4723

Date: July 24, 1996

Fax #: 327-7866

Pages: 5, including

From: C. Tom Arkoosh Brenda

Please issue the enclosed subpoenas for deposition and return. Thank you. Brenda B.

MICROFILMED
SEP 12 2000

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	) NOTICE OF ORAL DEPOSITION) SUBPOENA - DUCES TECUM

The People of the State of Idaho to Charles Brockway, Greeting:

We command you that, all business and excuses being set aside, you appear and attend before a Notary Public, at the office of C. TOM ARKOOSH, 116 Fourth Avenue West, Gooding, Idaho, on the 2nd day of August, 1996 at 11:00 o'clock a. m., then and there to testify in the above entitled cause now pending before the Department of Water Resources, on the part of protestant therein.

You are further commanded to bring with you the following items and documents:

All documents related to or in any way pertaining to or relevant to the pending transfer.

MICROFILMED
SEP 12 2000

You are further notified that if you fail to appear at the place and time specified above, that you may be held in contempt of court and that the aggrieved party may recover from you the sum of $100.00 and all damages which he may sustain by your failure to attend as witness.

DATED this _____ day of July, 1996.

_____
Hearing Officer

MICROFILMED
SEP 12 2008

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	NOTICE OF ORAL DEPOSITION SUBPOENA - DUCES TECUM

The People of the State of Idaho to Charles Brockway, Greeting:

We command you that, all business and excuses being set aside, you appear and attend before a Notary Public, at the office of C. TOM ARKOOSH, 116 Fourth Avenue West, Gooding, Idaho, on the 2nd day of August, 1996 at 11:00 o'clock a. m., then and there to testify in the above entitled cause now pending before the Department of Water Resources, on the part of protestant therein.

You are further commanded to bring with you the following items and documents:

All documents related to or in any way pertaining to or relevant to the pending transfer.

MICROFILMED
SEP 12 2000

You are further notified that if you fail to appear at the place and time specified above, that you may be held in contempt of court and that the aggrieved party may recover from you the sum of $100.00 and all damages which he may sustain by your failure to attend as witness.

DATED this _____ day of July, 1996.

_____
Hearing Officer

MICROFILMED
SEP 12 2008

FREDERICKSEN, WILLIAMS & MESERVY
ATTORNEYS AT LAW
117 South Adams Street
P. O. Box 168
Jerome, Idaho 83338-0168

EUGENE D. FREDERICKSEN
ROBERT E. WILLIAMS III
JAMES C. MESERVY

TELEPHONE: (208) 324-2303
TELECOPIER: (208) 324-3135

July 12, 1996

Allen D. Merritt, P.E.
Dept. of Water Resources
Southern Region
222 Shoshone St. E.
Twin Falls, ID 83301

RECEIVED
JUL 15 1996
Department of Water Resources
Southern Region

RE: North Valley Milk, Inc.
Protested Applications for Transfer Nos.
4722 and 4723

Dear Mr. Merritt:

Thank you for your letter of June 26, 1996, on the above captioned subject.

Since February 28, 1996, North Valley Milk, Inc. has been merged into another corporation owned by the three Fitzgerald brothers, 4 Bros. Dairy, Inc. The assets of North Valley Milk, Inc. are now owned by 4 Bros. Dairy, Inc. as part of the merger. Please note your records accordingly.

As Andrew Fitzgerald has recently informed you, 4 Bros. Dairy, Inc. does retain an interest in pursuing its pending applications. A hydrologist has been retained and specific details of the proposed dairy as far as location of structures, animal confinement areas, lagoons and the like have been made or are in the process of being finalized. When this information is available, it will be provided to C. Tom Arkoosh, attorney for Bonnie Arkoosh. We would estimate the necessity of another 90 days before all information has been fully compiled and shared with Mr. Arkoosh. 4 Bros. Dairy, Inc. does believe it would be ready for a hearing or conference during the weeks of August 5 or August 12.

Thank you for your continued courtesy and cooperation.

Very truly yours,

FREDERICKSEN, WILLIAMS & MESERVY

ROBERT E. WILLIAMS III

REW:jl
cc: Client
cc: C. Tom Arkoosh

MICROFILMED
SEP 12 2008

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 WATER RIGHT NO. 37-07575 PARTS	)	NOTICE OF HEARING
NORTH VALLEY MILK, INC., Applicant	)	SOURCE: Groundwater
JOHN & DORIS ROBERTSON, LESLIE RENNER, AND BONNIE ARKOOSH, Protestants	)	COUNTY: Gooding

North Valley Milk, Inc., applicant, has filed with the Department of Water Resources two (2) applications to transfer the public waters of the State of Idaho. On April 19, 1995, Transfer No. 4722 was filed and AMENDED on January 8, 1996. On May 3, 1995 Transfer No. 4723 was filed.

The Department has received protests against the approval of said applications from the above captioned protestants. The conference held on February 28, 1996 did not resolve the matter.

The Department has set the matter for Hearing on Wednesday, August 21, 1996 at 10:00 a.m. in the Multi-purpose Room, Gooding City Hall, 308 5th Ave. West; Gooding, ID.

The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the department. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Glen L. Saxton.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 11th day of July, 1996.

Allen D. Merritt, P.E.
Regional Manager

MICROFILMED
SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of July, 1996, a true and correct copy of the Notice of Conference was forwarded with all required charges prepared, by the method indicated below, to the parties listed:

Mary Baldwin
Secretary

ANDREW FITZGERALD SEC-TREAS NORTH VALLEY MILK INC 425 N 250 W SHOSHONE ID 83352	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ _____ __x__ _____
ROBERT E WILLIAMS ESQ 117 S ADAMS ST JEROME ID 83338	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ _____ __x__ _____
BONNIE ARKOOSH C/O C TOM ARKOOSH ESQ PO BOX 32 GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ _____ __x__ _____
LESLIE RENNER 2254 E 1300 S GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ _____ __x__ _____
JOHN & DORIS ROBERTSON 1326 S 2100 E GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	_____ _____ __x__ _____

MICROFILMED
SEP 12 2000

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?

2. Will the proposed transfer constitute an enlargement in the use of the original right?

3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

4. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, and 4 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

MICROFILMED

SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

July 11, 1996

ATTN LINDA WILDEMAN
GOODING CITY HALL
308 5TH AVE WEST
GOODING ID 83330

Dear Linda:

This is a follow-up to our telephone conversation of 7/10/96 to confirm the reservation of the Multi-purpose Room for a meeting to be held by this office on Wednesday, August 21, 1996 from 10:00 a.m.- 5:00 p.m.

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Very truly yours,

Mary Baldwin
Senior Secretary

MICROFILMED
SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

June 26, 1996

RECEIVED
JUN 2 8 1996
Department of Water Resources

ROBERT E WILLIAMS ESQ
117 S ADAMS ST
JEROME ID 83338

Re: Protested Application for Transfer Nos. 4722 & 4723, 37-07575 Parts in the name of North Valley Milk, Inc.

Dear Mr. Williams:

Pursuant to the Pre-Hearing Conference held on 2/28/96, all parties agreed to exchange information in an attempt to resolve the matter.

The purpose of this letter is to inquire as to your progress in resolving the protest &/or continued interest in this project.

Please be advised that this office has received a Motion for Discovery from C. Tom Arkoosh, legal counsel for the protestant, Bonnie Arkoosh.

If it your desire to hold a formal hearing on the matter, please provide this office with a list of proposed dates for a conference &/or hearing.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

cc: ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

MICROFILMED
SEP 1 2 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 19, 1996

RE: In the Matter of Applications for Transfer Nos. 4722 of Water RIght No. 37-07575B and 4723 of Water RIght No. 37-07575C both in the name of North Valley Milk, Inc.

Dear Interested Parties:

I have enclosed a copy of the **ORDER GRANTING DISCOVERY,** as requested by C. Tom Arkoosh, in connection with the above referenced applications for transfer.

If you have any questions regarding the enclosed order, please feel free to contact me at (208)327-7900.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

cc: IDWR - Region

MICROFILMED
SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR TRANSFER NOS. 4722 OF WATER RIGHT NO. 37-07575B AND 4723 OF WATER RIGHT NO. 37-07575C BOTH IN THE NAME OF NORTH VALLEY MILK, INC.	**ORDER** **AUTHORIZING DISCOVERY**

On June 14, 1996, C. Tom Arkoosh, requested the department to issue an order Authorizing Discovery pursuant to IDAPA 37.01.01521-531 (Rules of Procedure 521 through Rule 531).

The Director of the department of Water Resources (Director) hereby authorizes the parties to engage in discovery commencing with the date of this order. The parties shall complete discovery five days prior to the date of any hearing set on the applications in this matter. Discovery shall be conducted pursuant to IDAPA 37.01.01520-532 (Rules of Procedure 520 through 532). The parties are directed to answer or otherwise respond to discovery in accordance with the department's Rules of Procedure and the Idaho Rules of Civil Procedure, as appropriate.

In accordance with Rule 520, the scope of discovery shall be governed by Rule 26(b) of the Idaho Rules of Civil Procedure, unless otherwise provided by statute, rule or order of the Director.

DATED this 19th day of June, 1996.

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

SEP 12 2000

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 19th day of June, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER AUTHORIZING DISCOVERY** to the following:

Andrew Fitzgerald
North Valley milk Inc,
425 N 250 W
Shoshone, ID 83352

Bonnie Arkoosh
c/o C Tom Arkoosh esq
P.O. Box 32
Gooding, ID 83330

Leslie Renner
2254 E 1300 S
Gooding, ID 83330

John & Doris Robertson
1326 S 2100 E
Gooding, ID 83330

Julie L. Yarbrough

JULIE L. YARBROUGH
Senior Secretary

MICROFILMED
SEP 12 2000

FREDERICKSEN, WILLIA[illegible] & MESERVY
ATTORNEYS AT LAW
117 South Adams Street
P. O. Box 168
Jerome, Idaho 83338-0168

EUGENE D. FREDERICKSEN
ROBERT E. WILLIAMS III
JAMES C. MESERVY

TELEPHONE: (208) 324-2303
TELECOPIER: (208) 324-3135

July 12, 1996

Allen D. Merritt, P.E.
Dept. of Water Resources
Southern Region
222 Shoshone St. E.
Twin Falls, ID 83301

RECEIVED
JUL 15 1996
Department of Water Resources
Southern Region

RE: North Valley Milk, Inc.
Protested Applications for Transfer Nos.
4722 and 4723

Dear Mr. Merritt:

Thank you for your letter of June 26, 1996, on the above captioned subject.

Since February 28, 1996, North Valley Milk, Inc. has been merged into another corporation owned by the three Fitzgerald brothers, 4 Bros. Dairy, Inc. The assets of North Valley Milk, Inc. are now owned by 4 Bros. Dairy, Inc. as part of the merger. Please note your records accordingly.

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Thank you for your continued courtesy and cooperation.

Very truly yours,

FREDERICKSEN, WILLIAMS & MESERVY

ROBERT E. WILLIAMS III

REW:jl
cc: Client
cc: C. Tom Arkoosh

MICROFILMED
SEP 12 2000

RECEIVED

JUL 12 1996

DEPARTMENT OF WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 WATER RIGHT NO. 37-07575 PARTS	NOTICE OF HEARING
NORTH VALLEY MILK, INC., Applicant	SOURCE: Groundwater
JOHN & DORIS ROBERTSON, LESLIE RENNER, AND BONNIE ARKOOSH, Protestants	COUNTY: Gooding

North Valley Milk, Inc., applicant, has filed with the Department of Water Resources two (2) applications to transfer the public waters of the State of Idaho. On April 19, 1995, Transfer No. 4722 was filed and AMENDED on January 8, 1996. On May 3, 1995 Transfer No. 4723 was filed.

The Department has received protests against the approval of said applications from the above captioned protestants. The conference held on February 28, 1996 did not resolve the matter.

The Department has set the matter for Hearing on Wednesday, August 21, 1996 at 10:00 a.m. in the Multi-purpose Room, Gooding City Hall, 308 5th Ave. West; Gooding, ID.

The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the department. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Glen L. Saxton.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 11th day of July, 1996.

Allen D. Merritt, P.E.
Regional Manager

MICROFILMED
SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of July, 1996, a true and correct copy of the Notice of Conference was forwarded with all required charges prepared, by the method indicated below, to the parties listed:

Mary Baldwin
Secretary

ANDREW FITZGERALD SEC-TREAS NORTH VALLEY MILK INC 425 N 250 W SHOSHONE ID 83352	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
ROBERT E WILLIAMS ESQ 117 S ADAMS ST JEROME ID 83338	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
BONNIE ARKOOSH C/O C TOM ARKOOSH ESQ PO BOX 32 GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
LESLIE RENNER 2254 E 1300 S GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
JOHN & DORIS ROBERTSON 1326 S 2100 E GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____

MICROFILMED
SEP 12 2000


1505
MICROFILMED
SEP 12 2000
OUT
T#4722

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?

2. Will the proposed transfer constitute an enlargement in the use of the original right?

3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

4. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, and 4 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

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SEP 12 2000

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- Complete items 3, a & b.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

NV Milk TR

ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

4a. Article Number 1665

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery 9/2/96

MICROFILMED SEP 12 2000

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

Mukie Larsen

PS Form 3811, December 1991 ☆U.S. GPO: 1993—352-714 **DOMESTIC RETURN RECEIPT**

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SOUTHERN REGION
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301

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I also wish to receive the following services (for an extra fee):

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2. ☐ Restricted Delivery

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3. Article Addressed to:

NV Milk TR

BONNIE ARKOOSH
C/O C TOM ARKOOSH ESQ
PO BOX 32
GOODING ID 83330

4a. Article Number

1666

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

7-13-96

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5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

SEP 12 2000

6. Signature (Agent)

X Loreda Butler

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SOUTHERN REGION
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TWIN FALLS, IDAHO 83301

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Department of Water Resources
Southern Region

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- Complete items 3, [illegible]& b.
- Print your name and [illegible]ress on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also [illegible]ish to receive the followi[illegible]rvices (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

NV Milk TR

LESLIE RENNER
2254 E 1300 S
GOODING ID 83330

4a. Article Number

1667

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

7-15-96

5. Signature (Addressee)

J. Renner

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

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SEP 12 2006

PS Form **3811**, December 1991 ☆U.S. GPO: 1993—352-714 **DOMESTIC RETURN RECEIPT**

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Department of Water Resources
SEP 17 2007
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IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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- Complete items 3, & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

NV Milk TR

JOHN & DORIS ROBERTSON
1326 S 2100 E
GOODING ID 83330

4a. Article Number 1668

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery 7-12-96

5. Signature (Addressee) John Robertson

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

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PS Form 3811, December 1991 ☆U.S. GPO: 1993—352-714 **DOMESTIC RETURN RECEIPT**

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Department of Water Resources
Southern Region

JUL 15 1996

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IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

NV Milk TR

ROBERT E WILLIAMS ESQ
117 S ADAMS ST
JEROME ID 83338

4a. Article Number

1669

4b. Service Type

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

S Lewis

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

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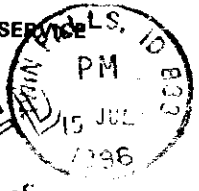
SEP 12 2000

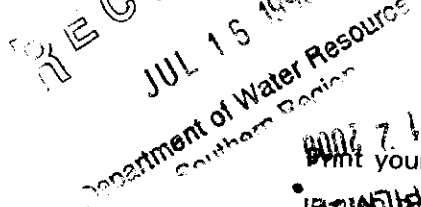
PS Form 3811, December 1991 ☆U.S. GPO: 1993—352-714 **DOMESTIC RETURN RECEIPT**

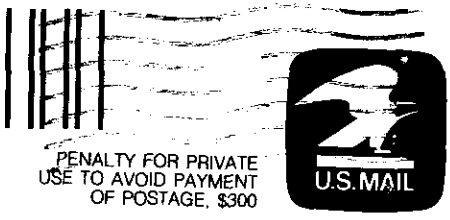
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NAME AND ADDRESS OF SENDER ▶

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☐ COD
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Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Rec
1	1654	Vandever, Billie AM/ 5-10-96	.32	1 10	1 10	2 52						
2	1655	Bennie Smyer AM/ 5-23-96	.32	1 10	1 10	2 52						
3	1656	Arthur Dunford AM/ 5-24-96	.32	1 10	1 10	2 52						
4 ✓	1657	Y-3 Ranch AM/ 5-28-96	.32	1 10	1 10	2 52						
5	1658	Bruce B. TURNER AM/ 6-11-96	.32	1 10	1 10	2 52						
6 ✓	1659	DARREL FUNK AM/ 6-12-96	.32	1 10	1 10	2 52						
7	1660	George Udy AM/ 7-10-96 Re: Udy, Tr. #1651	.32	1 10	1 10	2 52						
8	1661	Gene Nelson										
9	1662	Mayor DAN Ralphs										
10	1663	Irvin Moss										
11	1664 (5)	Eugene Kress										
12 ✓	1665	Andrew Fitzgerald AM/ 7-11-96	.32	1 10	1 10	2 52						
13 ✓	1666	Robert E. Williams ESQ Re: NV Milk Bonnie Arbosh c/o C. Tom Arbosh										
14	1667	Leslie Renner										
15	1668 (5)	John Robertson										

1665 → 12
1669 → 7
1666 → 13
1667 → 14
1668 → 15

OK

Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)

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The maximum indemnity payable for nonnegotiable documents under Express Mail
ment reconstruction insurance is $50,000 per piece subject to a limit of $500,0
occurrence. The maximum indemnity payable on Express Mail merchandise insura
$500. The maximum indemnity payable is $25,000 for Registered Mail, $400 for CC
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State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

June 26, 1996

ROBERT E WILLIAMS ESQ
117 S ADAMS ST
JEROME ID 83338

Re: Protested Application for Transfer Nos. 4722 & 4723, 37-07575
Parts in the name of North Valley Milk, Inc.

Dear Mr. Williams:

Pursuant to the Pre-Hearing Conference held on 2/28/96, all parties agreed to exchange information in an attempt to resolve the matter.

The purpose of this letter is to inquire as to your progress in resolving the protest &/or continued interest in this project.

Please be advised that this office has received a Motion for Discovery from C. Tom Arkoosh, legal counsel for the protestant, Bonnie Arkoosh.

If it your desire to hold a formal hearing on the matter, please provide this office with a list of proposed dates for a conference &/or hearing.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

cc: ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

MICROFILMED
SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO 4722 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	)))))	NOTICE OF ORAL DEPOSITION & SUBPOENA DUCES TECUM

THE STATE OF IDAHO TO:

CHARLES BROCKWAY

YOU ARE HEREBY COMMANDED to appear before the Director of the Department of Water Resources at:

1301 N. Orchard St.
Boise, Idaho 83760

on the 2nd day of August, 1996 at 11:00 o'clock a.m. as a witness in the above entitled matter.

You are further commanded to bring with you the following items and documents:

/

DATED this _____ day of July, 1996.

MICROFILMED

SEP 1 2 2000

By order of the Director.

KARL J. DREHER, Director

MICROFILMED
SEP 12 2000

RECEIVED
JUN 14 1996
Department of Water Resources
Southern Region

C. TOM ARKOOSH
LAWYER

POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

BOISE OFFICE:
500 WEST WASHINGTON STREET
BOISE, ID 83701
C:\OFFICE\WPWIN\WPDOCS\DATA\ARKOOSH.BON\ALLEN.LTR

TELEPHONE (208) 934-8872
FACSIMILE (208) 934-8873

June 12, 1996

Allen Merritt
Department of Water Resources
222 Shoshone East
Twin Falls, Idaho 83301

In Re: Application For Transfer no. 4722 AND 4733

Dear Allen:

On Memorial Day of this year I noticed that the Applicants in the above matter were irrigating directly from the supplemental well, Water Right No. 37-07575, rather than using their primary water right, which set idle. By definition, this water is supplemental to the primary right, may not be used upon ground for which a primary right does not exist, and is licensed for purposes of providing water upon the failure or diminution of the primary right. We would therefore object to use of this supplemental right, drawing water from the Aquifer while allowing the canal right to set idle.

Also, we would ask that this matter be set on for hearing. We believe that it is time to obtain a determination upon our protest. Consequently, I am seeking conjunctively with this the Department's permission to take the corporate deposition of North Valley Milkers. Please review the enclosed.

Very truly yours,

C. Tom Arkoosh

CTA:bsb
cc: Rob Williams

Encl.

MICROFILMED
SEP 12 2000

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JUN 14 1996
Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	MOTION FOR DISCOVERY

COMES NOW, the protestant, Bonnie Arkoosh, in the above matter, and hereby moves the Department of Water Resources for its order allowing discovery in the above matter.

DATED this 12th day of June, 1996.

C. TOM ARKOOSH

* * * * * * *

O R D E R

The Department of Water Resources having reviewed the motion of protestant, and being fully advised in the premises;

IT IS HEREBY ORDERED and this does order that discovery be allowed in the above entitled matter.

DATED this _____ day of _____,96.

MICROFILMED
SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED
JUN 14 1996
Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	)	MOTION FOR DISCOVERY

COMES NOW, the protestant, Bonnie Arkoosh, in the above matter, and hereby moves the Department of Water Resources for its order allowing discovery in the above matter.

DATED this 12th day of June, 1996.

C. TOM ARKOOSH

* * * * * * *

O R D E R

The Department of Water Resources having reviewed the motion of protestant, and being fully advised in the premises;

IT IS HEREBY ORDERED and this does order that discovery be allowed in the above entitled matter.

DATED this _____ day of _____,96.

MICROFILMED
SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED
JUN 14 1996
Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	)	MOTION FOR DISCOVERY

COMES NOW, the protestant, Bonnie Arkoosh, in the above matter, and hereby moves the Department of Water Resources for its order allowing discovery in the above matter.

DATED this 12th day of June, 1996.

C. TOM ARKOOSH

* * * * * * *

O R D E R

The Department of Water Resources having reviewed the motion of protestant, and being fully advised in the premises;

IT IS HEREBY ORDERED and this does order that discovery be allowed in the above entitled matter.

DATED this _____ day of _____,96.

MICROFILMED
SEP 12 2000

From: DWR60::AMERRITT 1-MAR-1996 10:48:56.30
To: DWR03::GSAXTON
CC: AMERRITT
Subj: fyi

RECEIVED
MAR 04 1996
Department of Water Resources

FROM: Allen Merritt DATE: March 1, 1996

TO: Transfers #4722 & #4723 in the name of North Valley Milk, Inc.

SUBJECT: Pre-hearing Conference

On 2/28/96 I conducted a pre-hearing conference at the Gooding City Hall multi-purpose room. The applicant was represented by attorney Robert Williams and Jerome Fitzgerald, partner. Also attending were the Robertsons and Mrs. Renner who filed a joint protest and also attorney Tom Arkoosh representing his mother as a separate protestant.

The issues identified appeared to be: 1) expansion of the water right from a supplemental well which is proposed to be used full-time at two dairy sites; 2) injury to water rights via a potential breaking of a private waste water delivery contract if water use patterns change due to disposal of waste &/or potential injury to water rights due to water quality concerns; and 3) the public interest involving water quality, land values, etc., etc....

The protests were filed by both protestants for both transfers but the main concern was for transfer #4722 which proposes to build a dairy near the land of the protestants. Transfer #4723 was for covering an existing facility near Wendell and is only tangentially involved since it deals with the same water right.

Arkoosh explained he needs a clear picture of the total development so he could understand the impact. Both attorneys desired to go through a period of discovery and agreed to share information over the next few weeks. All parties agreed to continue the conference to a later date. (4 weeks) Arkoosh also mentioned he may file a motion asking the department to allow discovery.

We briefly discussed the recent final order for Hafliger where it described how the department considered public interest at the Hafliger dairy. Williams had a copy of the final order and Arkoosh requested a copy. (The copy was mailed 2/29/96 to Arkoosh)

I also discussed with the joint protestants their status as parties very similar to the Udy transfer situation. I told them that currently the joint protest was considered one party and if they wished to pay a separate fee then individually they would be considered separately as a full party. I told them they could file the separate protest fee within 10 days to be considered that way; otherwise they would have to speak with one voice.

The joint protestants were provided copies of the "rules of procedure".

At that the conference was concluded. I plan to re-schedule another conference as needed.

MICROFILMED
SEP 12 2000

RE: T# 4722 & T# 4723, WR# 37-07575 Pt
(North Valley Milk, Inc.)

PLACE: Multi-purpose Room, Gooding City Hall; Gooding, ID

DATE: 10:00 a.m., Wednesday, February 28, 1996

CONFERENCE OFFICER: Allen D. Merritt

ASSISTED BY: None

ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Jerome FITZGERALD	2852 S 1800 E Wendell	4-Bros Dairy Inc
Robert E. Williams	1175 S Adams St, Jerome	North Valley Milk, Inc.
TOM ARKOOSH	PO Box 32 Gooding	Bonnie Arkoosh
LESLIE REINER	225 E 1300 S	SELF
Dana Robertson	13265 2100 E Gtg	self
John C. Robertson	13265 2100 E Gtg	self
	MICROFILMED	

SEP 12 2000

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FEB 6 1996

DEPARTMENT OF WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 WATER RIGHT NO. 37-07575 PARTS	NOTICE OF PRE-HEARING CONFERENCE
NORTH VALLEY MILK, INC., Applicant	SOURCE: Groundwater
JOHN & DORIS ROBERTSON, LESLIE RENNER, AND BONNIE ARKOOSH, Protestants	COUNTY: Gooding

North Valley Milk, Inc., applicant, has filed with the Department of Water Resources two (2) applications to transfer the public waters of the State of Idaho. On April 19, 1995, Transfer No. 4722 was filed and AMENDED on January 8, 1996. On May 3, 1995 Transfer No. 4723 was filed.

The Department has received protests against the approval of said applications from the above captioned protestants.

The Department has set the matter of protest for conference on Wednesday, February 28, 1996 at 10:00 a.m. in the Multi-purpose Room, Gooding City Hall, 308 5th Ave. West; Gooding, ID.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 6th day of February, 1996.

Allen D. Merritt, P.E.
Regional Manager

MICROFILMED

SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of February, 1996, a true and correct copy of the Notice of Conference was forwarded with all required charges prepared, by the method indicated below, to the parties listed:

Mary A. Baldwin
Secretary

ANDREW FITZGERALD SEC-TREAS NORTH VALLEY MILK INC 425 N 250 W SHOSHONE ID 83352	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
BONNIE ARKOOSH C/O C TOM ARKOOSH ESQ PO BOX 32 GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
LESLIE RENNER 2254 E 1300 S GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____
JOHN & DORIS ROBERTSON 1326 S 2100 E GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ __X__ ____ ____

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SEP 14 2000

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FEB 02 1996

Department of Water Resources
Southern Region

February 2, 1996

Dear Sirs,

We wish to continue our protest against transfer #4722, despite the amendment recently advertised. The changes proposed in the amendment do not remove our concerns expressed in our initial protest.

Sincerely,

John C. Robertson
Doris Robertson
Leslie Russell

MICROFILMED

SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

February 6, 1996

ATTN LINDA
GOODING CITY HALL
308 5TH AVE WEST
GOODING ID 83330

Dear Linda:

This is a follow-up to our telephone conversation of 1/9/96 to confirm the reservation of the Multi-purpose Room for a public meeting to be held by this office on Wednesday, February 28, 1996 from 10:00 a.m.- 12:00 a.m.

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Very truly yours,

Mary Baldwin

Mary Baldwin
Sr. Secretary

MICROFILMED
SEP 12 2008

AFFIDAVIT of PUBLICATION

RECEIVED
JAN 2 1996
Department of Water Resources
Southern Region

State of Idaho } ss.
County of Gooding }

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 17 day of Jan., 19 96

and the date of the last publication was on the 24 day of Jan, 19 96.

Patty Nance

Subscribed and sworn to before me this 24th day of January, 19 96

(SEAL)

Donna M. DeVore
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

OK MB 1/26/96

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice _____
Number of Insertions 2
Affidavit Fee $2.25

_____ Lines tabular at _____ 6¢/Pica
321.75 Lines straight at 11.69 5¢/Pica
321.75 Subsequent lines at 13.89 4¢/Pica
TOTAL COST 31.21

MICROFILMED
SEP 12 2000

COPY OF NOTICE

(Paste Here)

Appl. for Transfer #37-07575
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. Water Res.
BILL TO

NOTICE OF APPLICATION
FOR TRANSFER
WATER RIGHT

Notice is hereby given that Application for Transfer No. [redacted] of Water Right No. 37-07575 and being described as Transfer No. 7761 filed by [redacted], [redacted], [redacted] in the SW, SW, [redacted], ID, [redacted], and published on [redacted] & [redacted] has been ASSIGNED.

The purpose of this application is to change the proposed place of use for the [redacted] from [redacted] to the [redacted].

Any protest against approval of the Amended Transfer must be filed with the Idaho Department of Water Resources, 2735 Kimberly Road, Twin Falls, ID [redacted] together with a protest fee of $[redacted] on or before February 5, 1996. The protestant must also send a copy of the protest to the [redacted].

Published in the Gooding County Leader on [redacted] & [redacted]

7-8 pt. per line straight.....5¢/Pica
7-8 pt. per line successive insertions.....4¢/Pica

№ 5956
2328

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

Notice is hereby given that Application for Transfer of a portion of Water Right No. 37-07575 and further described as Transfer No. 4722 filed by NORTH VALLEY MILK, INC., 425 N 250 W; SHOSHONE ID 83352 and published on 10/11 & 10/18/95 has been AMENDED.

The purpose of this modification is to change the proposed place of use for the new dairy from the E1/2NE1/4 to the W1/2NE1/4, S10, T5S, R15E.

Any protest against approval of the Amended Transfer must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of $25.00 on or before February 5, 1996. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Gooding County Leader on 1/17 & 1/24/96.

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SEP 12 2000

Stat of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

January 9, 1996

PHILIP E. BATT
Governor

KARL J. DREHER
Director

MAGIC VALLEY PUBLISHING CO
ATTN Gooding County Leader
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. If time allows, please submit a galley proof for review before publication.

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.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. 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

MICROFILMED
SEP 12 2000

From: DWR60::AMERRITT 8-JAN-1996 16:34:01.71
To: MBALDWIN
CC: AMERRITT
Subj: CONFERENCE FOR NORTH VALLEY MILK (TRANS 4722 & 4723)

MR. FITZGERALD WAS IN AND WANTS TO SET THE CONFERENCE FOR HIS TWO TRANSFERS #4722 & #4723. HE ALSO FILED AN AMENDMENT OF TRANSFER #4722 TO CHANGE THE P/U. I BELIEVE THIS WILL HAVE TO BE ADVERTISED. I WOULD LIKE TO SET A CONFERENCE FOR LATE FEBRUARY AND ALSO HAVE THE PROTEST PERIOD OVER BY THAT TIME FOR THE AMENDMENT. IS THIS GOING TO BE POSSIBLE? PLEASE CHECK OF AVAILABILITY OF THE GOODING CITY HALL'S ROOM. WE CAN MAYBE SEND OUT NOTICES AT THE END OF THIS MONTH.

ALLEN

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SEP 12 2000

1/8/96

Tom Arkoosh — 934 - 8872
Is not avail (1, 2, 8, 16)

John Leslie Renner — 934 - 5121
no answer

John & Doris Robertson — 934 - 5323
Not on 2 tues.
Tues ok if in morning

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SEP 1 2 2000

NOTICE OF AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

Notice is hereby given that Application for Transfer of a portion of Water Right No. 37-07575 and further described as Transfer No. 4722 filed by NORTH VALLEY MILK, INC., 425 N 250 W; SHOSHONE ID 83352 and published on 10/11 & 10/18/95 has been AMENDED.

The purpose of this modification is to change the proposed place of use for the new dairy from the E1/2NE1/4 to the W1/2NE1/4, S10, T5S, R15E.

Any protest against approval of the Amended Transfer must be filed with the Idaho Department of Water Resources, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of $25.00 on or before February 5, 1996. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Gooding County Leader on 1/17 & 1/24/96.

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SEP 1 2 2000

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Amended TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: C SKINNER Date i

1. Right number 37-07575 Applicant NORTH VALLEY MILK, INC.
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
   ☒ Other CHANGE NATURE & PERIOD OF USE AND SPLIT RIGHT
4. Check:
   a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
   b. ☒ Description of original point of diversion.
   c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☐ All of right.
   b. ☒ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☒ Check description of point(s) of diversion.
   d. ☒ Check description of place of use.
   e. ☒ Check map (shows p.d. and p.u. after transfer).
   f. ☒ Check for correct signature, notarization, and fee.
   g. ☒ Check proof of ownership of right &/or land from which water is transferred.
   h. ☒ Check for expansion in use of right. Comments SEE JIM STANTON'S MEMO ✓ SEP 1, 1995 IN FILE
   i. ☒ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) POSSIBLE > CANAL SHARES, A37-04404, A37-04404B, A37-10931 ?
   j. ☒ Is use within a Watermaster District? ☐ Yes ☒ No
      If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

NO FIELD CHECK DONE, SEE PAST STAFF REVIEW.

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
   _____
   _____
4. By _____ Date

* *All uses within Watermaster Districts require special conditions.*

Form 1-222
12-92

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4722

RECEIVED
no ✓ mb
SEP 15 1995
Department of Water Resources
Southern Region

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant North Valley Milk, Inc. Phone 886-7716

Post Office address 435 N 250 W, Shoshone, ID 83352

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 part of right to dairy use for new facility to be built. Also to change some of right from supplemental to primary irrigation right & to change the irrigation P/U.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
37-07575A	3-28-1977	1.38/276	Irrigation	4-1 to 10-31
37-07575B	"	0.38/27.7	Stockwater	1-1 to 12-31
	"	0.38/27.8	Commercial	" to "
				to

2. Total amount of water being transferred 2@1.76 cubic feet per second and/or 381.5 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SE	11	5S	15E	Gooding	Existing irrigation (Part A) well
		NE	NE	10	"	"	"	2 wells for new dairy (Part B)

5. Lands irrigated or place of use:

	Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
				NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
A)	5S	15E	11									35	33				31			69
B)	5S	15E	10	C/S			C/S													

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SEP 12 2000

Total acres

Transfer No. 4722

PART 1

6. General Information:

a. Description of diversion system Part A) Well, motor, pump, mainline to 3-tower pivot with end gun, various handlines.
B) Two connected wells & pumps, pipelines to dairy barn & corrals.

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 south of the county road will be sprinkled with two pivots, plus handlines in one corner. The rest of the ground south of the county road will no longer be irrigated.

d. Remarks:

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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SEP 12 2000

Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 37-07575 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Groundwater tributary to _____
4. Date or priority 3-28-1977
5. Water is used for the following purpose:
   amount 2.21 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7								MICROFILMED								7
											SEP 12 2000								

Total acres 354

9. Describe any other water rights used for the same purpose as described above RWCC & AFRD shares, 37-00599 & 00600A

PART 2

Transfer No. 4722

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 2.06 cfs for Irrig. purposes from 4-1 to 11-1
(cfs/ac-ft)
amount 878.7 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	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34 ~~40~~	38		32	38		180
		14		3⅜	~~4⅜~~		39	3⅜	¼	16									134⅜
		15	7																7

Total acres 330

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

1. amount ____ for ____ purposes from ____ to ____
(cfs/ac-ft)
amount ____ for ____ purposes from ____ to ____
(cfs/ac-ft)
amount ____ for ____ purposes from ____ to ____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

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Total acres ____

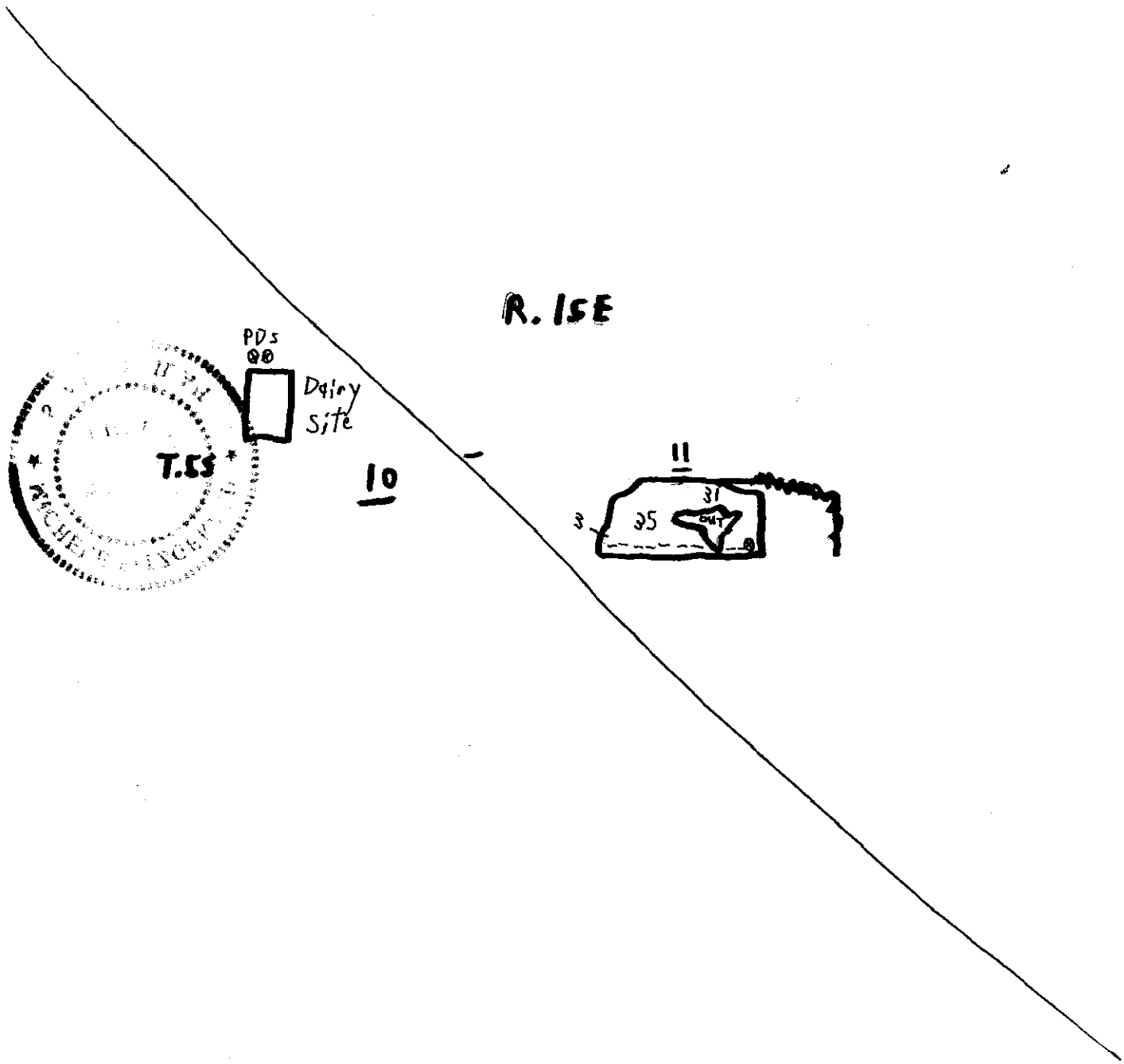
Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Stockwater	0.38 cfs/77.7 AFA	3 milkings/day	1-1 to 12-31
	Commercial	0.38 cfs/27.8 AFA	"	" to "

2. Quantity and quality of return flows and location of discharge:
Dairy waste water will discharge to ponds, and sprinkled on adjacent land as needed to keep ponds from overflowing.

3. Describe effects on other water uses resulting from the proposed change:
The dairy site and surrounding land (about 56 acres) is irrigated with surface water. Irrigation rights will no longer be used on this ground; will be sold or used on other land we own.

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.

Andrew F. Fitzgerald Sr Tres
(Signature of Applicant)

Subscribed and sworn to before me this Saturday 9th day of September, 19 95.

Michele Fitzgerald
(Notary Public)

MICHELE FITZGERALD NOTARY PUBLIC STATE OF IDAHO

My commission expires 12/17/97

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 3 attachments

Received by J F Stanton MB Date 9/15/95 Protest filed by

Prelim. check by JS Fee $100.

Receipted by MTS Date 4-19-95 501998

Published in Gooding Co. Leader Copies of protest forwarded by

Pub. dates 10/11 & 10/18/95 Hearing held by Date

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

rec'd. by

Copy of transfer sent to lien holder

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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

January 9, 1996

PHILIP E. BATT
Governor
KARL J. DREHER
Director

RECEIVED
JAN 12 1996
Department of Water Resources

ANDREW FITZGERALD SEC
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

Re: AMENDED Application for Transfer No. 4722 (37-07575)

Dear Mr. Fitzgerald:

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

This office has scheduled advertising the application in the Gooding County Leader for 1/17 and 1/24/96. 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 the 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.

Sincerely yours,

Corey Skinner, E.I.T.
Safety of Dams Engineer

cs:mb

cc: C. Tom Arkoosh, Esq.
Leslie Renner
John & Doris Robertson

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SEP 12 2000

12-92

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4722

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant North Valley Milk, Inc. Phone 886-7716

Post Office address 425 N 250 W, Shoshone, ID 83352

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 T. 4722 is being amended to move the dairy site 1/4 mile west to flatter ground.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
37-07575A	3-28-1977	1.38/276	Irrig.	4-1	to	10-31
37-07575B	"	0.38/77.7	Stockwater	1-1	to	12-31
		0.38/37.8	Commercial	"	to	"
					to	

2. Total amount of water being transferred 1.38/0.38 cubic feet per second and/or 38.5 acre-feet per annum.
3. Source of water Groundwater tributary to
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SE	11	5S	15E	Gooding	Existing irrigation (Part A) well
		NW	NE	10	"	"	"	2 wells for new dairy

5. Lands irrigated or place of use:

	Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
				NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
A)	5S	15E	11									35	3				31			69
B)	5S	15E	10		C,S	C,S														

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SEP 12 2000

Total acres 69

Transfer No. 4722

PART 1

6. General Information:

a. Description of diversion system A) Well, motor, pump, mainline to 3-tower pivot with end gun, various handlines

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 south of county road will be sprinkled with 2 pivots, plus handlines in one corner. The rest of the ground south of the road will no longer be irrigated.

d. Remarks:

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____.

MICROFILMED
SEP 12 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 37-07575 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Groundwater tributary to _____
4. Date or priority 3-28-1977
5. Water is used for the following purpose:
   amount 2.21 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7																7

MICROFILMED
SEP 12 2000

Total acres 354

9. Describe any other water rights used for the same purpose as described above BWCC & AFRD shares, 37-00599, 00600A

PART 2

Transfer No. 4722

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 2.06 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1
amount 878.7 AFA (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

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

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
55	15E	10																19	19
		11									38		34	38		32	38		180
		14		3			39	33		16									134
		15	7																7

Total acres 330

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

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MICROFILMED SEP 12 2000

Total acres _____

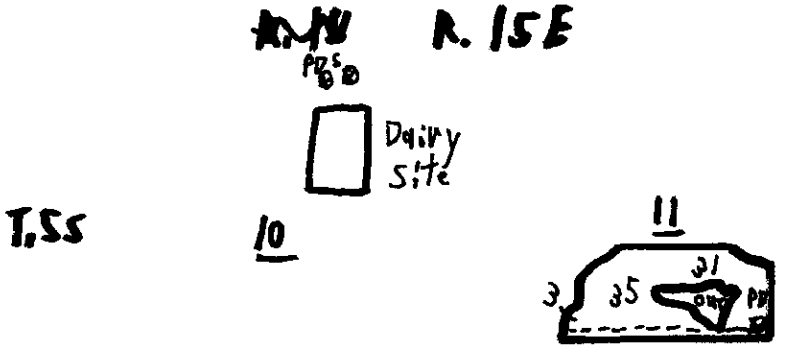
Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Stockwater	0.38/77.7	365 days/year	1-1 to 12-31
	Commercial Use		"	" to "

2. Quantity and quality of return flows and location of discharge:
Wastewater will be controlled per EPA & DEQ rules.

3. Describe effects on other water uses resulting from the proposed change:
Amount of irrigated land will decrease.

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.

Charles F. Fitzgerald Sec-Tres
(Signature of Applicant)

Subscribed and sworn to before me this 8th day of January, 19 96.

J F Stanton
(Notary Public)

My commission expires 10-25-2000

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 0 attachments

Received by J F Stanton Date 1-8-96 Protest filed by

Prelim. check by Fee $50. 5018774

Receipted by Date 1-8-96

Published in Gooding Co. Leader Copies of protest forwarded by

Pub. dates 1/17 & 1/24/96 Hearing held by Date

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

rec'd. by

Copy of transfer sent to lienholder

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SEP 12 2000

From: DWR60::AMERRITT 8-JAN-1996 16:34:01.53
To: MBALDWIN
CC: AMERRITT
Subj: CONFERENCE FOR NORTH VALLEY MILK (TRANS 4722 & 4723)

MR. FITZGERALD WAS IN AND WANTS TO SET THE CONFERENCE FOR HIS TWO TRANSFERS #4722 & #4723. HE ALSO FILED AN AMENDMENT OF TRANSFER #4722 TO CHANGE THE P/U. I BELIEVE THIS WILL HAVE TO BE ADVERTISED. I WOULD LIKE TO SET A CONFERENCE FOR LATE FEBRUARY AND ALSO HAVE THE PROTEST PERIOD OVER BY THAT TIME FOR THE AMENDMENT. IS THIS GOING TO BE POSSIBLE? PLEASE CHECK OF AVAILABILITY OF THE GOODING CITY HALL'S ROOM. WE CAN MAYBE SEND OUT NOTICES AT THE END OF THIS MONTH.

ALLEN

Wed, Feb 28 10 - 12 a.m.
Gooding city Hall
per +/c Linda
1/9/96 @ 9:06 a.m.

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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

October 31, 1995

ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

RE: APPLICATIONS FOR TRANSFER NOS. 4722 & 4723 (37-07575 Parts)

Dear Mr. Fitzgerald:

Enclosed are copies of protests filed against the above referenced applications.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED

SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

October 31, 1995

RECEIVED
NOV 07 1995
Department of Water Resources

ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

RE: APPLICATIONS FOR TRANSFER NOS. 4722 & 4723 (37-07575 Parts)

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The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

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SEP 12 2000

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?
2. Will the proposed transfer constitute an enlargement in the use of the original right?
3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
4. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, and 4 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

October 31, 1995

PHILIP E. BATT
Governor

KARL J. DREHER
Director

BONNIE ARKOOSH
C/O C TOM ARKOOSH ESQ
PO BOX 32
GOODING ID 83330

RE: APPLICATION FOR TRANSFER NOS. 4722 & 4723 (37-07575 Parts-North Valley Milk, Inc.)

Dear Protestant(s):

Your protest against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED
SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

October 31, 1995

PHILIP E. BATT
Governor

KARL J. DREHER
Director

LESLIE RENNER
2254 E 1300 S
GOODING ID 83330

RE: APPLICATION FOR TRANSFER NOS. 4722 & 4723 (37-07575 Parts-North Valley Milk, Inc.)

Dear Mrs. Renner:

Your protest against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED
SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

October 31, 1995

JOHN & DORIS ROBERTSON
1326 S 2100 E
GOODING ID 83330

RE: APPLICATION FOR TRANSFER NOS. 4722 & 4723 (37-07575 Parts-North Valley Milk, Inc.)

Dear Protestant(s):

Your protest against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

MICROFILMED
SEP 12 2000

RECEIVED
OCT 30 1995
Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.

NOTICE OF PROTEST

COMES NOW John & Doris Robertson, 1326 S 2100 E, Gooding, ID and Leslie Renner, 2254 E 1300 S, Gooding, ID and file this Protest to Application No. 4723. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

1. The proposed use would reduce the quality of water under existing rights.
2. The water supply is insufficient for the proposed use.
3. The proposed use conflicts with the local public interest.
4. The proposed use is contrary to conservation of water resources within the State of Idaho.
5. The change in use would constitute an enlargement in use.

At hearing the Protestants will present evidence regarding the impact on both the quality and quantity of water which the proposed change would have on existing water rights, as well as the local public interest. The protest can be resolved only by denial of the transfer application and consequently, Protestants pray the application be denied.

MICROFILMED
SEP 12 2000

Receipt #SO 18618
10/30/95
mb

By filing this protest, the Protestants give notice to the Department of Water Resources and to the Applicant that they intend to appear at all conferences or hearings in this matter; they intend to present evidence and cross examine; and, in order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the Applicant or others, or obtain information from the Department of Water Resources. Therefore, the Protestant requests that any hearing in this matter be scheduled in order to allow the hearing officer to take up prehearing matters.

Respectfully submitted,

Dated this 27th day of October, 1995.

John C. Robertson

Idavie Robertson

Leslie Krusee

CERTIFICATE OF SERVICE

We hereby certify that on the 30th day of October, 1995, we caused to be served a true and correct copy of the above and foregoing document by the method indicated below and addressed to the following:

X Hand Delivered

\ US Mail

Idaho Department of Water Resources
222 Shoshone Ave. E.
Twin Falls, ID 83301

North Valley Milk, Inc.
425 N. 250 W.
Shoshone, ID 83352

John C Robertson

Idavie Robertson

Leslie Krusee

MICROFILMED
SEP 12 2000

RECEIVED
OCT 30 1995
Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4722 of WATER RIGHT)
37-07575B IN THE NAME OF NORTH) NOTICE OF PROTEST
VALLEY MILK, INC.)
)

COMES NOW John & Doris Robertson, 1326 S 2100 E, Gooding, ID and , Leslie Renner, 2254 E 1300 S, Gooding, ID and file this Protest to Application No. 4722. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

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MICROFILMED
SEP 12 2000

Receipt #50 18618
10/30/95
MB

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Respectfully submitted,

Dated this 29th day of October, 1995.

John C Robertson

Doris Robertson

Lydia Kenner

CERTIFICATE OF SERVICE

We hereby certify that on the 30th day of October, 1995, we caused to be served a true and correct copy of the above and foregoing document by the method indicated below and addressed to the following:

X Hand Delivered

X US Mail

Idaho Department of Water Resources
222 Shoshone Ave. E
Twin Falls, ID 83301

North Valley Milk, Inc.
425 N. 250 W.
Shoshone, ID 83352

John C. Robertson

Doris Robertson

Lydia Kenner

MICROFILMED
SEP 12 2000

RECEIVED
FEB 02 1996
Department of Water Resources
Southern Region

February 2, 1996

Dear Sirs,

We wish to continue our protest against transfer #4722, despite the amendment recently advertised. The changes proposed in the amendment do not remove our concerns expressed in our initial protest.

Sincerely,

John C. Robertson
Doris Robertson
Dale Kennedy

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SEP 12 2000

RECEIVED
OCT 30 1995
Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.

NOTICE OF PROTEST

COMES NOW John & Doris Robertson, 1326 S 2100 E, Gooding, ID and Leslie Renner, 2254 E 1300 S, Gooding, ID and file this Protest to Application No. 4723. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

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At hearing the Protestants will present evidence regarding the impact on both the quality and quantity of water which the proposed change would have on existing water rights, as well as the local public interest. The protest can be resolved only by denial of the transfer application and consequently, Protestants pray the application be denied.

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Receipt #50 18618
10/30/95
mB

By filing this protest, the Protestants give notice to the Department of Water Resources and to the Applicant that they intend to appear at all conferences or hearings in this matter; they intend to present evidence and cross examine; and, in order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the Applicant or others, or obtain information from the Department of Water Resources. Therefore, the Protestant requests that any hearing in this matter be scheduled in order to allow the hearing officer to take up prehearing matters.

Respectfully submitted,

Dated this 27th day of October, 1995.

John C. Robertson

Doris Robertson

Leslie Kramer

CERTIFICATE OF SERVICE

We hereby certify that on the 30th day of October, 1995, we caused to be served a true and correct copy of the above and foregoing document by the method indicated below and addressed to the following:

X Hand Delivered

\ US Mail

Idaho Department of Water Resources
222 Shoshone Ave. E.
Twin Falls, ID 83301

North Valley Milk, Inc.
425 N. 250 W.
Shoshone, ID 83352

John C. Robertson

Doris Robertson

Leslie Kramer

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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

October 25, 1995

C Tom Arkoosh Esq
PO Box 32
Gooding, ID 83330

RE: Protests of Applications for Transfer Nos: 4722 and 4723 in the name of North Valley Milk, Inc.

Dear Mr. Arkoosh:

Our office received on October 23rd the above referenced protests without the required protest fees. IDAPA 37.01.01300 (Procedures Rule 300) requires that a protest is not properly filed with the department until the fee is received.

As you may know the protest period for the above referenced transfers extends until October 30th. Our office must receive by October 30th the required $25.00 per protested matter or $50.00 in total for your protests to be considered. Otherwise we will be required to reject your protests as untimely.

Please note that I phoned your office this day and left word with your secretary regarding this matter.

If you have questions please feel free to contact our office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

MICROFILMED
SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED
No fee See Below
OCT 23 1995 MB

Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.

NOTICE OF PROTEST

COMES NOW Bonnie Arkoosh, by and through her counsel, C. Tom Arkoosh, and files this Protest to Application No. 4723. The Protestant's representative for service in this matter is C. Tom Arkoosh of 116 4th Ave. W., P.O. Box 32, Gooding, Idaho. Telephone: (208) 934-8872. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

1. The proposed use would reduce the quantity of water under existing rights.

2. The water supply is insufficient for the proposed use.

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4. The proposed use is contrary to conservation of water resources within the State of Idaho.

5. The change in use would constitute an enlargement in use.

At hearing the Protestant will present evidence regarding the impact on both the quality and quantity of water which the proposed change would have on existing water rights, as well as the local public interest. The protest can be resolved only by denial of the transfer application, and, consequently, the Protestant prays the

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SEP 12 2000

Receipt # 5018615
10/30/95
MB

application be denied.

By filing this protest, the Protestant gives notice to the Department of Water Resources and to the Applicant that they intend to appear at all conferences or hearings in this matter; they intend to present evidence and cross-examine; and, in order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the Applicant or others, or obtain information from the Department of Water Resources. Therefore, the Protestant requests that any hearing in this matter be scheduled in order to allow the hearing officer to take up prehearing matters.

Respectfully submitted,

DATED this 19 day of October, 1995.

C. TOM ARKOOSH

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of October, 1995, I caused to be served a true and correct copy of the above and foregoing document by the method indicated below, and addressed to the following:

✓ U.S. Mail

____ Hand Delivered

____ Overnight Mail

MICROFILMED
SEP 12 2008

_____ Telecopy (FAX)

Idaho Department of Water Resources
222 Shoshone Ave. E.
Twin Falls, ID 83301

North Valley Milk, Inc.
425 N. 250 W.
Shoshone, ID 83352

C. TOM ARKOOSH

MICROFILMED
SEP 12 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED See Below
OCT 23 1995
Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4722 OF WATER RIGHT)
37-07575B IN THE NAME OF NORTH)
VALLEY MILK, INC.) NOTICE OF PROTEST
)

COMES NOW Bonnie Arkoosh, by and through her counsel, C. Tom Arkoosh, and files this Protest to Application No. 4722. The Protestant's representative for service in this matter is C. Tom Arkoosh of 116 4th Ave. W., P.O. Box 32, Gooding, Idaho. Telephone: (208) 934-8872. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

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Receipt # 50416/5
10/30/95
mB

MICROFILMED
SEP 12 2000

application be denied.

By filing this protest, the Protestant gives notice to the Department of Water Resources and to the Applicant that they intend to appear at all conferences or hearings in this matter; they intend to present evidence and cross-examine; and, in order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the Applicant or others, or obtain information from the Department of Water Resources. Therefore, the Protestant requests that any hearing in this matter be scheduled in order to allow the hearing officer to take up prehearing matters.

Respectfully submitted,

DATED this 19 day of October, 1995.

C. TOM ARKOOSH

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of October, 1995, I caused to be served a true and correct copy of the above and foregoing document by the method indicated below, and addressed to the following:

✓ U.S. Mail

____ Hand Delivered

____ Overnight Mail

MICROFILMED
SEP 12 2000

_____ Telecopy (FAX)

Idaho Department of Water Resources
222 Shoshone Ave. E.
Twin Falls, ID 83301

North Valley Milk, Inc.
425 N. 250 W.
Shoshone, ID 83352

C. TOM ARKOOSH

MICROFILMED
SEP 12 2000

AFFIDAVIT of PUBLICATION

RECEIVED
OCT 20 1995
Department of Water Resources
Southern Region

State of Idaho } ss.
County of Gooding }

Patty Nance, being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 day of Oct., 1995 and the date of the last publication was on the 18 day of Oct., 1995

Patty Nance

Subscribed and sworn to before me this 18th day of October, 1995

(SEAL)

Norma DeVoe
NOTARY PUBLIC

#10989/6118
GOODING COUNTY LEADER
Gooding, Idaho

OK MB 10/20/95

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice _____
Number of Insertions 2
Affidavit Fee $2.00

_____ Lines tabular at _____ 6¢/Pica
1309 Lines straight at 65.45 5¢/Pica
1309 Subsequent lines at 52.36 4¢/Pica
TOTAL COST 119.81

MICROFILMED
SEP 12 2000

COPY OF NOTICE

(Paste Here)

Not. Prop. of Water Right Chg.
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

[redacted]
NOTICE IS HEREBY GIVEN that NORTH VALLEY [redacted] WASHINGTON ID 83338 has applied to the Department of Water Resources for approval of a change in point of diversion, place of use, nature of use and period of use of the [redacted] right as well as a partial [redacted] change in nature of use from irrigation and stockwater use to dairy use for a portion of the water right.

WATER RIGHT AS RECORDED
Water Right No. 37-[redacted]
Date of Priority: [redacted]
Source: groundwater tributary to [redacted]
Use: Irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: [redacted]
T5S, R15E, [redacted]
Place of Use: [redacted]
SW1/4SW1/4, W1/2SE1/4, S11; W1/4W1/4, S12, T5S, R15E.
Total Diversion Rate: 2.21 cfs
Water Right No. 37-[redacted]A
Use: irrigation (2.34 cfs) 4/1-10/31
Point of Diversion: [redacted]
Place of Use: [redacted]
W1/2SW1/4, NW1/4SE1/4, S11, T5S, R15E.
Other Right Appurtenant
[redacted]
Total Diversion Rate: [redacted] cfs
Stockwater: [redacted] (0.15 cfs)
Total [redacted] water being transferred: [redacted]
Point of Diversion: [redacted]
SW1/4SW1/4(NWT/4-SP), T5S, R15E,

[redacted]
A change in [redacted] of use, change the Nature of Use, change the period of use, as well as change from irrigation use to dairy use for a portion of the water right. The Water Right was split in Conversion Transfer No. 4[redacted].
WATER RIGHT AS RECORDED
Water Right No. 37-[redacted]
Date of Priority: [redacted]
Source: groundwater tributary to [redacted]
Use: Irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: [redacted]
SE1/4SE1/4, S10, [redacted] SW1/4SW1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.
A claim has been filed in the [redacted] River Basin Adjudication.
[redacted] CITATION: [redacted]
Water Right No. 37-[redacted]
Use: [redacted] (2.15 cfs)
Total [redacted] water being transferred: [redacted]
Point of Diversion: [redacted]
SW1/4SW1/4(NWT/4-SP), T5S, R15E,

sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, 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 day of Oct., 1995 and the date of the last publication was on the 18 day of Oct., 1995

Patty Nance

Subscribed and sworn to before me this 18th day of October, 1995

(SEAL)

Norma DeVoe
NOTARY PUBLIC

#10989/6118

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

OK MB 10/20/95

Number of Picas per Line

Number of Lines in Notice

Number of Insertions 2

Affidavit Fee $2.00

	Lines tabular at	6¢/Pica
1309	Lines straight at 65.45	5¢/Pica
1309	Subsequent lines at 52.36	4¢/Pica
	TOTAL COST 119.81	

MICROFILMED SEP 12 2000

DEFENDANT

PLAINTIFF

M.S.A. Dept. Water Res.

BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that NORTH VALLEY MILK, INC.,425 N 250 E SHOSHONE ID 83352 has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of IDAHO CODE and further described as Transfer No. 4722.

The purpose of this application is to add diversion point(s), change the place of use, change the Nature of Use, change the period of use, and split the water right as well as convert from irrigation use to dairy use for a portion of the water right.

WATER RIGHT AS RECORDED:
Water Right No. 37-07575
Basis: License
Date of Priority: 3/28/1977
Source: groundwater
Use: irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: NW1/4SE1/4, S11, T5S, R15E; Gooding County.
Place of Use: 354 acres within SE1/4SE1/4, S10; E1/2SW1/4, SW1/4SW1/4, W1/2SE1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.
A claim has been filed in the Snake River Basin Adjudication.
PROPOSED CHANGES:
Total amount of water being transferred: 1.76 cfs
Water Right No. 37-07575A
Use: irrigation (1.38 cfs) 4/1-10/31
Point of Diversion: SE1/4NW1/4SE1/4, S11, T5S, R15E (existing well); Gooding County.
Place of use: 69 acres within NE1/2SW1/4, NW1/4SE1/4, S11, T5S, R15E.
Water Right No. 37-07575B
Use: 1/1-12/31
stockwater (0.38 cfs)
commercial (0.38 cfs)
Point of Diversion: NE1/4NE1/4, S10, T5S, R15E (Two new wells to be drilled); Gooding County.
Place of use: E1/2NE1/4, S10, T5S, R15E.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that NORTH VALLEY MILK, INC.,425 N 250 E SHOSHONE ID 83352 has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of IDAHO CODE and further described as Transfer No. 4723.

The purpose of this application is to add diversion point(s), change the place of use, change the Nature of Use, change the period of use, as well as convert from irrigation use to dairy use for a portion of the water right. The Water Right was split in Companion Transfer No. 4722.

WATER RIGHT AS RECORDED:
Water Right No. 37-07575
Basis: License
Date of Priority: 3/28/1977
Source: groundwater
Use: irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: NW1/4SE1/4, S11, T5S, R15E; Gooding County.
Place of Use: 354 acres within SE1/4SE1/4, S10; E1/2SW1/4, SW1/4SW1/4, W1/2SE1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.
A claim has been filed in the Snake River Basin Adjudication.
PROPOSED CHANGES:
Water Right No. 37-07575C
Use: 1/1-12/31
stockwater (0.15 cfs)
commercial (0.15 cfs)
Total amount of water being transferred: 0.15 cfs
Point of Diversion: SW1/4SW1/4NW1/4, S29, T7S, R15E; Gooding County.
Place of use: SW1/4NW1/4, S29, T7S, R15E.
Any protest against approval of the proposed change of water right applications must be filed with the Department of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of $25.00 on or before October 30, 1995. The protestant must also send a copy of the protest to the applicant.
Karl J. Dreher, Director
Published in the Gooding County Leader on 10/11 & 10/18/95.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that NORTH VALLEY MILK, INC.,425 N 250 W;SHOSHONE ID 83352 has applied to the Department of Water Resources to change the following described water right(s) pursuant to Section 42-222 of IDAHO CODE and further described as Transfer No. 4722.

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Water Right No. 37-07575
Basis: License
Date of Priority: 3/28/1977
Source: groundwater
Use: irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: NW1/4SE1/4, S11, T5S, R15E; Gooding County.
Place of Use: 354 acres within SE1/4SE1/4, S10; E1/2SW1/4, SW1/4SW1/4, W1/2SE1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.
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PROPOSED CHANGES:
Total amount of water being transferred: 1.76 cfs
Water Right No. 37-07575A
Use: irrigation (1.38 cfs) 4/1-10/31
Point of Diversion: SE1/4NW1/4SE1/4, S11, T5S, R15E (existing well); Gooding County.
Place of use: 69 acres within N1/2SW1/4, NW1/4SE1/4, S11, T5S, R15E.
Water Right No. 37-07575B
Use: 1/1-12/31
stockwater (0.38 cfs)
commercial (0.38 cfs)
Point of Diversion: NE1/4NE1/4, S10, T5S, R15E (Two new wells to be drilled); Gooding County.
Place of use: E1/2NE1/4, S10, T5S, R15E.

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Place of Use: 354 acres within SE1/4SE1/4, S10; E1/2SW1/4, SW1/4SW1/4, W1/2SE1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.
A claim has been filed in the Snake River Basin Adjudication.

PROPOSED CHANGES:
Water Right No. 37-07575C
Use: 1/1-12/31
stockwater (0.15 cfs)
commercial (0.15 cfs)
Total amount of water being transferred: 0.15 cfs
Point of Diversion: SW1/4SW1/4NW1/4, S29, T7S, R15E; Gooding County.
Place of use: SW1/4NW1/4, S29, T7S, R15E.

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Karl J. Dreher, Director

Published in the Gooding County Leader on 10/11 & 10/18/95.

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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

October 4, 1995

MAGIC VALLEY PUBLISHING CO
ATTN Gooding County Leader
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. If time allows, please submit a galley proof for review before publication.

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.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. 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

MICROFILMED
SEP 12 2000

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

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Date of Priority: 3/28/1977
Source: groundwater
Use: irrigation (2.21 cfs) 4/1-11/1
Point of Diversion: NW1/4SE1/4, S11, T5S, R15E; Gooding County.
Place of Use: 354 acres within SE1/4SE1/4, S10; E1/2SW1/4, SW1/4SW1/4, W1/2SE1/4, S11; W1/2NE1/4, NW1/4, S14; NE1/4NE1/4, S15, T5S, R15E.

A claim has been filed in the Snake River Basin Adjudication.

PROPOSED CHANGES:

Total amount of water being transferred: 1.76 cfs

Water Right No. 37-07575A
Use: irrigation (1.38 cfs) 4/1-10/31
Point of Diversion: SE1/4NW1/4SE1/4, S11, T5S, R15E (existing well); Gooding County.
Place of use: 69 acres within N1/2SW1/4, NW1/4SE1/4, S11, T5S, R15E.

Water Right No. 37-07575B
Use: 1/1-12/31
stockwater (0.38 cfs)
commercial (0.38 cfs)
Point of Diversion: NE1/4NE1/4, S10, T5S, R15E (Two new wells to be drilled); Gooding County.
Place of use: E1/2NE1/4, S10, T5S, R15E.

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Karl J. Dreher, Director

Published in the Gooding County Leader on 10/11 & 10/18/95.

MICROFILMED

SEP 1 2 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

October 3, 1995

ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

Re: Applications for Transfer Nos. 4722 & 4723 (37-07575)

Dear Mr. Fitzgerald:

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

This office has scheduled advertising the applications in the Gooding County Leader for 10/11 and 10/18/95. The advertisements 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 applications 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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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Andrew Fitzgerald
North Valley Milk, Inc.
425 N 250 W
Shoshone, ID
83352

September 7, 1995

Dear Mr. Fitzgerald;

Per our conversation, enclosed is a new application for transfer to replace one of those already filed. If the new transfer is satisfactory, it should be signed before a notary before being returned to this office for processing. No additional fees are due.

The other pending transfer was only modified slightly, so the original application will continue to be used.

Sincerely,

James E. Stanton

James E. Stanton
Sr. Water Resource Agent

MICROFILMED

SEP 12 2000

First Interstate Bank
of Idaho, N.A.
Magic Valley Commercial
Banking Center
P.O. Box 248
Twin Falls, ID 83303-0248
208 733-0312 FAX 736-0745

First Interstate Bank

Northwest Region

RECEIVED
MAY 09 1995
Department of Water Resources
Southern Region

May 4,1995

Idaho Department of Water Resources:

This letter is to authorize the transfer of water right from a parcel of land owned by North Valley Milk, Inc. to another parcel also owned by same. The purpose of the transfer is to convert irrigation water to dairy use.

Sincerely,

James Griffee

James Griffee
Relationship Manager

State of Idaho)
) ss.
County of Twin Falls)

On this 5th day of May, 1995, before me, a Notary Public, personally appeared James Griffee, known or identfied to me to be the Relationship Manager of the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Debra Scarlett

Notary Public for Idaho
Residing at: Gooding
Commission Expires: 5-6-99

MICROFILMED
SEP 12 2000

T# 4722

Form 1-222
12-92

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant North Valley Milk, Inc. Phone 886-7716

Post Office address 425 N 2500, Shoshone ID 83352

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 _____
2. Describe the reason for the proposed changes We want to construct a dairy for 1800 milking and 500 dry cows.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
37-07575B	3-28-1977	.18cfs / 77.7af	Stockwater	1-1 to 12-31
		.07cfs / 27.8"	Commercial	1-1 to 12-31
				to
				to

2. Total amount of water being transferred 125 cubic feet per second and/or 105.6 acre-feet per annum.
3. Source of water Groundwater tributary to _____
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NE	10	5S	15E	Gooding	Two Wells

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10	C/S			C/S													

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SEP 12 2008

Total acres _____

Page _____ of _____ Transfer No. _____

PART 1

6. General Information:

a. Description of diversion system Two new wells with 7.5 hp pumps to a mainline system to service watering troughs and a barn.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? YES 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:
The acres to be dried up and converted to dairy use will be dried up of all water. We recognize this a supplemental right. We are willing to exchange some decreed surface rights if necessary to compensate.

d. Remarks:
Corporate officers are Clement Fitzgerald - Pres; Jerome Fitzgerald - Vice Pres. and Andy Fitzgerald - Sec-Treas.

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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SEP 12 2000

Form 1-222

Page _____ of _____ Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 37-07575 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☒ ~~Warranty~~ Deed ☐ Other _____
3. Source of water Groundwater tributary to _____
4. Date or priority 3-28-1977
5. Water is used for the following purpose:
   amount 2.21 (cfs/~~ac-ft~~) for Irrigation purposes from 4-1 to 10-31
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	MICROFILMED
								SEP 1 2 2000

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7																7

Total acres 354

9. Describe any other water rights used for the same purpose as described above Big Wood CC
37-00599, 37-00600A, Amer. Falls Reuse.

Page _____ of _____ **PART 2** Transfer No. _____

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 .25 cfs for Irrigation purposes from 4-1 to 01-01
(cfs/~~ac-ft~~)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	14			14			10		16									40

Total acres 40

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

1. amount 1.96 for Irrigation purposes from 4-1 to 01-01
(cfs/~~ac-ft~~)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	
								MICROFILMED
								SEP 12 2000

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36			39	26	7										108
		15	7																7

Total acres 314

PERMISSION FOR IDWR ACCESS TO IPCO POWER RECORDS

I, Andrew Fitzgerald, DO HEREBY GRANT PERMISSION FOR IDAHO DEPT. OF WATER RESOURCES TO OBTAIN RECORDS OF POWER SUPPLIED TO THE FOLLOWING-DESCRIBED WELL/PUMP BY IDAHO POWER CO. SAID RECORDS ARE TO BE USED FOR ANALYSIS OF MY PROPOSED WATER TRANSFER, APPLICATION FOR A WATER PERMIT, AMENDMENT OF PERMIT, OR LICENSING OF A PERMIT.

POWER POLE # 2385

IPCO METER # 62 072 738 0791172

TWP 5S RGE 15E SEC 11

SE 1/4 NW 1/4 SE 1/4

WATER RIGHT # 37-07575 APP/TRANSFER _____

AMENDMENT _____ LICENSING EXAM _____

Andrew Fitzgerald Secty 6-29-95

OWNER DATE

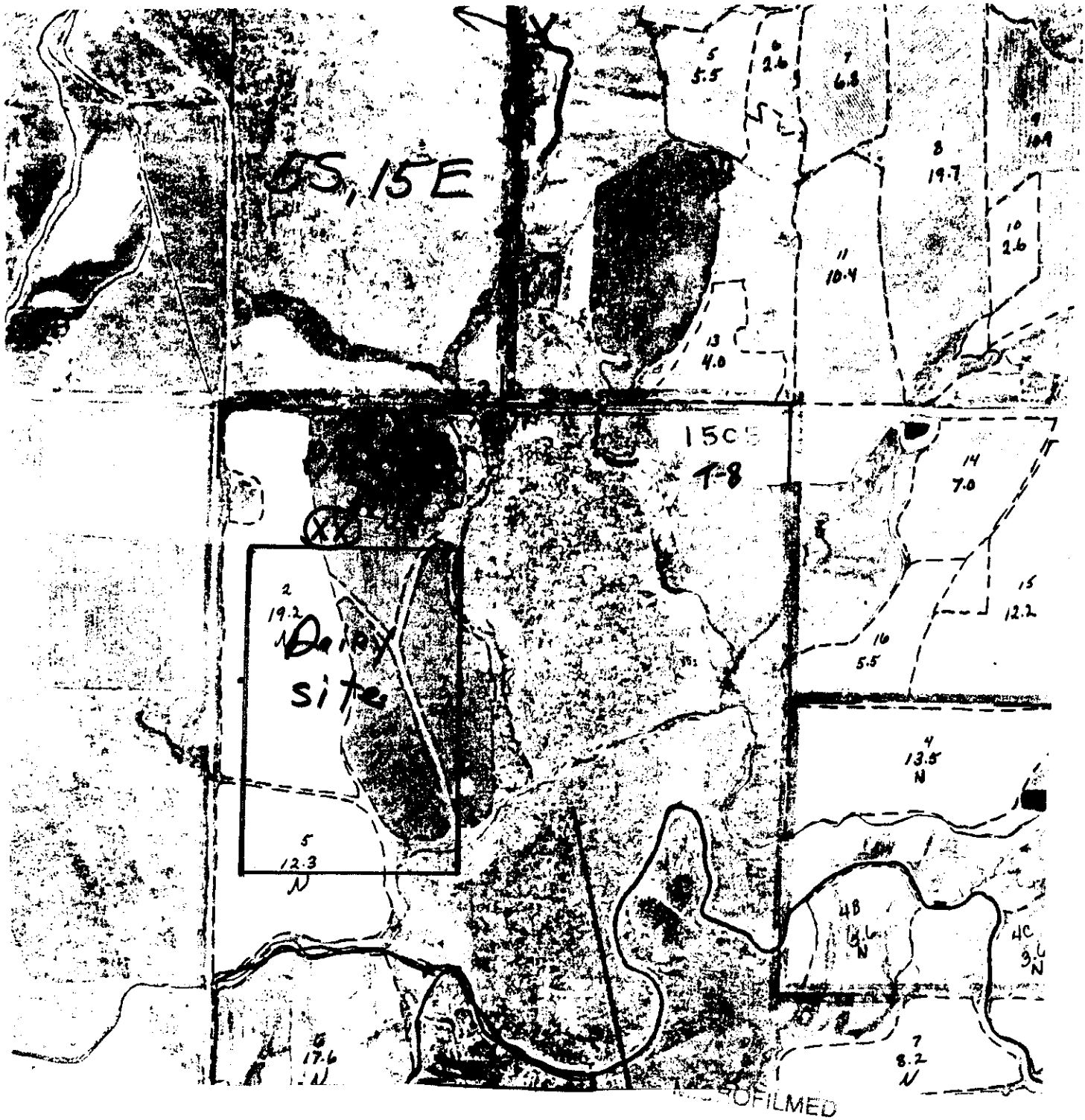
NORTH VALLEY MILK INC

MICROFILMED
SEP 12 2000

Page _____ of _____ Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

MICROFILMED
SEP 12 2008

Page _____ of _____ Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Stockwater	.18cfs/77.7 afa	3 milkings/day	1-1 to 12-31
	Commercial	.07"/27.8"	" "	" to "

2. Quantity and quality of return flows and location of discharge:
Dairy waste water will discharge to ponds and then sprinkled on adjacent fields.

3. Describe effects on other water uses resulting from the proposed change:
The 40 acres being converted to dairy use will be dried up of all water. The remaining irrigation use will continue

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.

by North Valley Mill, Inc. Sec-Trs
(Signature of Applicant)

Subscribed and sworn to before me this 19th. day of April, 19 95.

Jeanie Robertson
(Notary Public)

My commission expires 9-23-2000

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by MTS Date 4-19-95 Protest filed by _____

Prelim. check by _____ Fee $100 (S017998) _____

Receipted by MTS Date 4-19-95 _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MICROFILMED
SEP 12 2000

RECEIVED
APR 19 1995
Department of Water Resources
Southern Region

(6-92, 314)

North Valley Milk, Inc.

INFORMATION REQUIRED TO USE THE DAIRY LOTUS PROGRAM

PERMIT NO 31-07575
EXAMINER
DATE 4-3-95

****

REQUIRED DAIRY DATA

Number of Milking Cattle ---------- 1,800
Number of Nonmilking Cattle ---------- 500
Type of Lagoon
if aerobic; determine surface area in acres
_____ft by _____ft by _____ft deep -- 4
if anaerobic; enter zero ----------
Evapotranspiration Factor for Area (AC-FT/AC-YR) 4
Method of Washing
if manual cow washing; ---------- enter 1
if automatic washing; ---------- enter (2)
if sprinkler system to wash cows
and flush holding pen -------- enter 3 = 2
Number of Milkings per Day ---------- 3

Comments _____

****

INFORMATION REQUIRED FOR THEORETICAL FLOW ESTIMATION (IF NECESSARY)

	Pump 1	Pump 2	Pump 3
Pump Horsepower (HP)	7.5	7.5	
Lift (FT)	150	150	
Discharge Pressure (PSI)	40	40	
Friction Losses (FT)			

Comments _____

MICROFILMED
SEP 12 2000

T#4722

IDAHO DEPARTMENT OF WATER RESOURCES

FILE # or NAME ----- NORTH VALLEY MILK
REVIEWER ---------- MTS
DATE -------------- 05-Apr-95

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE	1800
NUMBER OF NONMILKING CATTLE	500
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO	4.0
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR)	4
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS	2
NUMBER OF MILKINGS PER DAY	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): ****

MILKING CATTLE @35 GPD/HD	1.17
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	1.17
NONMILKING CATTLE @12 GPD/HD	0.11
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.11
TOTAL (BASED UPON ROUNDED NUMBERS)	1.28

DIVERSION VOLUME (AFA):

STOCKWATER	
MILKING CATTLE @35 GPD/HD	70.6
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	71.0
NONMILKING CATTLE @12 GPD/HD	6.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	6.7
TOTAL (BASED UPON ROUNDED NUMBERS)	77.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING	27.2
TOTAL	27.8
TOTAL DIVERSION VOLUME	105.6

77.7 ÷ 2.66 = 29.2 x .00624 = .18 cfs

27.8 ÷ 2.66 = 10.5 x .00624 = .07 cfs

105.6 ÷ 2.66 = 39.7 x .00624 = .25 cfs.

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER	
MILKING	10.4
NONMILKING	0.0
TOTAL	10.4
COMMERCIAL	16.0
TOTAL CONSUMPTIVE USE	26.4

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

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

CALCULATIONS

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

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ

MICROFILMED
SEP 1 2 2005

TAF 4/22

TO: File DATE: September 1, 1995

FROM: Jim Stanton

SUBJECT: North Valley Milk Transfers, 37-07575

I have visited this property for a pre-transfer inspection. A well and sprinkler system were in place. The gravity system that existed at the time of licensing has completely changed. Instead of irrigating by gravity on both sides of the county road, there is now a sprinkler system north of the road only. A small pivot, yet to be installed, and handlines, will water this ground. Some additional land north of the road will be watered, but no land south of the road will be watered from the well. Surface water will be used south of the road on about 206 acres.

The license shows 354 acres irrigated on both sides of the road. ASCS figures show 291.7 acres, while I found 304 acres on the aerial photo. My ASCS photo appears to show about the same land as the one in the license file, so I can't explain the large discrepency. Since we have already accepted the ASCS data for licensing, we are probably bound by the license as a basis for the proposed transfers.

The question of forfeiture from non-use has come up. I talked to the former owners of the property, who stated emphatically that they had never used this well. The licensing examiner also said that the well had never been used, but we issued the license anyway. This is obviously a supplemental well to their surface rights. I also obtained Idaho Power Co. records, which show that the well was used heavily in 1990 and 1991. Based on IPCO data, it appears that the license is still valid.

With regard to determining the number of acres that need to be dried up under the proposed transfers, this is impossible to do accurately with supplemental wells. Because this system has changed from open discharge to pressure sprinkles, it is not possible to determine the power-consumption coefficient for the old system. Therefore, it cannot be determined how much water was actually pumped in 1990-91. By going from intermittent usage to full-time usage, approving transfers on supplemental wells must constitute an enlargement of use; there will be no off years in a dairy, as there would be with a supplemental irrigation well. For lack of better information, the transfer applications should be made out based on the flow/volume limits of the license.

With 90 acres continuing to be watered with this well as a primary source, up to 360 AFA would be used. This would leave 582.5 AFA that will not be used for irrigation in the future. The small dairy near Wendell was built about 1977, so there is no irrigated land to dry up at that site. The proposed large dairy in Sec. 10 will be built on land now irrigated with American Falls water; about 59 acres will be dried up for this dairy. The disposition of

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SEP 12 2000

T#4722

that water is not known at this time, but the American Falls water is supplemental; apparently this water can only be used on land that already has primary rights. The applicant also has 175" of Big Wood River decreed water from the licensed ground that he would give up if needed to get these transfers approved.

The transfers that Mel originally put together do not reflect current information, so I am re-doing the transfers to show how the applicant now plans to use this water.

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SEP 12 2000

JS.

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: J Gallanton

1. Right number 37-07575 Applicant North Valley Milk Inc
2. Type of right: ☐ Decree ☒ License ☐ Claim
3. Purpose of transfer: ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☒ Other Split right, change nature & period of use
4. Check:
   a. ☒ Source ☒ Priority ☒ Amount ☒ Purpose ☒ Period of use
   b. ☒ Description of original point of diversion.
   c. ☒ Description of original place of use.
5. Amount of land &/or water transferred:
   a. ☐ All of right.
   b. ☒ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*
   c. ☒ Check description of point(s) of diversion.
   d. ☒ Check description of place of use.
   e. ☒ Check map (shows p.d. and p.u. after transfer).
   f. ☒ Check for correct signature, notarization, and fee.
   g. ☒ Check proof of ownership of right &/or land from which water is transferred.
   h. ☒ Check for expansion in use of right. Comments See field memo
   i. ☒ Check for existing water rights from same source, on land water is being transferred to.
      Right number(s) N/A
   j. ☒ Is use within a Watermaster District? ☐ Yes ☒ No
      If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____
2. Is transfer published correctly? ☐ Yes ☐ No
3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve
2. ☐ Deny
3. Conditions* _____
4. By _____ Date _____

** All uses within Watermaster Districts require special conditions.*

T# 4723

55.

Form 222a
6/78

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER ANALYSIS SHEET

INITIAL REVIEW BY: J E Stanton Date

1. Right number 37-07575 Applicant North Valley Milk Inc

2. Type of right: ☐ Decree ☒ License ☐ Claim

3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
   ☒ Other Split right, change nature & period of use

4. Check:

   a. ☒ Source ☒ Priority ☒ Amount ☐ Purpose ☐ Period of use

   b. ☒ Description of original point of diversion.

   c. ☒ Description of original place of use.

5. Amount of land &/or water transferred:

   a. ☐ All of right.

   b. ☒ Part of right *(NOTE! Part B should be filled in only if part of the right is owned by the applicant).*

   c. ☒ Check description of point(s) of diversion.

   d. ☒ Check description of place of use.

   e. ☒ Check map (shows p.d. and p.u. after transfer).

   f. ☒ Check for correct signature, notarization, and fee.

   g. ☒ Check proof of ownership of right &/or land from which water is transferred.

   h. ☒ Check for expansion in use of right. Comments See field notes

   i. ☒ Check for existing water rights from same source, on land water is being transferred to.
   Right number(s) None

   j. ☒ Is use within a Watermaster District? ☐ Yes ☒ No
   If yes, what district? _____

FINAL PROCESSING REVIEW BY: _____

1. Watermaster recommendation requested on _____ Received on _____

2. Is transfer published correctly? ☐ Yes ☐ No

3. Protest received? ☐ Yes ☐ No

RECOMMENDED ACTION

1. ☐ Approve

2. ☐ Deny

3. Conditions* _____

4. By _____ Date _____

* *All uses within Watermaster Districts require special conditions.*

T# 4722

Form 1-222
12-92

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED MAY 08 1995
Department of Water Resources
Southern Region

Transfer No. 4723

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant North Valley Milk, Inc. Phone 886-7716

Post Office address 425 N 250 W Shoshone ID 83352.

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 _____

2. Describe the reason for the proposed changes We want to provide water for a Dairy with 800 milking and 200 Dry cows.

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

1.

Right Number	Priority	Amount .15(cfs/ac-ft)	Nature of Use	Period of Use
37-07575C	3-28-1977	~~.88~~ / 34.7	Stockwater	1-1 to 12-31
		~~.88~~ / 12.7	Commercial	1-1 to 12-31
		.15		to
				47.4 to

2. Total amount of water being transferred 0.15 cubic feet per second and/or ~~47.4~~ acre-feet per annum.

3. Source of water Groundwater tributary to. ~~GS~~

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SW	SW	NW	29	7S	15E	Gooding	

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	15E	29.							C/S										

MICROFILMED

Total acres _____

PART 1

6. General Information:

a. Description of diversion system Existing well with 7.5 hp pump to a mainline that services a barn and watering troughs.

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: the land will be dried up of all water. We recognize the irrigation right is supplemental. We are willing to exchange some of our decreed surface water as a mitigation if this transfer is approved.

d. Remarks: Corporate officers are Clement Fitzgerald - Pres; Jerome Fitzgerald - Vice Pres. and Cindy Fitzgerald - Sec-Treas.

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____.

_____

MICROFILMED
SEP 12 2003

 Transfer No. 4723

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. _____ Decreed to _____
      in case of _____ vs. _____
      dated _____ in _____ county of _____
   b. License No. 37-07575 issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. _____ which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Groundwater tributary to _____
4. Date or priority 3-28-1977
5. Water is used for the following purpose:
   amount 2.21 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7																7

MICROFILMED SEP 12 2008

Total acres 354

9. Describe any other water rights used for the same purpose as described above BWCC + American Falls Res. District shares, 37-00577, 00600A

PART 2

Transfer No. 4723

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 0.15 cfs for Irrig. purposes from 4-1 to ~~10-31~~ 11-1
   (cfs/ac-ft)
   amount 63.8 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	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	14		3	11		1	[redacted]	7				24						24

Total acres 24

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

1. amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MICROFILMED SEP 12 2000

Total acres _____

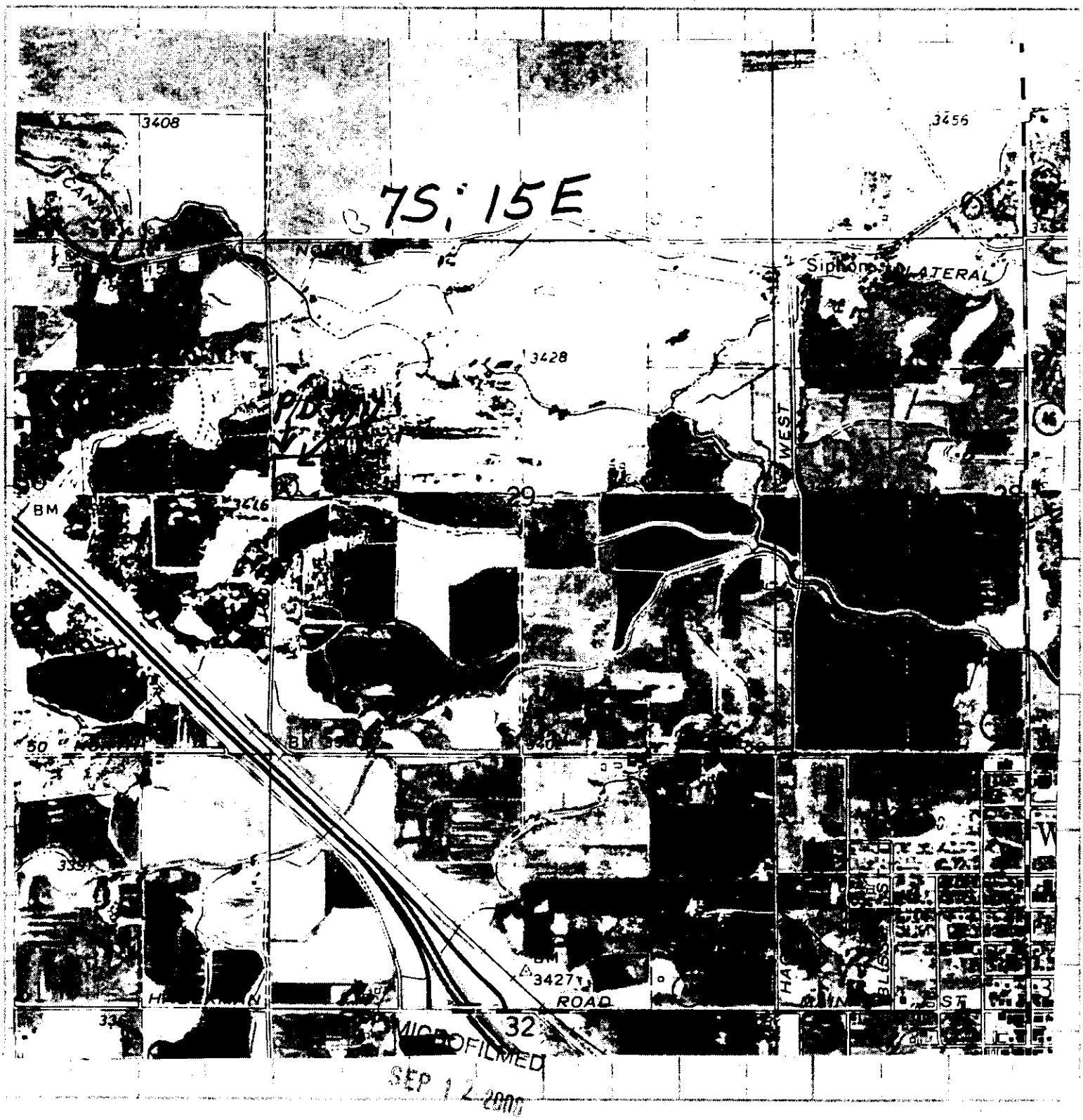
Transfer No. 4723

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 4723

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (~~cfs/ac-ft~~)	Hours/days/year	Period of Use
	Stockwater	.08cfs/34.7afa	365/3 milkings	1-1 to 12-31
	Commercial	.03cfs/12.7af	" "	1-1 to 12-31

2. Quantity and quality of return flows and location of discharge:
Dairy waste water will discharge to a pond and then land applied to adjacent fields.

3. Describe effects on other water uses resulting from the proposed change:
The acres being converted to dairy use will be dried up of all water. The remaining irrigation use well continue

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.

North Valley Milk, Inc.
by Andrew Fitzgerald Sec-Trs
(Signature of Applicant)

Subscribed and sworn to before me this 3RD day of MAY, 1995.

Kelly K. Christensen
(Notary Public)

My commission expires 3-2-98

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 3 attachments

Received by MTS Date 5-3-95 Protest filed by

Prelim. check by JF Fee $100 (S018050)

Receipted by MTS Date 5-3-95

Published in Gooding Co. Leader Copies of protest forwarded by

Pub. dates 10/11 & 10/18/95 Hearing held by Date

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

rec'd. by

Copy of transfer sent to lien holder

MICROFILMED
SEP 12 2005

RECEIVED
MAY 03 1995
Department of Water Resources
Southern Region

T# 47723

IDAHO DEPARTMENT OF WATER RESOURCES

FILE # or NAME ----- NORTH VALLEY MILK
REVIEWER ---------- YODA
DATE -------------- 02-May-95

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE	800
NUMBER OF NONMILKING CATTLE	200
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO	2.8
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR)	4
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS	2
NUMBER OF MILKINGS PER DAY	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): ****

MILKING CATTLE @35 GPD/HD	0.52
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.52
NONMILKING CATTLE @12 GPD/HD	0.04
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.04
TOTAL (BASED UPON ROUNDED NUMBERS)	0.56

DIVERSION VOLUME (AFA):

STOCKWATER	
MILKING CATTLE @35 GPD/HD	31.4
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	32.0
NONMILKING CATTLE @12 GPD/HD	2.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	2.7
TOTAL (BASED UPON ROUNDED NUMBERS)	34.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING	12.1
TOTAL	12.7
TOTAL DIVERSION VOLUME	47.4

34.7 ÷ 2.66 = 13 ac = 13 ac X .00624 = .08 cfs

12.7 ÷ 2.66 = 4.8 ac = 5 ac X .00624 = .03 cfs

47.4 ÷ 2.66 = 17.8 ac = 18 ac X .00624 = .11 cfs

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER	
MILKING	4.6
NONMILKING	0.0
TOTAL	4.6
COMMERCIAL	11.0
TOTAL CONSUMPTIVE USE	15.6

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

	PUMP 1	PUMP 2	PUMP 3
PUMP HORSEPOWER (HP)	7.50	0.00	
LIFT (FT)	190	0	
DISCHARGE PRESSURE (PSI)	50	0	
FRICTION LOSSES (FT)	0.0	0.0	

CALCULATIONS

THEORETICAL FLOW RATE (CFS) **	0.15	0.00	0.00
DIVERSION VOLUME (AFA) ***	109.5	0.0	0.0

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ

MICROFILMED
SEP 12 2005

(6-92, 314)

INFORMATION REQUIRED TO USE THE DAIRY LOTUS PROGRAM

PERMIT NO 37-07575A
EXAMINER MTS
DATE

7S, 15E, 529. North Valley Milk

****

REQUIRED DAIRY DATA

Number of Milking Cattle ---------- 800
Number of Nonmilking Cattle ---------- 200.
Type of Lagoon
if aerobic; determine surface area in acres
200 ft by 600 ft by 7' ft deep -- 2.75
if anaerobic; enter zero ----------
Evapotranspiration Factor for Area (AC-FT/AC-YR)
Method of Washing
if manual cow washing; ---------- enter 1
if automatic washing; ---------- enter (2)
if sprinkler system to wash cows
and flush holding pen -------- enter 3 =
Number of Milkings per Day ---------- 3

Comments

****

INFORMATION REQUIRED FOR THEORETICAL FLOW ESTIMATION (IF NECESSARY)

	Pump 1	Pump 2	Pump 3
Pump Horsepower (HP)	75		
Lift (FT)	190'		
Discharge Pressure (PSI)			
Friction Losses (FT)			

Comments

MICROFILMED
SEP 12 2000

T # 4723

TO: File DATE: September 1, 1995

FROM: Jim Stanton

SUBJECT: North Valley Milk Transfers, 37-07575

I have visited this property for a pre-transfer inspection. A well and sprinkler system were in place. The gravity system that existed at the time of licensing has completely changed. Instead of irrigating by gravity on both sides of the county road, there is now a sprinkler system north of the road only. A small pivot, yet to be installed, and handlines, will water this ground. Some additional land north of the road will be watered, but no land south of the road will be watered from the well. Surface water will be used south of the road on about 206 acres.

The license shows 354 acres irrigated on both sides of the road. ASCS figures show 291.7 acres, while I found 304 acres on the aerial photo. My ASCS photo appears to show about the same land as the one in the license file, so I can't explain the large discrepency. Since we have already accepted the ASCS data for licensing, we are probably bound by the license as a basis for the proposed transfers.

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With 90 acres continuing to be watered with this well as a primary source, up to 360 AFA would be used. This would leave 582.5 AFA that will not be used for irrigation in the future. The small dairy near Wendell was built about 1977, so there is no irrigated land to dry up at that site. The proposed large dairy in Sec. 10 will be built on land now irrigated with American Falls water; about 59 acres will be dried up for this dairy. The disposition of

MICROFILMED
SEP 12 2003

T#4723

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The transfers that Mel originally put together do not reflect current information, so I am re-doing the transfers to show how the applicant now plans to use this water.

60.9 ac 37-7575 24 ac 7575D

2.65 AF/ac } 7575B 63.7/6 AFA

161.4 AFA

8145

37-~~7810~~

7811

43441

~~25530, B, A~~

125

1093

Jim or George Orkoosh former operators 934-8464 Orkoosh Produce - need old pump # from Bookkeeper need written permission to get power records

Idaho Power

800 632-0800 ext 3255

Kathy - Gooding IPCO

MICROFILMED SEP 12 2000

Form 1-222
12-92

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 4722

RECEIVED
no ✓ mp
SEP 15 1995
Department of Water Resources
Southern Region

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Avery Valley Milk, Inc. Phone 886-7716

Post Office address 425 N 250 W, Shoshone, ID 83352

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 part of right to dairy use for new facility to be built. Also to change some of right from supplemental to primary irrigation right & to change the irrigation P/U.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
37-07575A	3-28-1977	1.38/276	Irrigation	4-1	to	10-31
37-07575B	"	0.38/77.7	Stockwater	1-1	to	12-31
	"	0.38/27.8	Commercial	"	to	"
					to	

2. Total amount of water being transferred 1.76 cubic feet per second and/or 381.5 acre-feet per annum.

3. Source of water Groundwater tributary to

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SE	11	5S	15E	Gooding	Existing irrigation (Part A) well
		NE	NE	10	"	"	"	2 wells for new dairy (Part B)

5. Lands irrigated or place of use:

	Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
				NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
A)	5S	15E	11									35	33				31			69
B)	5S	15E	10	C/S			C/S													

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SEP 12 1995

Total acres

Transfer No. 4722

PART 1

6. General Information:

a. Description of diversion system Part A) Well, motor, pump, mainline to 3-tower pivot with end gun, various handlines.
B) Two connected wells + pumps, pipelines to dairy barn + corrals.

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 south of the county road will be sprinkled with two pivots, plus handlines in one corner. The rest of the ground south of the county road will no longer be irrigated.

d. Remarks:

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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SEP 12 2000

Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to _____

   in case of _____ vs. _____

   dated _____ in _____ county of _____

   b. License No. 37-07575 issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Groundwater tributary to _____

4. Date or priority 3-28-1977

5. Water is used for the following purpose:

   amount 2.21 cfs for Irrig. purposes from 4-1 to 11-1
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)
   amount _____ for _____ purposes from _____ to _____
   (cfs/ac-ft)

6. Total amount of water under right 2.21 cubic feet per second and/or 942.5 acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		NW	SE	11	5S	15E	Gooding	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	15E	10																19	19
		11									38		34	38		32	38		180
		14		36	14		39	36	7	16									148
		15	7																7

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Total acres 354

9. Describe any other water rights used for the same purpose as described above RWCC & AFRD shares, 37-00599, 00600A

PART 2

Transfer No. 4722

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 2.06 cfs (cfs/ac-ft) for Irrig. purposes from 4-1 to 11-1
   amount 878.7 AFA (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

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

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
55	15E	10																19	19
		11									38		34	38		32	38		180
		14		3⅜	3⅜		39	3⅜	⅜	16									174⅜
		15	7																7

Total acres 330

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

1. amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

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Total acres _____

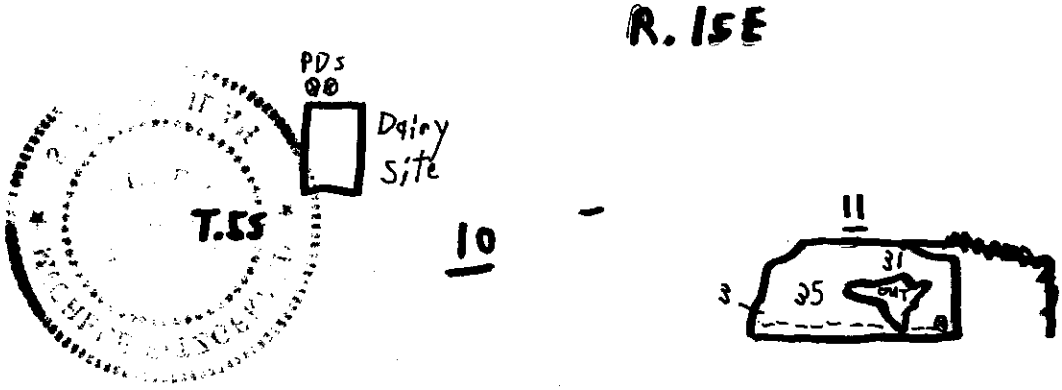
Transfer No. 4722

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



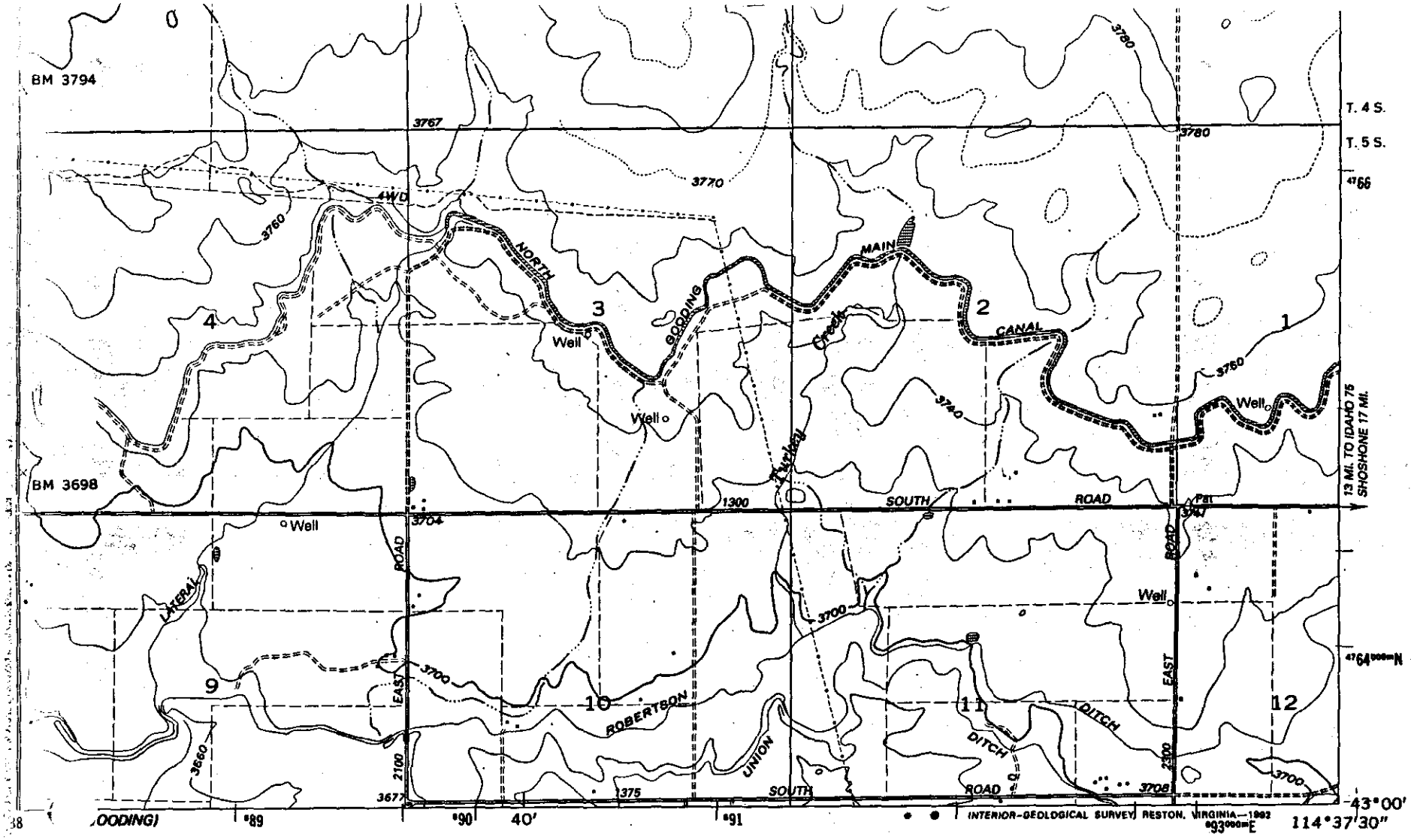
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SEP 12 2000

SCALE: 2 inches equal 1 mile. Draw plan in ink.

SEP 1 2 2003
MICROFILMED



T-#4722



SCALE 1:24 000

0 1 MILE

2000 3000 4000 5000 6000 7000 FEET

0 1 KILOMETER

CONTOUR INTERVAL 20 FEET
LINES REPRESENT 10-FOOT CONTOURS
GEODETIC VERTICAL DATUM OF 1929

ROAD CLASSIFICATION

Primary highway, hard surface

Secondary highway, hard surface

Light-duty road, hard or improved surface

Unimproved road

Interstate Route U. S. Route State Route

IDAHO

QUADRANGLE LOCATION

THORN CREEK SW, IDAHO

43114-A6-TF-024

1957
REVISED 1992
DMA 3070 II SW-SERIES V893

S WITH NATIONAL MAP ACCURACY STANDARDS
RVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
GRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

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SEP 12 2000

T #4732

Transfer No. 4722

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	Stockwater	0.38 cfs/22.7 AFA	3 milkings/day	1-1 to 12-31
	Commercial	0.38 cfs/27.8 AFA	"	" to "

2. Quantity and quality of return flows and location of discharge:
Dairy waste water will discharge to ponds, and sprinkled on adjacent land as needed to keep ponds from overflowing.

3. Describe effects on other water uses resulting from the proposed change:
The dairy site and surrounding land (about 56 acres) is irrigated with surface water. Irrigation rights will no longer be used on this ground; will be sold or used on other land we own.

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.

MICHELE FITZGERALD NOTARY PUBLIC STATE OF IDAHO

Andrew Fitzgerald Sr Trus
(Signature of Applicant)

Subscribed and sworn to before me this Saturday 9th day of September, 19 95.

Michele Fitzgerald
(Notary Public)

My commission expires 12/17/97

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 3 attachments

Received by JF Stanton MB Date 9/15/95 Protest filed by

Prelim. check by JS Fee $100.

Receipted by MTS Date 4-17-95 501[illegible]978

Published in Gooding Co. Leader Copies of protest forwarded by

Pub. dates 10/11 & 10/18/95 Hearing held by Date

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

rec'd. by

Copy of transfer sent to lien holder

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SEP 1 4 2000

(6-92, 314)

North Valley Milk, Inc.

INFORMATION REQUIRED TO USE THE DAIRY LOTUS PROGRAM

PERMIT NO 31-07575
EXAMINER
DATE 4-3-95

****

REQUIRED DAIRY DATA

Number of Milking Cattle ---------- 1,800
Number of Nonmilking Cattle ---------- 500
Type of Lagoon
if aerobic; determine surface area in acres
_____ft by _____ft by _____ft deep -- 4
if anaerobic; enter zero ----------
Evapotranspiration Factor for Area (AC-FT/AC-YR) 4
Method of Washing
if manual cow washing; ---------- enter 1
if automatic washing; ---------- enter (2)
if sprinkler system to wash cows
and flush holding pen -------- enter 3 = 2
Number of Milkings per Day ---------- 3

Comments _____

****

INFORMATION REQUIRED FOR THEORETICAL FLOW ESTIMATION
(IF NECESSARY)

	Pump 1	Pump 2	Pump 3
Pump Horsepower (HP)	7.5	7.5	
Lift (FT)	150	150	
Discharge Pressure (PSI)	40	40	
Friction Losses (FT)			

Comments _____

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SEP 12 2003

IDAHO DEPARTMENT OF WATER RESOURCES

FILE # or NAME ----- NORTH VALLEY MILK
REVIEWER ---------- MTS
DATE -------------- 05-Apr-95

DAIRIES: WATER USE WORKSHEET

MICROFILMED SEP 1 7 1996

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE	1800
NUMBER OF NONMILKING CATTLE	500
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO	4.0
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR)	4
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS	2
NUMBER OF MILKINGS PER DAY	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): ****

MILKING CATTLE @35 GPD/HD	1.17
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	1.17
NONMILKING CATTLE @12 GPD/HD	0.11
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.11
TOTAL (BASED UPON ROUNDED NUMBERS)	1.28

DIVERSION VOLUME (AFA):

STOCKWATER	
MILKING CATTLE @35 GPD/HD	70.6
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	71.0
NONMILKING CATTLE @12 GPD/HD	6.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	6.7
TOTAL (BASED UPON ROUNDED NUMBERS)	77.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING	27.2
TOTAL	27.8
TOTAL DIVERSION VOLUME	105.6

77.7 ÷2.66 = 29.2 x.00624 = .18 cfs

27.8 ÷2.66 = 10.5 x.00624 = .07 cfs

105.6 ÷2.66 = 39.7 x.00624 = .25 cfs.

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER	
MILKING	10.4
NONMILKING	0.0
TOTAL	10.4
COMMERCIAL	16.0
TOTAL CONSUMPTIVE USE	26.4

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

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

CALCULATIONS

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

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ

TO: File DATE: September 1, 1995

FROM: Jim Stanton

SUBJECT: North Valley Milk Transfers, 37-07575

I have visited this property for a pre-transfer inspection. A well and sprinkler system were in place. The gravity system that existed at the time of licensing has completely changed. Instead of irrigating by gravity on both sides of the county road, there is now a sprinkler system north of the road only. A small pivot, yet to be installed, and handlines, will water this ground. Some additional land north of the road will be watered, but no land south of the road will be watered from the well. Surface water will be used south of the road on about 206 acres.

The license shows 354 acres irrigated on both sides of the road. ASCS figures show 291.7 acres, while I found 304 acres on the aerial photo. My ASCS photo appears to show about the same land as the one in the license file, so I can't explain the large discrepency. Since we have already accepted the ASCS data for licensing, we are probably bound by the license as a basis for the proposed transfers.

The question of forfeiture from non-use has come up. I talked to the former owners of the property, who stated emphatically that they had never used this well. The licensing examiner also said that the well had never been used, but we issued the license anyway. This is obviously a supplemental well to their surface rights. I also obtained Idaho Power Co. records, which show that the well was used heavily in 1990 and 1991. Based on IPCO data, it appears that the license is still valid.

With regard to determining the number of acres that need to be dried up under the proposed transfers, this is impossible to do accurately with supplemental wells. Because this system has changed from open discharge to pressure sprinkles, it is not possible to determine the power-consumption coefficient for the old system. Therefore, it cannot be determined how much water was actually pumped in 1990-91. By going from intermittent usage to full-time usage, approving transfers on supplemental wells must constitute an enlargement of use; there will be no off years in a dairy, as there would be with a supplemental irrigation well. For lack of better information, the transfer applications should be made out based on the flow/volume limits of the license.

With 90 acres continuing to be watered with this well as a primary source, up to 360 AFA would be used. This would leave 582.5 AFA that will not be used for irrigation in the future. The small dairy near Wendell was built about 1977, so there is no irrigated land to dry up at that site. The proposed large dairy in Sec. 10 will be built on land now irrigated with American Falls water; about 59 acres will be dried up for this dairy. The disposition of

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that water is not known at this time, but the American Falls water is supplemental; apparently this water can only be used on land that already has primary rights. The applicant also has 175" of Big Wood River decreed water from the licensed ground that he would give up if needed to get these transfers approved.

The transfers that Mel originally put together do not reflect current information, so I am re-doing the transfers to show how the applicant now plans to use this water.

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SEP 1 2 2008

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Water Right Number - T37-07575C Prefix Translation: TRANSFER Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER *** NORTH VALLEY MILK INC		1 - 425 N 250 W 2 - 3 - City- SHOSHONE State- ID Zip- 83352 Phone - 208-886-7716
*** O - ORIGINAL OWNER *** ARKOOSH & ZIDAN INC.		1 - RT. 1 BOX 204 2 - 3 - City- GOODING State- ID Zip- 83330 Phone - 208-000-0000

Priority Date	Region	Stage	Status
03/28/1977	17 SOUTHERN	L - LICENSE	

Source: GROUNDWATER

Tributary:

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Diversion Name	Diversion Rate	Diversion No.
07S	15E	29	SW SW NW			(47) GOODING			

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
04	STOCKWATER	01/01	12/31	0.150	
10	COMMERCIAL	01/01	12/31	0.150	

Total Div. Rate	Total Div. Volume	Total Div. Capacity
0.150		2.210

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	15E	29	SW NW			04	STOCKWATER	(47) GOODING
07S	15E	29	SW NW			10	COMMERCIAL	(47) GOODING

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use -

Remarks

No Remarks found.

Old Water Right Numbers

No Old Water Right Numbers found.

Water right number - T37-07575C Prefix Translation: TRANSFER

Conditions of Approval

R19 - A totalizing measuring device of a type approved by this
- Department shall be maintained as a part of the diverting works.
R29 - This right when combined with all other rights shall provide no
- more than .02 cfs per acre nor more than 3.0 afa per acre for the
- lands above.

Decree Plaintiff	Decree Defendant	Decree Date
		00/00/0000

Comments

Date: 09/29/1995 User Id: MBALDWIN Subject: TRANSFER NO. 4723
T# 4723 filed on 5/3/95 proposes to change irrigation use to dairy use for a portion of this right.
Also refer to companion T# 4722 for the same purpose additionally filed by North Valley Milk Inc.
Total amount of water being transferred in T#4723 is 0.15 cfs.

Audit Fields - 09/29/95 MBALDWIN

Water Rights Dates and Flags Area 10/23/95

Proof Due Date	00/00/0000	Field Exam Made	00/00/0000	Field Exam Fee	R
Approved/Denied	00/00/0000	Protested Date	~~00/00/0000~~	Swan Falls	7
Proof Made Date	00/00/0000	Hearing Date	00/00/0000	Temporary Right	P
Exam to S.O. Date	00/00/0000	Verified Date	00/00/0000	DLE/Carey Act	
Order Show Cause	00/00/0000	Receipt Number	S018050	Water District	
Licensed Date	10/24/1989	Appl Received	05/03/1995	Transfer/Amended	G
Decree Date	00/00/0000	Name Connector		POU Ownership Flag	Y
Presumption Flag					

TO: File DATE: September 1, 1995

FROM: Jim Stanton

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SEP 12 2000

T # 4723

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SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Tom Arkoosh
Arkoosh Produce
PO Box 93
Gooding, ID
83330

August 9, 1995

Dear Mr. Arkoosh;

Per our conversation, enclosed is a form that will allow me to obtain Idaho Power Co. records for the well that you formerly owned in Sec. 11 T. 5 S R. 15E. This property is now owned by North Valley Milk, which has filed two water transfers on this well to convert from irrigation to dairy use. Since this is a supplemental well to their surface rights, we need to obtain IPCO records to show what the historic use of this well has been.

Thank you for your cooperation in this matter. If you have further questions, please feel free to contact me.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

MICROFILMED
SEP 12 2000

T #4723

First Interstate Bank
Northwest Region

First Interstate Bank
of Idaho, N.A.
Magic Valley Commercial
Banking Center
P.O. Box 248
Twin Falls, ID 83303-0248
208 733-0312 FAX 736-0745

May 4,1995

Idaho Department of Water Resources:

This letter is to authorize the transfer of water right from a parcel of land owned by North Valley Milk, Inc. to another parcel also owned by same.

Sincerely,

James Griffee

James Griffee
Relationship Manager

State of Idaho)
) ss.
County of Twin Falls)

On this 5th day of May, 1995, before me, a Notary Public, personally appeared James Griffee, known or identified to me to be the Relationship Manager of the corporation that executed the instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Debra Scarlett
Notary Public for Idaho
Residing at: Gooding
Commissions Expires: 5-6-99

MICROFILMED
SEP 12 2006

T# 4723

Department of Water Resources
Southern Region

PERMISSION FOR IDWR ACCESS TO IPCO POWER RECORDS

I, ARKOOSH PRODUCE, INC., DO HEREBY GRANT PERMISSION FOR IDAHO DEPT. OF WATER RESOURCES TO OBTAIN RECORDS OF POWER SUPPLIED TO THE FOLLOWING-DESCRIBED WELL/PUMP BY IDAHO POWER CO. SAID RECORDS ARE TO BE USED FOR ANALYSIS OF MY PROPOSED WATER TRANSFER, APPLICATION FOR A WATER PERMIT, AMENDMENT OF PERMIT, OR LICENSING OF A PERMIT.

POWER POLE # 2385

IPCO METER # 62 072 738 0771172

TWP 5S RGE 15E SEC 11

SE 1/4 NW 1/4 SE 1/4

WATER RIGHT # 37-07575 APP/TRANSFER _____

AMENDMENT _____ LICENSING EXAM _____

[signature]
OWNER

8/11/95
DATE

Successor in interest to GREENHORN FARMS & ARKOOSH & IDAHO, INC

MICROFILMED
SEP 12 2000

T#4723

T# 47123

IDAHO DEPARTMENT OF WATER RESOURCES

FILE # or NAME ----- NORTH VALLEY MILK
REVIEWER ---------- YODA
DATE -------------- 02-May-95

DAIRIES: WATER USE WORKSHEET

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE	800
NUMBER OF NONMILKING CATTLE	200
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO	2.8
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR)	4
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS	2
NUMBER OF MILKINGS PER DAY	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): ****

MILKING CATTLE @35 GPD/HD	0.52
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.52
NONMILKING CATTLE @12 GPD/HD	0.04
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.04
TOTAL (BASED UPON ROUNDED NUMBERS)	0.56

DIVERSION VOLUME (AFA):

STOCKWATER	
MILKING CATTLE @35 GPD/HD	31.4
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	32.0
NONMILKING CATTLE @12 GPD/HD	2.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	2.7
TOTAL (BASED UPON ROUNDED NUMBERS)	34.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING	12.1
TOTAL	12.7
TOTAL DIVERSION VOLUME	47.4

CONSUMPTIVE USE VOLUME (AFA):

STOCKWATER	
MILKING	4.6
NONMILKING	0.0
TOTAL	4.6
COMMERCIAL	11.0
TOTAL CONSUMPTIVE USE	15.6

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

	PUMP 1	PUMP 2	PUMP 3
PUMP HORSEPOWER (HP)	7.50	0.00	
LIFT (FT)	190	0	
DISCHARGE PRESSURE (PSI)	50	0	
FRICTION LOSSES (FT)	0.0	0.0	

CALCULATIONS

THEORETICAL FLOW RATE (CFS) **	0.15	0.00	0.00
DIVERSION VOLUME (AFA) ***	109.5	0.0	0.0

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

÷2.66 = 13 ac = 13 ac X .00624 = .08 cfs

÷2.66 = 4.8 ac = 5 ac X .00624 = .03 cfs

÷2.66 = 17.8 ac = 18 ac X .00624 = .11 cfs

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ

MICROFILMED
SEP 12 2000

60.9 ac 37-7575 24 ac 7575D

2.65 AF/ac 7575B 63.76 AFA

161.4 AFA

MICROFILMED

SEP 12 2008

8645

37-7810

7811

4341

2553D, B, A

125

1093

Jim or George Orkoush former operators 934-8464 Orkoush Produce - need old pump # from bookkeeper need written permission to get power records

Idaho Power Co

800 632-0800

ext 3255

Kathy - Scheduling IPCo

(6-92, 314)

INFORMATION REQUIRED TO USE THE DAIRY LOTUS PROGRAM

PERMIT NO 37-07575A
EXAMINER MTS
DATE

7S, 15E, 529. North Valley Mills

****

REQUIRED DAIRY DATA

Number of Milking Cattle ---------- 800
Number of Nonmilking Cattle ---------- 200
Type of Lagoon
if aerobic; determine surface area in acres
200 ft by 600 ft by 7' ft deep -- 2.75
if anaerobic; enter zero ----------
Evapotranspiration Factor for Area (AC-FT/AC-YR)
Method of Washing
if manual cow washing; ---------- enter 1
if automatic washing; ---------- enter (2)
if sprinkler system to wash cows
and flush holding pen -------- enter 3 =
Number of Milkings per Day ---------- 3

Comments

****

INFORMATION REQUIRED FOR THEORETICAL FLOW ESTIMATION (IF NECESSARY)

	Pump 1	Pump 2	Pump 3
Pump Horsepower (HP)	75		
Lift (FT)	190'		
Discharge Pressure (PSI)			
Friction Losses (FT)			

Comments

MICROFILMED
SEP 12 2000

T # 4723

October 24, 1989

ARKOOSH & ZIDAN INC.
RT. 1 BOX 204
GOODING, ID 83330

RE: PERMIT NO. 37-07575

Dear Permit Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED
NOV 02 1989

September 11, 1989

ARKOOSH & ZIDAN INC.
RT. 1 BOX 204
GOODING, ID 83330

RE: PERMIT NO. 37-07575

Dear Permit Holder(s):

Enclosed is a draft copy of the license proposed to be issued on the above referenced water right.

This right is currently being reviewed by this office for licensing. The enclosed preliminary copy is subject to change upon further administrative review.

We ask that you review the proposed license and if you do not concur with the information, please let us know within 10 days.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

MICROFILMED
NOV 02 1989

POINT OF DIVERSION OVERLAP REVIEW

WR-NUMBER	TWP	RNG	SC	TRACT 1\4	TRACT 1\4	TRACT 1\4	LT	#SOURCE	#NAME
3707575	05S	15E	11		NW	SE		GROUNDWATER	ARKOOSH & ZIDA

MICROFILMED
NOV 02 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOUR.

37-7575
Permit No.

Staff Analysis Sheet
for
Beneficial Use Field Report

RECEIVED
FEB 03 1989
Department of Water Resources

A. Prior to Conducting the Exam, the File Contains:

- [x] Blank Field Report Form
- [x] Copy of Permit
- [ ] Copies of any Amendments/Orders with conditions of approval
- [ ] Computer Data Proof Report
- [x] Copy of U.S.G.S. Quad
- [x] Check for Government Lots. If so, make a copy of Government Plat

Check of P/D index _____ (Initial and date)

Overlap? [ ] yes [x] no If yes: [ ] copy of exam(s) attached?
Type of Overlap? [ ] Add acres or uses to existing system
[ ] Increase rate of flow or volume
[ ] Other: _____

Check of P/U index _____ (Initial and date)

Overlap? [ ] yes [x] no If yes: [ ] copy of water right(s) attached?
Type of Overlap? [ ] Increase rate of flow or volume
[ ] Add P/D's
[ ] Increase number of acres within tracts
[ ] Other: _____

Aerial Photo

Required? [x] yes [ ] no If yes: [x] copy attached?

Scheduling Letter sent? _____ (Initial and date)

[ ] Appointment made and telephone conversation memo attached

B. After Conducting the Exam, the File Contains:

- [x] Fully completed and signed Field Report Form
- [x] Photographs of Point of Diversion and Place of Use
- [x] Corrected Computer Data Proof Report with recommended license information, and date and signature of examiner.

C. Review and Processing:

Exam Completed 6-28-87 _____ (Signature of examiner and date)
Exam Reviewed by Senior Water Resource Agent ADC 9/16/87 (Initial and date)
Exam Reviewed by Manager of Regional Office KH 2/1/89 (Initial and date)
Exam Date Entered in Computer _____ (Initial and date)
Exam sent to State Office _____ (Initial and date)
Copy of Staff Analysis Sheet sent to Manager of Regional Office and Original Refiled in White File _____ (Initial and date)

DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE EXAMINATION

CHECKLIST

RECEIVED
FEB 03 1989
Department of Water Resources

WATER RIGHT 32-7525

REVIEWER DBJ DATE 1/3/89

[EACH RULE MUST BE CHECKED] SEE FOOTNOTE FOR SYMBOLS

RULE 5 EXAMINATION FOR BENEFICIAL USE;

1,2. ✓	1,3. ✓	1,4. ✓	1,5. N/A
1,6. ✓	1,7. ✓	1,8. ✓	1,9. ✓
1,10. N/A	1,11. N/A	1,12. ~~N/A~~ ✓	1,13. ✓
1,14. N/A	1,15. ✓	1,16. ✓	1,17. ✓

RULE 6 MEASUREMENT TERMINOLOGY;

1,1. ✓	1,2. ✓	2. ✓	3. ✓
4. ✓	5. ✓		

RULE 7 DRAWINGS, MAP, AND SCHEMATIC DIAGRAM;

1,1. ✓	1,2. ✓	1,3. ✓	1,4. ✓
1,5. ✓			

RULE 5,2. FIELD REPORT ACCEPTABILITY [STATE OFFICE REVIEW]

2,1. _____	2,2. _____	2,3. _____	2,4. _____

Reviewer _____ Date _____

N/A = NOT APPLICABLE
** = SEE ATTACHMENT NO.____

* = SEE ITEM ____ IN BENEFICIAL USE REP
*** = SEE REMARKS ATTACHED

Form 219
6/86

RECEIVED
FEB 03 1989
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

Permit No. 27-7575

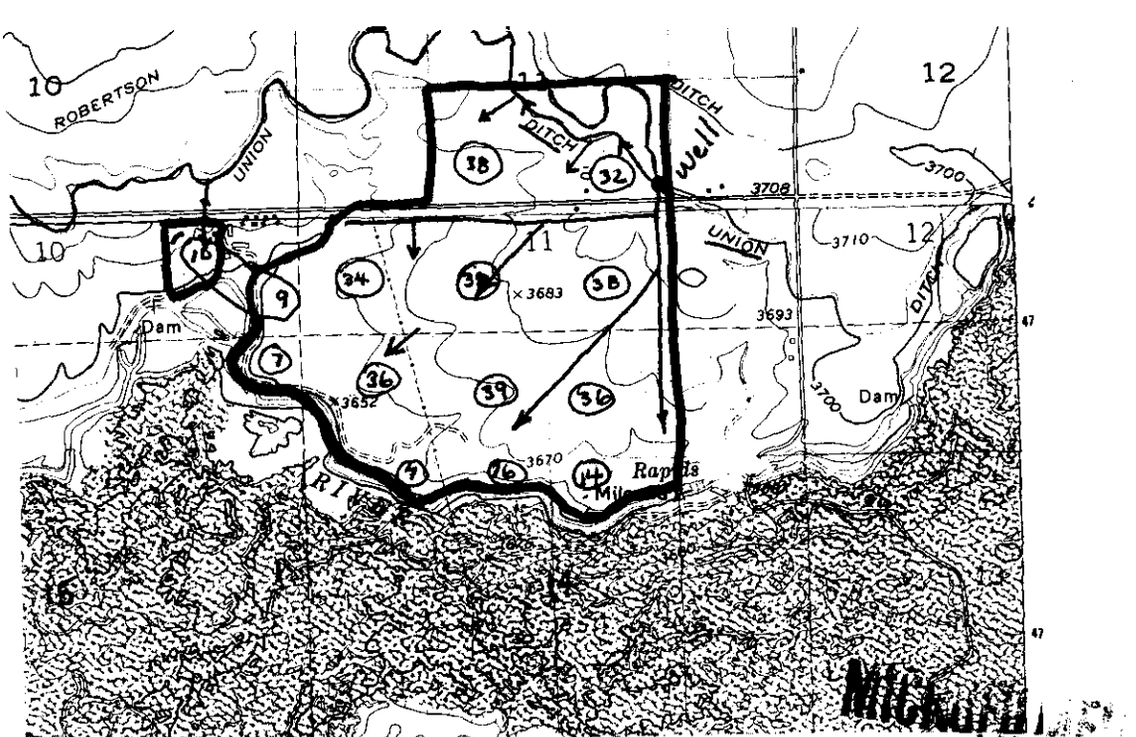
1. Owner: ARKOOSH & Zidan Inc. Phone No. 934-5044
   Current Address: Rt 1, Gooding, Ida. 83330
2. Accompanied by: Mitch ARKOOSH EXAM. DATE: 6-25-87
   Address: _____ Phone No. _____
   Relationship to Permit Holder: Son
3. Source: groundwater, tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: This ground is irrigated w/ Wood River Water. ☐ Copies Attached
2. Other water rights with same point of diversion: _____
   _____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



NOV 09 1989

Scale: 1" = _____.

2. ☐ Copy of U.S.G.S. Quadrangle Attached
   Showing location(s) of point(s) of diversion and place(s) of use (required).
   ☒ Aerial Photo Attached
   (required for irrigation of 10 acres or more).
   ☐ Photo of Diversion and System Attached
   (required for all but single household domestic groundwater, and stockwater.

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Well delivers via gravity ditches to P/4
One of the ditches is the Union ditch
belonging to the Big Wood Canal Co.

☐ See Remarks on page 4 for continuation

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
	G.E.	100	JMJ908138	Verti-line	D24169

**Code to correspond with No. on map and aerial photo*

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			~~NW~~	SE	11	5S	15E	Goodding	

6. **Place(s) of Use:** Indicate Method of Determination

Twp.	Rge.	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
5S	15E	11									38		34	38		32	38		180
		10																19	19
		15	7																7
		14		36	14		39	36	7	16						~~36~~	~~14~~		148
																			354

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NOV 02 1989

Do not use this space

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. **Measurements:**

ANNU-BAR - 7.98" 16" Reading = ~~2.20 cfs~~ 2.21 cfs
MANOmeter -

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method: ~~2.20 cfs~~. 2.21 cfs

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional) unable to Complet ds to unable to meas water level.

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)
Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)
Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)
Meter Input HP: (6) x 1.34 = _____ (7)
Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)
Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = (354 Ac)(3.0) = 1062

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = ~~(200)~~ (215)(1.9835) = ~~9880~~ 942.5
2.21

V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = 942.5

2. Volume Calculations for Other Uses:

H. REMARKS AND OVERLAP REVIEW ANALYSIS

This Water is discharged in to the Wood River (Gooding Canal) and taken out at other Headgates where used. There are no records of this well being used. No agreement w/ Canal Co. for Exchange.

I. RECOMMENDATIONS

1. **Recommended Amounts**

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Irrigation	4-1	11-1	~~2.20~~ 2.21	~~938.0~~ 942.5
		Totals:	~~2.20~~ 2.21	~~938~~ 942.5

2. **Recommended Amendments**

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other

J. AUTHENTICATION

Field Examiner's Name: Gary Funderburg

Signature: Gary Funderburg

Certification Date: 4/26/88

Field Report Preparation Date: 2/1/89

Licensed Engineer's Name

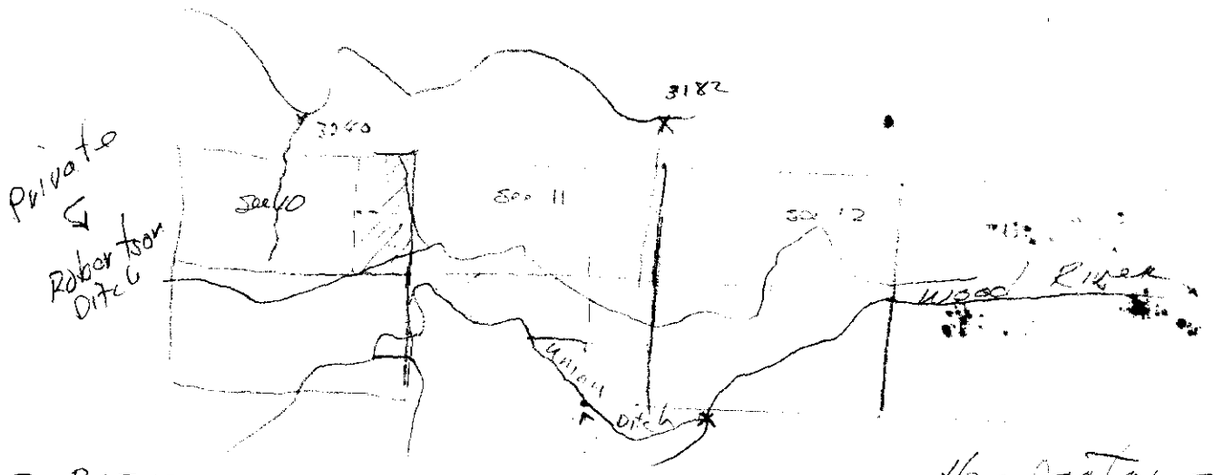
CONSULTANT SEAL

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

reviewed: Ryann McCarthy 8/1/89

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AUG 02 1989



T5S R15E

Headgates -

-185

3182

3240

ARKOOSH/EIDAN -

3½ miles from Sec. 10 SW 15E

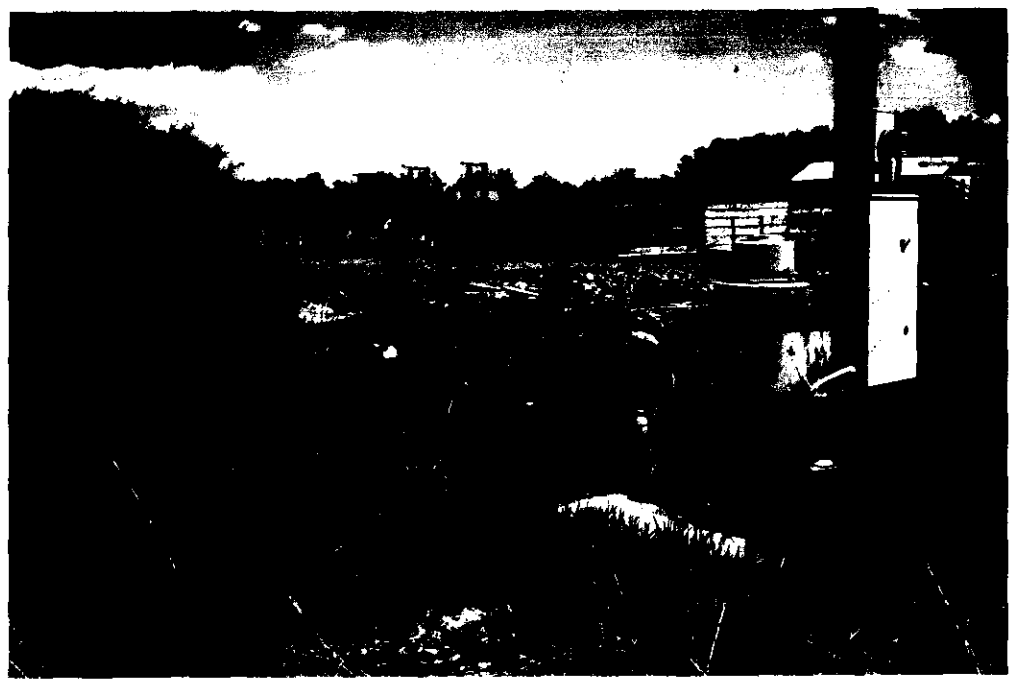
No agreement w/Canal Co. to discharge in Union.

No change in [illegible] ditch.
Had [illegible] granted to use this line w/the [illegible]

Misfiled
NOV 02 1989

37-7575

MICROFILMED
NOV 0 2 1989



well / motor & pump.
open discharge into ditch

Form 219-Supp.
7/87

State of Idaho
DEPARTMENT OF WATER RESOURCES
SUPPLEMENTAL FIELD REPORT FOR ANNUBAR MEASUREMENT

Measured by: Gary Pemberton Date 6-26-87

Owner: ARKOOSH & Zidan, Inc. Permit No. 37-7525

Description of well &/or measuring site
- Include any clarifications of the sketch
- Include legal description if more than one p.d. is described in the Field Report

well, Turbine Motor w/pumps. steel pipe discharge into ditch.

MEASURED INSIDE PIPE DIAMETER IN INCHES (ID)

CIR = Pipe Circumference in Inches = 25

T = Pipe Thickness in Inches = _____

ID = 2 [(0.1592 X CIR) - T] = ... 8"

ANNUBAR DESCRIPTION & CONSTANT (C)

Size Used in Test 2.98

State ID No. _____

Select C based on size from Table below.

Nominal Pipe Size	C
4"	4.23
6"	3.75
8"	3.87
10"	3.94
12"	3.99
14"- 16"	4.01
18"- 24"	4.02
30" or larger	4.03

C selected 3.87

DIFFERENTIAL PRESSURE READING IN INCHES OF H2O (H)

High Reading = _____

Low Reading = _____

High - Low = H = ... 16"

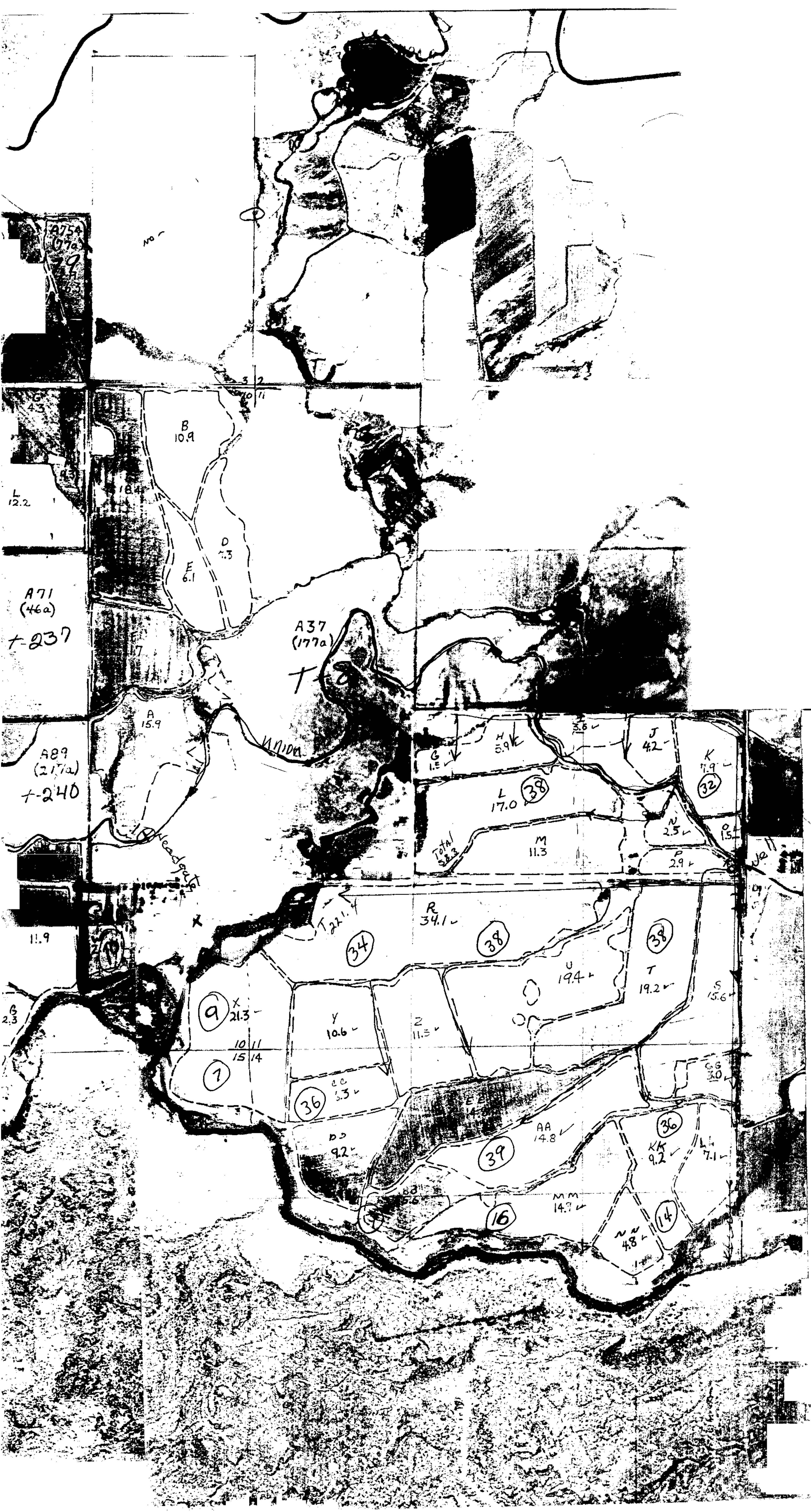
CALCULATION OF DISCHARGE IN CFS (Q)

$$Q = \frac{(ID)^2 \cdot (\sqrt{H}) \cdot (C)}{448.8}$$

$$Q = \frac{(8)^2 \cdot (\sqrt{16}) \cdot (3.87)}{448.8} = 2.24 \text{ CFS}$$

SKETCH (If not shown on Field Report)

MICROFILMED
NOV 02 1989



B 10.9
D 7.3
E 6.1
L 12.2
G 4.3
A71 (46a)
F-237
A37 (177a)
A 15.9
A89 (217a)
F-240
Union
Headgate
11.9
G 2.3
G 1.3
H 5.9
3.6
J 4.2
K 7.9
32
L 17.0
38
N 2.5
O 1.5
Total 58.3
M 11.3
P 2.9
R 34.1
34
38
U 19.4
38
T 19.2
S 15.6
9
X 21.3
Y 10.6
Z 11.5
10 11
15 14
7
36
CC 5.3
GG 3.0
DD 9.2
AA 14.8
39
36
KK 9.2
LL 7.1
MM 14.7
16
NN 4.8
14

MEMORANDUM

TO: FILE

FROM: TIM LUKE

RE: SWAN FALLS PROCESSING
PERMIT NO. 37-7575

DATE: 08-01-89

This file has come up for review under Swan Falls processing. A letter and questionnaire was sent out on May 24, 1989 but no response was received. Review of the file shows that proof was originally filed in April of 1987 and that a field exam was made in August of 1987. The filing appears to have been made to irrrigate some additional lands as well as cover some lands which may already have been irrigated. Proof appears to have been submitted only on supplemental ground, or 354 of the 698 permitted acres.

A review of 1984 NHAP aerial photography available at the state SCS office here in Boise shows irrigated land which closely matches the location of lands recommended for licensing.

All of the acreage under the permit and recommended for licensing appear to have been irrigated prior to July of 1985. Since proof was submitted timely and a field exam completed, I recommend that the department exempt this filing from any further review requirements of Section 42-203D and remove the filing from the Swan Falls process list.

MICROFILMED

NOV 02 1989

ME OF APPLICANT NHAP REVIEW-37-7575 Form No. 0

FROM PERMIT: 55-15E (2"=1MI)

3
40
40
40 40
40 40
10 N
40 40 40 40
40 40 40 40
8 35 40 40
10 10 20
15 14

FROM NHAP: 211-25 (9/2/84) 1"=1MI

6 5 4 3 2
7 8 9 10
15 14



STUBBLE

IRRIGATED

NHAP SHOWS PARTIAL IRRIGATION OF NW SW, & SE SEC 11; E½ SEC. 10; W½ SEC. 11; W½ SE SEC. 11; AND N½ SEC. 14

MICROFILMED
NOV 02 1989

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 24, 1989

RE: PERMIT NO. 37-7575

Dear PERMIT HOLDER:

Due to the Swan Falls litigation, development proposed by the enclosed permit may have been delayed. The Department is presently reviewing the permit and may authorize completion of development proposed under the permit.

The purpose of this letter is to determine: (1) the extent of development under the permit, and (2) your continued interest in developing or completing development under the permit.

Enclosed are two forms which will help the Department expedite the reprocessing of the permit.

Please complete and return the enclosed questionnaire if you wish to continue with your plans of development or have completed all or a portion of your development before July 1, 1985.

Please complete the enclosed relinquishment form and return it to the Department if you have abandoned or have no interest in continuing with your plans for development of the project.

If the entire project was not completed prior to July 1, 1985, and you still wish to proceed with your plans of development, then you must submit a $20.00 re-advertisement fee to the Department as required by Water Appropriation Rule 4,2,3. and Section 42-221F, Idaho Code.

Failure to return the questionnaire and pay any required re-advertisement fee within thirty (30) days of the date of this letter is cause for the Department to cancel the permit.

If the incomplete portion of your project is for irrigation of more than 200 acres, the Department will issue a notice requesting additional information as required by Water Appropriation Rule 4 (Data enclosed).

MICROFILMED
NOV 02 1989

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 327-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke - Water Allocation/Trust Water

Please note that a copy of your permit is enclosed. The permit number is shown on the enclosed questionnaire.

Sincerely,

Timothy J. Luke

TIM LUKE
Sr. Water Resource Agent

Enclosures

MICROFILMED
NOV 02 1989

September 29, 1987

Arkoosh & Zidan, Inc.
Route 1 Box 204
Gooding, ID 83330

Gentlemen:

RE: Permit No. 35-7575

Enclosed is a copy of the order reinstating your permit. The department has conducted the field inspection. The next step is for the department to complete the licensing process.

If you have any questions concerning your water right, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

c: region

MICROFILMED
OCT 09 1987

CALCULATION OF NEW PRIORITY DATE

FROM: RITA FLECK

TO: FILE # 57-7575

DATE: 9-8-1987

Date proof received	_____	_____
Proof due	- _____	_____
Number of day proof late	_____	
Priority date	+ _____	_____
New priority date	_____	_____

Remarks: - A lapse notice was on this file. However, the reason the permit lapsed was due to an incomplete fee submittal. Attempts by permit holder to clear up the confusion came to no avail.

Permit is reinstated with no advance in priority.

Note - on April 24, 1987, the permit holder submitted proof and a fee of $305. This fee was returned as stated in the lapse notice. April 24, 1987 should be the date indicated as the proof submittal date.

MICROFILMED

OCT 09 1987

RECEIVED
JUL 31 1987

Department of Water Resources

7/30/87

To: Rito
From Gary Funderburg
Subj: 37-7575

proof and Exam Fee was submitted in Error due to me miss reading the wrong fee chart. Mr. Arkoosh came in to the office and I helped him in Submitting the Proof & Fee for the permit.

A letter was sent out to the permit holder. in return, he call me and I told him I thought it was correct, evidently I was wrong. I told him I would call you and take care of it. Time had lapsed and I wasn't able to clear the confusion before the lapse Notice was sent out. Mr. Arkoosh never made the che. out for the difference owing but didn't send it in because he thought I was correct. It was my fault for the error.

RECEIVED
OCT 09 1987

FROM Rita

TO Gary F.

SUBJECT 37-7575

RECEIVED

JUL 29 1987

Department of Water Resources
Southern Region Office

INTER-DEPARTMENT MEMO — 1

DATE - 7-27-87

Bob + I agree that we need a memo describing the events leading up to the proof Submittal.

The permit lapsed + needs to be reinstated even though proof was previously submitted it was unacceptable based on the info provided. Consequently, the permit lapsed.

Thanks (our)

SIGNATURE

I'll wait until your memo comes before I reinstate.

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

May 13, 1987

Arkoosh & Zidan Inc.
Rt. 1 Box 204
Gooding, ID 83330

Gentlemen:

Re: Permit No. 37-7575

On April 24, 1987, the department received the proof of beneficial use form.

After some review, I determined that the appropriate fee for the amount of diversion indicated was not correct. For your information, I've enclosed a fee schedule/instruction sheet. Note that for 13.96 cfs the fee is $425.00. Note the attached copy of the proof indicates that only $305.00 was paid.

Please remit $120.00 by June 15, 1987 to make up the difference needed for the fee.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Rita I. Fleck

RITA I. FLECK
Secertary/Records Manager

Enclosures

MICROFILMED
OCT 09 1987

ARKOOSH & ZIDAN, INC.
714 3RD AVENUE EAST 934-4817
GOODING, ID 83330

4202

92-324/1241

IDAHO STATE BANK
P. O. BOX 909
GLENNS FERRY, IDAHO 83623

11 June 1987

Pay to the order of Dept of Water Resources $120/00

One hundred twenty and no/100 Dollars

YOUR ENDORSEMENT ON THIS CHECK ACKNOWLEDGES PAYMENT ON THE FOLLOWING ACCOUNT(S).

	Diversion Fee - Balance		
	Permit # 37-7575		

⑈004202⑈ ⑆124103249⑆ 0101318⑈

Rocky Mountain Bank Note Co

MICROFILMED
OCT 09 1987

Form 217
03/86

RECEIVED
JUL 10 1987

STATE OF IDAHO
Department of Water Resources DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received $150.00
Date 7-14-87
Receipt # 42777
Receipt by [illegible]
Reviewed by ____
Sent to region ____

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 37-7575

Name(s) of Permit Holder: Arkoosh & Zidan Inc.

Post Office Address: Rte 1, Bx 204

Gooding, Ida 83330 Telephone No. 934-8464

Source of Water: groundwater

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation ✓ 354 (acres) Other/Remark _____

Total rate and/or volume for which proof is submitted 2.20 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: 3/28/1977

Measuring Device: Required? ✓ Yes ___ No
Installed? ___ Yes ___ No

Fee enclosed $ 150
(See License Examination Fee Schedule)

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OCT 09 1987

Flow Measurement Port: Required? ✓ Yes ___ No
Installed? ___ Yes ___ No

Person to contact to accompany the Department representative during the field examination:

Mitch Arkoosh 934-8464
(Name) (Telephone Number)

Rte 1, Bx 204, Gooding, Ida
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

7/8/87
Date

Arkoosh & Zidan Inc. By Mitch Arkoosh - Director
Signature of Permit Holder (and title, if appropriate)

RECEIVED
JUL 10 1987

Department of Water Resources

7857

Rita -

Here is the new check for 2.20 c.f.s 150.00. This field exam has been completed. I have worked the Rough Draft and Allen is now preparing it to be Submitted to you for Lic.

Sorry about the Error on the Amount hope this clears up the problems.

Thanks
Gary Fundenburg

MICROFILMED
OCT 09 1987

July 6, 1987

Arkoosh & Zidan Inc.
Rt. 1 Box 204
Gooding, ID 83330

Gentlemen:

Re: Permit No. 37-7575

LAPSE NOTICE

Returned is a proof of beneficial use form and you are hereby notified that under the provisions of Section 42-218a of the Idaho Code, the above referenced permit has lapsed. This office did not receive an acceptable fee submittal with the proof of beneficial use form. You were notified to remit the remaining fee with a letter dated May 13, 1987. The $305 paid on April 22, 1987 will be returned to you under separate cover.

Your permit cannot be reinstated unless you submit the proof of beneficial use or submit an extension of time request showing reasonable cause for delay. Either the completed proof of beneficial use submittal including the examination fee or the extension request form together with the $15 fee must be received by this department within sixty days of the date of mailing of this lapse notice or the permit will no longer be of any force or effect.

A proof of beneficial use form and a request for extension of time form are again enclosed for your use. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a governmental agency or by litigation which brings title to the water in question.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures
c: Accounting

MICROFILMED
OCT 09 1987

7-6-1987
Rita Flach

May 13, 1987

Arkoosh & Zidan Inc.
Rt. 1 Box 204
Gooding, ID 83330

Gentlemen:

Re: Permit No. 37-7575

On April 24, 1987, the department received the proof of beneficial use form.

After some review, I determined that the appropriate fee for the amount of diversion indicated was not correct. For your information, I've enclosed a fee schedule/instruction sheet. Note that for 13.96 cfs the fee is $425.00. Note the attached copy of the proof indicates that only $305.00 was paid.

Please remit $120.00 by June 15, 1987 to make up the difference needed for the fee.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secertary/Records Manager

Enclosures

MICROFILMED
OCT 09 1987

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

- -

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
FEBRUARY 28, 1987

138784

ARKOOSH & ZIDAN INC.
RT. 1 BOX 204
GOODING, ID 83330

PROOF DUE NOTICE

RE: PERMIT NO. 37-7575

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MAY 1, 1987. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LICENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

FILMED
OCT 09 1987

ENCLOSURES

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

> 42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT.
> (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. Glen Saxton

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

MICROFILMED
OCT 09 1987

March 24, 1982

Arkoosh & Zidan Inc.
Rt. 1 Box 204
Gooding, ID 83330

Dear Sir

Re: Permit No. 37-7575

Enclosed is a copy of the approved request for extension of time. The time within which to submit the statement of beneficial use is extended to May 1, 1987.

Also enclosed is receipt No. 22646 in the amount of $15.00.

Sincerely

Rita Fleck
Sr. Secretary

pas

Enclosures

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

FEB 28 1982

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition is less restrictive and provides you the option to install an access port or have your system measured and certified by a professional engineer. Instructions for access port installation are also enclosed.

If you have questions regarding this matter, please contact the regional office nearest to you.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL JR., P. E.
Supervisor, Water Allocations Section

DRT:jg

Enclosures

NORTHERN REGION OFFICE
Route #5, Box 203, Government Way
Coeur d'Alene, Idaho 83814
Telephone 667-6484

EASTERN REGION OFFICE
150 Shoup Avenue
Idaho Falls, Idaho 83401
Telephone 525-7161

SOUTHERN REGION OFFICE
1041 Blue Lake Boulevard North
Twin Falls, Idaho 83301
Telephone 734-3578

WESTERN REGION OFFICE
92 South Cole Road
Boise, Idaho 83709
Telephone 334-2190

S T T E O F I D A H O

DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
#138308

ARKOOSH & ZIDAN INC.
RT. 1
GOODING, ID 83330

FEBRUARY 28, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 37-7575 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MAY 01, 1982. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECIEVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

RITA FLECK
SR. SECRETARY

ENC: 1

MICROFILMED

June 6, 1977

Re: Permit No. 37-7575

Arkoosh and Zidan, Inc.
Route #1
Gooding, ID 83330

Gentlemen:

Enclosed is a copy of your approved Application for Permit No. 37-7575. We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

Enclosure: Copy of permit

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item	Initial	Date	
			Application No. 37-7575-Arkoosh & Zidan Inc.
			✓ Source
			✓ Point of Diversion
			✓ County
			✓ Quantity of Water and Period of Use
			✓ Description of Diverting Works
			✓ Time required for B/U of water
			✓ Place of Use or Acres Irrigated
			✓ Map
			✓ Signature
			✓ Fee
(1)	TaB	3-28-77	In form to receipt
(2)	"	"	Send Copies to:
			_____ Idaho State Health Department
			_____ Idaho Fish and Game Department
			_____ Bureau of Land Management
			_____
(3)	"	"	_____ Request Special Use Permit from U.S.F.S.
			_____ Request Easement from B.L.M.
			_____ Request Information from Applicant
(4)	ADM	3-28-77	In form for advertising
(5)	_____	_____	Platted on Map No._____
(6)	_____	_____	Located within Water District No._____
(7)	mls	4-27-77	Critical groundwater area: yes____ no ✓
(8)	mls	4-27-77	Groundwater levels:
			_____ Declining, ✓ Stable, _____ Increasing
			(comment)_____
(9)	_____	_____	Other rights on the same place of use none
(10)	_____	_____	Comments:_____
(11)	SB	4/19/77	Affidavit of Publication received(date)_____
(12)	mls	4-27-77	Final date for protests_____
			Protests received: yes____ no ✓
(13)	_____	_____	All requested information received from agencies or applicant: yes____ no____
(14)	mls	4-27-77	Action recommended:
			✓ Approve _____ Deny
			_____ Proposed Priority
			_____ Reason for Reduction_____
			✓ Measuring device required
			_____ See attached sheet for other conditions of approval
			_____ No special conditions for approval

CONFIDENTIAL

Supplemental

(15) District Southern By Michael Steele Date 4-27-77

CC Ltr to Bse: 3/28/77 SB

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Arkoosh & Zidan Inc.

Rte. #1, Godding, Id. 83330

has on 3/28/77 submitted Application No. 37-7575

for a permit to appropriate 13.96 cubic feet per second

of water from groundwater

by means of well, motor & pump

within the NW SE¼, Sec. 11, Twp. 5S, Rge. 15E., B.M., Gooding County

to be used from April 1 to Nov. 1

for irrigations purposes of 698 acres

within the W½NW¼, SW¼, W½SE¼, Sec. 11; E½NE¼, E½SE¼, Sec. 10; E½SE¼, Sec. 3; NE¼NE¼, Sec. 15; W½NE¼, NW¼, Sec. 14; Twp. 5S, Rge. 15E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before April 25, 1977.

R. KEITH HIGGINSON

Director

Published in the Gooding County Leader

on 4/7 and 4/14/77

LEGAL — le 4/5/77

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Arkoosh & Zidan Inc., Rte. #1, Gooding, Id. 83330 has on 3/28/77 submitted Application No. 37-7575 for a permit to appropriate 13.96 cubic feet per second of water from groundwater by means of well, m[redacted] & pump within the NW¼S[redacted] Sec. 11, Twp. 5S, Rge. 1[redacted] B.M., Gooding County to be used from April 1 to Nov[redacted] for irrigations purposes of [redacted]98 acres within the W[redacted]¼, SW¼, W½-SE¼, Sec. [redacted]; E½NE¼, E½-SE¼, Sec. [redacted]; E½SE¼ Sec. 3; NE¼NE[redacted], Sec. 15; W½-NE¼, NW¼, Sec. 14; Twp. 5S, Rge. 15E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before April 25, 1977.

[redacted]
Director

Pub: 4-7, 14

March 28, 1977

Gooding County Leader
Box 56
Gooding, Idaho 83330

RE: Application For Permit #37-7575-Arkoosh & Zidan Inc.

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. 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.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS:sb

Enclosure

Bill submitted: _____

State of Idaho

Department of Water Resources



ROSTER OF ATTENDANCE

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 AND 4723 IN THE NAME OF NORTH VALLEY MILK, INC.

Date: _____

Time: 10:00 a.m.

Location: Idaho School for Deaf and Blind
Round Building - Room 1
1450 Main Street
Gooding, Idaho

Hearing Officer: L. Glen Saxton

---

* * *Please Print* * *

NAME	ADDRESS	REPRESENTING
Andrew Fitzgerald	Shoshone	4-Bros
Jerome FITZGERALD	1957 E 1550 S Gooding	"
Robert E. Williams	10th Ave. W. Twin Falls	Arkoosh.
Thomas Fitzgerald	Shoshone	4 Bros
Troy J. Wilson	2159 E 1700 S Gooding	
Doris Robertson	Gooding	Robertson's
C. TOM ARKOOSH	PO Box 2 Gooding	ARKOOSH
Gregory Brockway	706 Sunrise N. TF	4 Bros
Steve T. Clapperton	410 S Orchard Boise	Arkoosh
Elizabeth C. Arkoosh	2159 E. 1700 S. Gooding	Arkoosh
Alan Brown	2177 E. 1375 S. Gooding	Arkoosh

State of Idaho

Department of Water Resources



ROSTER OF ATTENDANCE

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 AND 4723 IN THE NAME OF NORTH VALLEY MILK, INC.

Date: April 10, 1997

Time: 10:00 a.m.

Location: Idaho School for Deaf and Blind
Round Building - Room 1
1450 Main Street
Gooding, Idaho

Hearing Officer: L. Glen Saxton

---

* * *Please Print* * *

NAME	ADDRESS	REPRESENTING
C. Tom Arkoosh	PO Box 32	Bonnie Arkoosh
Robert G. Williams	1022 4th South.	Applicant.
Bob DeJong	Jerome	KOCH AGRI
Glen Fitzgerald	425-N 250E	4 Bros Dairy
Geo J Behle	Gooding	
Chuck Brockway	706 Summer N. TF	4 Bros
Jerome FITZGERALD	2852 S 1800 E Wendell	North Valley Milking
Steve Chapman	410 Orchard St #144 Boise	Tom Arkoosh
Michael Sliman	PO Box 451 Gooding ID 83330	4 Bros
ANDREW FITZGERALD	180 4MI RD SHOSHONE	NORTH VALLEY MILK
LESLIE RENNER	2254 E. 1300 S. GDG.	ARKOOSH

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MEMORANDUM

To: L. Glen Saxton

From: Karl J. Dreher

RE: APPOINTMENT AS HEARING OFFICER - PROCEDURE RULE 410

Date: March 19, 1997

You are hereby appointed as hearing officer and are authorized to represent the department as provided by IDAPA Rule 37.01.01410 (Procedure Rule 410) in the following matter:

In the Matter of Application for Transfer No. 4722 and 4723 in the name of North Valley Milk, Inc.

The department has scheduled a hearing in the matter as follows:

Date: April 10, 1997

Time: 10:00 a.m.

Place: Round Building
Idaho School for the Deaf and Blind
1450 Main St.
Booding, Idaho

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 16, 1997

RE: In the Matter of Application for Transfer Nos. 4722 and 4723 of Water Right No. 37-07575 in the name of North Valley Milk, Inc.

Dear Interested Parties:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) 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:

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SEP 12 2000

(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.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this 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 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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.

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SEP 12 2000

The appeal must be filed within twenty-eight (28) days a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

C: IDWR - Region

MICROFILMED
SEP 12 2008

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 28, 1997

C. Tom Arkoosh
P.O. Box 32
116 Fourth Ave W.
Gooding, ID 83330

RE: IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 AND 4723 IN THE NAME OF NORTH VALLEY MILK, INC.

Dear Mr. Arkoosh:

At the continued hearing in connection with the above referenced matter held on April 30, 1997 in Gooding, Idaho, you advised me and Robert E. Williams that you would reduce the video showing Turkey Creek (Protestant's Exhibit U) to a 30 second or so film clip and would provide the clip to both me and to Mr. Williams. I understand that the film clip is intended to replace Protestant's Exhibit U which is the full length video tape.

To date, you have not submitted the revised exhibit to me. Please submit it soon in order that a decision can be timely rendered in this matter.

If you have questions, please feel free to contact me.

Sincerely,

L. GLEN SAXTON
Hearing Officer

c: North Valley Milk
Robert E. Williams
John and Doris Robertson
Leslie Renner
Allen Merritt

MICROFILMED

SEP 12 2000

C. TOM ARKOOSH
ARKOOSH LAW OFFICES
Post Office Box 32
116 Fourth Avenue West
Gooding, Idaho 83330
Telephone: (208) 934-8872

ORIGINAL

RECEIVED
MAY 28 1997
Department of Water Resources
Southern Region

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

RECEIVED
MAY 29 1997
Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC. and IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	PROTESTANT BONNIE ARKOOSH'S REPLY BRIEF

COMES NOW, Protestant Bonnie Arkoosh, by and through her attorney of record, and hereby respectfully submits the following Reply Brief.

I.
GENERAL CONSIDERATIONS

The Applicant herein [4 Bros.] forgets that it is the Applicant. Throughout its Briefing in this matter it claims, "no evidence was offered,"... by Protestants regarding

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certain issues. With the exception of the public interest question 4 Bros. bears the burden of going forward and the final burden of persuasion. On the public interest question, the Protestants bear the burden of going forward to present the issues they believe salient, but the final burden of persuasion rests with the 4 Bros.. Therefore, on any issue in which no evidence was offered, 4 Bros. has failed to prevail.

This has remarkable significance in the pending case because of the poor record created by 4 Bros.. At page 4 of the 4 Bros.'s opening Brief, 4 Bros. contends as follows:

> 1. No evidence was offered to suggest the dairies are inadequately designed.
> 2. No evidence that the dairy facility in Gooding being planned by the 4 Bros. would be designed and operated in accordance with all the requirements of the law was offered. (P. 4 and 5).
> 3. No evidence was presented that the minimum water quality standard of the state of Idaho would be exceeded by these transfers.

The problem with 4 Bros.'s position is that in fact 4 Bros. did not offer any evidence regarding design of its dairy. 4 Bros. did not offer any evidence regarding the operation of its dairy and its waste system. The 4 Bros. has not developed its management plan. 4 Bros. did not propose to the hearing officer that it had calculated and would adhere to agronomic applications of the waste to protect the Aquifer in the Turkey Creek drainage. The 4 Bros., in short, did not make its case in any of the four (4) salient areas.

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II.
INJURY TO OTHER WATER RIGHTS

4 Bros. argues that it makes its case that there will be no injury to other water rights because there is in place other regulatory agencies involved in water quality to protect the Aquifer and the Turkey Creek drainage which flows into the Wood River and ultimately the Snake River. The evidence taken at hearing, however, from both 4 Bros. expert and Protestant's expert is that the day to day ongoing regulatory oversight of dairies is inadequate, *and will not protect other water rights from injury*. Thus, the burden fell squarely upon 4 Bros. to show the hearing officer in the record that they had developed a plan to protect other water rights from injury. Because 4 Bros. made no effort to do this, the balance of the evidence is quite to the contrary.

A salient example is Gooding County Ordinance No. 62 [Exhibit F]. Although 4 Bros. posited in the case in chief that their dairy was in compliance with this ordinance, it was in many respects not in compliance. More importantly, as to most issues addressed by the Ordinance, 4 Bros. record is silent, absolutely silent. For instance, all of the waste control factors designed to protect other water rights addressed in Exhibit A of the Ordinance were never addressed by 4 Bros. in their case.

It is respectfully submitted that 4 Bros.' position that the burden to prove that there will be injury to other water rights falls on Protestant is untenable.

4 Bros. were absolutely silent regarding the waste water right of Protestant

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Arkoosh which they had contracted to service. Neither their Brief, nor their evidence, shows how this waste water right will not be entirely obliterated. It is, indeed, the worst case of injury to another water right. The water right will be obliterated.

III.
ENLARGEMENT OF THE WATER RIGHT

Although 4 Bros. carries the burden that there has not been abandonment of this water right, no briefing or testimony is seriously offered to refute the testimony of George Arkoosh that at the time of transfer of the underlying real property to Idaho State Bank, this particular water right was discussed and the parties determined to abandon it. This determine was made with the deliberate intent to abandon.

Regarding forfeiture, taking the facts absolutely the most favorable to 4 Bros., there has been non use of this water right from 1987 to 1995, a period of eight (8) years. Quite clearly, the water right was not used in 1987 when the review was done for licensure, but even assuming the water right was used during that period of time the evidence is uncontroverted it was not used between 1987 until 4 Bros. used the water in 1995.

4 Bros. seeks to excuse the forfeiture by citing Jenkins vs. State, Dept. of Water Resources, 647 P.2d 1256, 103 Idaho 384. That case does state at 647 P.2d 1261:

> If use of the water right is resumed after the five (5) year period, but before any third parties make a claim in the water, then the Courts will decline to declare a forfeiture. Application of Boyer, 73 Idaho 152, 248 P.2d 540

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(1952); Wagnor vs. Jeffrey, 66 Idaho 455, 162 P.2d 400 (1945); Carrington vs. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944).

The problem with relying on this particular defense, that is use of the water subsequent to the five (5) year period, but before claimed by a third party, is that the use must be by the owner and not by the third party. In Application of Boyer, cited above at 248 P.2d 544, the Court cites the "correct rule" from Carrington vs. Crandall, as follows:

> The correct rule was thus, in essence, denouncing Carrington vs. Crandall, 65 Idaho 525, 147 P.2d 1009:
>
> > 'Although statutory abandonment of water right has occurred, water right is not affected if, after a five (5) year period **original owner or proprietor** resumes the use of the water prior to claim of right by a third party. [I.C.A, Sec. 41-216.]' Sec. 42-222, I.C. [Emphasis supplied.]
>
> Similarly, in Wagner vs. Jeffrey, 66 Idaho 455, 162 P.2d 400.

Thus, forfeiture is specific to the owner of the right, and not some third party who tries to revive a right forfeited by someone else. In order to obtain a right as an independent third party, 4 Bros. must file for appropriation just like anyone else. In this case, they cannot independently file for appropriation in a well because the ongoing well moratorium. This is precisely why they are seeking to transfer this right rather than dig a new well.

Further, 4 Bros. have absolutely failed to show, and carry their burden, that they own this water right. All the other water rights attendant to the real estate were

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transferred to them from the Bank. Because of the abandonment understood between Arkoosh and its immediate buyer, the Bank, the Bank understood that it did not have this water right to transfer to 4 Bros., and did not do so.

IV.
PUBLIC INTEREST

4 Bros., in its Briefing, seems to throw up its hands regarding addressing the question of public interest. The issues brought forward by Protestants were quality of life threatened by use of the water; aesthetics; environmental concerns; wildlife concerns; and, the ability to use local wells. In the case cited by 4 Bros., Harding vs. Higginson, 849 P.2d 946, 123 Idaho 485, the Idaho Supreme Court tells us as follows:

> Regarding the Director's conclusion that the Protestants in this case were proper parties despite the fact they do not have water rights in Box Canyon, we find the case of Sokel vs. Dunn, 109 Idaho 330, 707 P.2d 441 (1985), to be instructional. In Sokel, this Court found that the Legislature intended the public interest on the local scale to include the public interest elements listed in Idaho Code Section 42-1501 which includes the protection of fish and wildlife habitat. The Court further stated:
>
> > By using the general term "the local public interest," the Legislature intended to include any locally important factor impacted by the proposed appropriations.
> >
> > .....
> >
> > For example, in an area heavily dependent on recreation and tourism or specifically devoted to preservation in its natural state, [IDWR] may give great consideration to the aesthetic and environmental ramifications of granting [or amending] a permit which calls for a substantial modification of the landscape or stream. 109 Idaho at 338-339, 707 P.2d 449-50 (Emphasis added).

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Thus, all the issues raised regarding wildlife and fisheries, the Turkey Creek wetlands, the quality of life in "country living", the capacity to use wells, and the damaged quality of life, aesthetics, and environmental quality, all raised by placing the sewage quantity equivalent to a thirty five thousand (35,000) person city on seventy (70) acres of land, were never really addressed by 4 Bros.. They merely ignored those issues in the record, and ignored them in their Briefing. It is herein respectfully submitted that 4 Bros. has made no effort to carry its burden on this issue.

Further, regarding this issue, 4 Bros. says almost nothing regarding the issues of local public interest addressed by the local siting ordinance, and how the local county government determined its desire to site and develop dairies in this area. The best that can be concluded from this is that 4 Bros. has abandoned carrying its burden on the question of local public interest.

Finally, 4 Bros. make absolutely no attempt to deal with the notion that it can hardly be said to be in the local public interest to breach a contract which requires them to apply water in a certain way to benefit the surrounding ground. The best they could say is they do not remember whether or not they had seen that contract prior to the closing on the real estate. If their theory is that they are bona fide purchaser, not bound by that contract because they did not know about it, they failed to provide any evidence that they did not know about it.

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V.
THE PROPOSED TRANSFERS CONSISTENT WITH CONSERVATION, WATER RESOURCES WITHIN THE STATE OF IDAHO

4 Bros. concludes that:

> The Protestants offered no evidence to contradict the conclusion of Dr. Charles Brockway, Appellant's Exhibit 10, that the proposed transfers are consistent with water resource conservation practices in the state of Idaho.

This is simply incorrect, the Protestants presented thorough evidence, coming both from Dr. Brockway himself, and from Sherl Chapman, that the use of surrounding wells is at risk; that the inevitable flushing of this dairy into the Turkey Creek and Wood River systems in all probability will violate TMDLs; that the neighbors will be left scrambling for potable water; that 4 Bros. is seeking to circumvent the moratorium on increasing the draw out of the Aquifer by transferring off its surface water rights and continuing to use the well water rights, all of which were initially intended to be used in conjunction; and that 4 Bros. is increasing water use contrary to the application and permit provisions required by the Idaho statutory law.

In short, 4 Bros. has made no record, and fails to Brief the issues raised regarding conservation of water resources.

VI.
CONCLUSION

4 Bros. has miserably failed to carry their burden in this case on any of the four (4) salient issues. They seem to ignore local public interest altogether. They seem to

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ignore the issue of conservation of water resources altogether. They seem to ignore the question of injury to other water rights except to posit that they will not hurt other water rights, but do not tell the Department what design they will use; what processes they will use; how the dairy will be operated; what the hydrology of the area really is; or, what conditions they will accept to mitigate harm and damage.

Finally, 4 Bros. seem to want the Protestants to carry the burden regarding the design, operation, and consequences of their dairy both to the immediate local neighbors, the Aquifer, the surrounding drainage and river system, to the various contracts between the parties, and to all other aspects. It is respectfully submitted that 4 Bros. simply has not carried its burden to justify removing more water from the Aquifer and turning it into cattle waste for which they have made no real provision for disposal.

For all the foregoing reasons, it is respectfully requested that the application for transfer be denied.

Respectfully submitted this 27 day of May, 1997.

For C. Tom Arkoosh
Attorney for Protestant Bonnie Arkoosh

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of May, 1997, I served a true and correct copy of the foregoing document upon the following persons, by causing to be deposited a copy thereof in the United States Mail, first class postage prepaid and via facsimile transmission:

Robert E. Williams
FREDERICKSEN, WILLIAMS & MESERVY
Post Office Box 168
Jerome, Idaho 83338

for C. Tom Arkoosh

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Department of Water Resources

Robert E. Williams III
FREDERICKSEN, WILLIAMS & MESERVY
Attorneys at Law
117 South Adams Street
P. O. Box 168
Jerome, Idaho 83338
Telephone: (208) 324-2303
Attorney for North Valley Milk
c:jll\litigatn\briefrpl.nor

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	**REPLY BRIEF OF APPLICANT NORTH VALLEY MILK, INC./ 4 BROS. DAIRY, INC.**

Several matters raised in Protestant Bonnie Arkoosh's Brief require a reply.

I

In Section I of her brief, Protestant claims that West One Bank did not transfer Water Right 37-07575 to the Applicant. Idaho Code § 55-101 defines water rights as real property. The water right in question here is a license, regarded as real property. The deed transferring title of the real property to which Water Right 37-07575 is appurtenant did not expressly exclude the water right. It is true that it was not affirmatively mentioned. However, to exclude the water right in the transfer, express language to that effect would have to have been included in the deed. It was not. Therefore, all water rights appurtenant to the real property were

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transferred by the deed to the Applicants.

Protestant characterizes the area of the proposed Gooding dairy site as "country living", in an attempt to persuade the Hearing Officer that the area is something other than agricultural in nature. The testimony at the hearing established that the area is now and has always been agricultural. Some individuals have sold their farms to third parties and retained residences. Other Concentrated Animal Feeding Operations are present in the immediate neighborhood. The Protestants themselves operated a feedlot and retain the rights to do so in the future in the same area. The proposal of the Applicants to locate a dairy on a portion of their real property is consistent in all respects with the existing land uses in the area.

II

INJURY TO OTHER WATER RIGHTS

The Protestant attempts to compare the Bosma site to the Gooding transfer site. The present Applicants have several hundreds of acres over which to spread solid waste, not the limited acreage present in the Bosma case. The Protestant has made no distinction between liquid and solid waste in their comparison. There is substantially more acreage available to these Applicants for the disposal of solid waste than was present in the Bosma case. The other site distinctions made by Dr. Brockway stand. Furthermore, at the time of Dr. Brockway's testimony in the Bosma case, the Department of Agriculture had not assumed enforcement of the provisions of the Clear Water Act zero tolerance policy for escapement of wastewater from dairies into waters of the United States. Mike Wiggs' testimony concerning the enforcement efforts of the Department of Agriculture was not contradicted by any Protestant, and establishes that inspections are regularly and frequently made with the heavy enforcement tool of denying ability to sell milk readily available.

The Protestant is asking the Hearing Officer to assume the role of the Department of Agriculture, the Department of Environmental Quality of the State of Idaho Department of Health and Welfare, the United States Environmental Protection Agency, the Gooding County Planning and Zoning Commission and the District Court. Every issue raised by the Protestants

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(contamination of waters, design of facilities, compliance with law, violation of a contract) is already subject to the jurisdiction of the above referenced agencies.[1] It is ironic that the Gooding County CAFO Ordinance requires sufficient water rights to operate a CAFO to be demonstrated as part of the application process. These Applicants are proceeding to obtain the necessary water rights before making their application to Gooding County. Now the Protestants claim that in order to get the water rights transferred they must first prove ability to obtain the necessary operating permits from Gooding County. As the Hearing Officer noted, no application has yet been filed with Gooding County by the Applicants for a CAFO permit.

The reference to TDML's, which have not yet been adopted, is another example of the ludicrous position of the Protestants. These applicants should not be denied their transfer applications because they won't be able to meet standards that don't exist.

III

The testimony regarding damage to land values, lifestyles, wild life habitat, wetlands, and gestalt was either totally not there, or based on opinion and speculation. The absurdity of the claim that the "violations of contract" issue impacts on the public interest in this context has already been alluded to. Andrew, not Anthony Fitzgerald as claimed by the Protestants, testified in the matter. The economic good in the community at large, to be produced by the Gooding dairy has not been denied. Its compatibility with existing uses and historic uses is also not deniable.

Andrew Fitzgerald testified that the dairies at both sites would meet all lawful requirements imposed by any body. It should be up to those bodies, whose duty it is to oversee these areas, to pass on those issues.

---

[1]Protestant's counsel well knows that the contract violation issue addressed in Section IV(B) is already the subject of a pending District Court action filed by him on behalf of Arkoosh & Zidan, Inc.

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IV

The other issues of Protestant's brief are adequately addressed in the Applicants Opening Brief.

It is requested that the applications for both transfers be approved as submitted.

RESPECTFULLY SUBMITTED this 23rd day of May, 1997.

FREDERICKSEN, WILLIAMS & MESERVY

BY: _____
ROBERT E. WILLIAMS III
Attorney for Plaintiffs

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this date I caused a true and correct copy of the foregoing instrument to be served upon the following:

C. Tom Arkoosh
Attorney at Law
P.O. Box 32
Gooding, ID 83330

Leslie Renner
2254 E 1300 S
Gooding, ID 83330

John and Doris Robertson
1326 S 2100 E
Gooding, ID 83330

X By depositing copies of the same in the United States mail, postage prepaid, at the post office at Jerome, Idaho.

DATED: May 23, 1997.

_____
ROBERT E. WILLIAMS III

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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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 21, 1997

Dear Interested Parties:

The accompanying order is a "**Recommended Order**" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

(Required by Rule of Procedure 720.02)

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order. The hearing officer 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 this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

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ORAL ARGUMENT

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

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

FINAL ORDER

The Director 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 agency 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,

L. GLEN SAXTON
Hearing Officer

Encl.

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Arkoosh Law Offices

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TELEPHONE: (208) 934-8872
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June 2, 1997

L. Glen Saxton
Hearing Officer
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

In re: North Valley Milk Application for Transfer

Dear Mr. Saxton:

Enclosed please find a copy of the revised exhibit video tape, a copy of which was mailed this date to Mr. Williams.

Thank you.

Sincerely yours,

Brenda Battick

Secretary to C. Tom Arkoosh

/bsb

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COPY

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June 2, 1997

Robert E. Williams
FREDERICKSEN, WILLIAMS & MESERVY
Post Office Box 168
Jerome, Idaho 83338

In re: North Valley Milk Application for Transfer

Dear Rob:

Enclosed please find a copy of the revised exhibit video tape submitted on this date to the Department of Water Resources.

Thank you.

Sincerely yours,

Brenda Butler

Secretary to C. Tom Arkoosh

/bsb

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ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC. and IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	PROTESTANT BONNIE ARKOOSH'S BRIEF IN OPPOSITION TO APPLICATION FOR TRANSFER

COMES NOW, Protestant Bonnie Arkoosh, by and through her attorney of record, C. Tom Arkoosh, of ARKOOSH LAW OFFICES, Post Office Box 32, Gooding, Idaho 83330, and hereby respectfully submits the following Brief In Opposition to the above Request for Transfer.

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I.
BACKGROUND

A. Procedural Background

This matter is currently before the Department of Water Resources upon the application of North Valley Milk, Inc., predecessor in interest to 4 Bros. Dairy, Inc., for transfer of Water Right 37-07575.

Applicants first filed their Application for Transfer on May 3, 1995, and subsequently sought amendment on January 8, 1996. The stated purpose of the amendment was to move the new proposed place of diversion one-quarter (1/4) mile to the west.

Water Right No. 37-07575 is, on its face, a ground water right pumping from a well situated in Section 11, Township 5 South, Range 15 East in Gooding County, Idaho. The well was once used for irrigation purposes. The well was dug by Arkoosh & Zidan, Inc., with a priority date of March 28, 1977.

The water right license for the well indicates that there is a full prior water right from the Snake River and Big Wood Canal to service the same real estate irrigated by the well. The condition of the license prevented applying more water than may be beneficially used. The license provides that, in summary, no more than one (1) inch per acre can be applied to the ground notwithstanding whether the source of the water is river, canal, or ground water.

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The application at issue here proposes that the ground water from the well be used for commercial dairy and livestock purposes north of Gooding, Idaho, and near Wendell, Idaho. It further proposes that some of the well water be retained for irrigation of some of the original acreage to which the ground water was tied.

It was indicated at hearing in this matter that the original canal right appended to the acreage which it is now proposed will be irrigated by the ground water right was transferred away from the property leaving the ground water right the only right available to irrigate that portion of the real estate.

The burden of proof rests upon the Applicants, in the event of a protest, to prove each of the four (4) issues that must be shown in order to transfer a water right. Those are:

1) Will the proposed transfer injure other water rights?

2) Will a proposed transfer constitute an enlargement in the use of the original right?

3) Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?

4) Is the proposed use contrary to conservation of water resources within the State of Idaho.

It is the position of the Protestant herein that the Applicants has failed to carry its burden of proof on any of the four (4) above issues.

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B. General Factual Background.

Arkoosh and Zidan, Inc., an Idaho corporation, farmed all of the real estate at issue in this case prior to 1993. In 1993, Arkoosh and Zidan, Inc., sold the real estate to Idaho State Bank, which was later acquired by West One, which later became U.S. Bank. Subsequent to the purchase of Idaho State Bank by West One Bank, West One Bank sold the subject real estate to North Valley Milk, Inc. The deed [Exhibit 14] from West One Bank, successor by merger to Idaho State Bank, to North Valley Milk, Inc., indicates the sale of the real estate plus decreed river water, Big Wood Canal Company water, and American Falls supplemental water. ***WEST ONE BANK DID NOT TRANSFER THE WATER RIGHT AT ISSUE HERE TO NORTH VALLEY MILK, INC.***

During the time Arkoosh & Zidan, Inc., farmed the subject real estate, it experienced a drought year in 1977. Arkoosh & Zidan, Inc., drilled the subject well to provide extra water during the drought period. During the first year it used the well, it energized the same with a diesel motor. During the subsequent two (2) years, it energized the well with electricity.

At or about 1980, George Arkoosh unhooked the well and hooked the electrical service there to a pump in the canal which allowed removal of the canal water right onto the real estate. The well was never again used by Arkoosh & Zidan. At the time that

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Arkoosh & Zidan sold the real estate to Idaho State Bank, there was a discussion with Idaho State Bank whether or not the water right 37-07575 was viable and should be transferred. The parties determined it should not. George Arkoosh testified that it had not been for many years the intention of Arkoosh & Zidan to use 37-07575, and Arkoosh & Zidan did not use or transfer the same pursuant to that intention. Arkoosh & Zidan The well & water right.

The area surrounding the proposed place of diversion and proposed place of use is general small agriculture. There are not now therein any commercial uses. As Mrs. Doris Robertson testified, it is "country living".

The Applicants propose installing Two Thousand Five Hundred (2,500) head of cattle on eighty (80) acres, and disposing of all the liquid waste for that eighty (80) acres across the road in an area of less than seventy (70) acres. The Applicants propose placing two (2) lagoons at or near the southern property line of the eighty (80) acres which contains the seventy (70) acres upon which the waste will be disposed. The placement of the lagoons and waste disposal system are bordered on the immediate south by the Robertson ditch, and to the immediate east by the Turkey Creek drainage. The substantial entirety of the project lies within either the Turkey Creek flood plain, or one-half (½) mile from the Turkey Creek flood plain.

Domestic wells surround the proposed place of use and the waste area. Clay and

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loam constitute the soil type of the proposed waste area. Within this there are inclusions of other soils, and bare rock outcroppings. Fractured basalt underlies the entire area, with the water level varying, but at approximately One Hundred Fifty (150) feet. Turkey Creek drains the entire area of the proposed project. During the early spring of the year, Turkey Creek floods. Turkey Creek gathers with this flood the available moisture in its drainage area, and runs it directly into the Wood River not more than a mile away.

Currently, Idaho is under Court order by Judge Dwyer's decision to establish the Total Maximum Daily Loads [TMDLs] of the Wood River and Central Snake River area before the end of 1997. Thereafter, the State of Idaho is under stricture to meet those TMDLs within Fifteen (15) months.

The various sport fishes and wildlife use and live upon the area of intended impact by the large proposed dairy. This obviously is an adjunct to a part of the "country living" available in the area.

II.
Will the proposed transfer injure other water rights.

Both sides hired hydrology experts to explore the issue of injury to other water rights. The Applicants witness, Dr. Charles Brockway, filed a report dated November 26, 1996 [Exhibit 10] which talked almost exclusively about water budgets. At page 5, the Report did say that, "The soil complexes are suitable for irrigation with lagoon and

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fluid provided they are irrigated under water and nutrient guidelines to maintain adequate hydrologic loadings and balanced nutrient uptake with crop requirements." The report appears to pay only this lip service to the question of water quality and injury to other water rights.

On the other hand, the Protestants' witness, Sherl Chapman, testified at length regarding the impending disaster which he foresaw occurring in the event that the Department allowed the placement of this dairy on the site as proposed by Applicants. Mr. Chapman indicated that given the soil makeup, bare rock outcroppings, and fractured basalt, it would be nearly impossible to limit the contamination of the Turkey Creek drainage and the underlaying aquifer. He foresaw this consequence even in the event that the Applicants met all required treatment guidelines.

The problem is evident. The property where the Applicants propose to build their dairy and waste the liquid and fluid drains on the surface to the southeast, directly into either Robertson ditch or the Turkey Creek drainage. In the event the matter does not go into the Robertson ditch, it will seek its way into the culverts which go under the Robertson ditch and feed into the Union ditch directly to the south. There appears to be no way for the affluent to escape on the surface from this cramped and circumvented area. Further, Applicants have made no provision for any other type of drainage. They appear to quite brashly assume that the Department and Protestants will overlook the

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clear conclusion that any surface drainage will go directly into the waterways.

The Aquifer flows to the southwest, directly toward Thousand Springs. Again, Applicants appear to brashly assume that all parties taking note of this activity will turn a blind eye to the impending disaster awaiting the Aquifer.

Notwithstanding that the report of Dr. Brockway did not address the question of damage to the Turkey Creek drainage and the underlaying Aquifer, he did testify that he concluded that the placement of the dairy would not harm the Aquifer. He did not speak to the question of the Turkey Creek drainage.

When confronted with his testimony in a very similar case before the Department [Exhibit E] Dr. Brockway made some distinctions between the two sites. Exhibit E was the testimony Dr. Brockway gave before the Department in the Application of the Bosma dairy to transfer water for dairy use. In that hearing, Dr. Brockway concluded that impending disaster loomed large for the Aquifer because of possible contamination from the large dairy.

The Bosma dairy site is north and west of Bliss, Idaho. The soils are slightly more permeable than the soils at issue here. The waste disposal site contained approximately one hundred eighty (180) acres. The Bosma dairy would house fourteen hundred (1400) cows. The water level of the Aquifer was approximately sixty (60) feet from the surface.

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In the Bosma case, Dr. Brockway concluded that the fourteen hundred (1400) head of cows would deposit twenty thousand (20,000) pounds of nitrate a year on an area of one hundred eighty (180) acres on the surface from the irrigation system. He acceded that, using this same type of calculation, the Applicants' dairy in this case would set down approximately thirty thousand (30,000) pounds of nitrates in its liquid waste on an area of less than seventy (70) acres. Dr. Brockway explained that it was safe to put one-third (1/3) more waste on two-thirds (2/3) less ground on the Applicants' case, whereas it was not safe to put one-third (1/3) less waste on two-thirds (2/3) more ground in the Bosma case by distinguishing the two (2) sites. He felt that three (3) distinctions would save the Aquifer:

First, that the soils were slightly less permeable at this site;

Second, that the distance to the Aquifer was approximately one hundred fifty (150) feet at this site rather than sixty (60) feet on the Bosma site; and,

Third, that no spring from which domestic water was taken existed close to the proposed dairy site in this case.

Mr. Chapman testified that these distinctions did not obtain significance in determining whether the Application endangered the Aquifer. He testified that placing Twenty-Four hundred (2400) cows above the Aquifer, and irrigating with their waste on less than seventy (70) acres, would most surely contaminate the Aquifer.

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Mr. Chapman testified that although the depth to the Aquifer and type of soils certainly were factors, this soil was adequately permeable to assure contamination of the Aquifer. Further, the rock outcroppings and fractured basalt underlay were identical at the two (2) sites. These direct channels constituted the most pernicious danger.

Mr. Chapman also testified that depth to the Aquifer, when water was channeled directly through rock channels, became a nearly meaningless measure. Whether the Aquifer level stood at sixty (60) feet or one hundred fifty (150) did not matter.

Finally, Mr. Chapman pointed out that the distinction between domestic water and nondomestic water may really not matter given that water users in Idaho are no longer free to contaminate. Although the TMDLs of the Wood River have not been established, they will be established this year, and must be met within fifteen (15) months. Adding initial contamination either to the Aquifer which drains into Thousand Springs in the middle Snake, with its own TMDL problems, or whether the drainage goes through the surface, through Turkey Creek and into the Wood River, we are by law prohibited from further contamination. Quite clearly, our water quality problems arise in part from looking upon our surface waterways and our Aquifer as a waste dump.

Both experts seem to agree that adequate supervision of dairies to prevent unlawful waste and contamination simply does not exist. The testimony of Dr. Brockway in the Bosma case at Page 215 of Exhibit E is instructive:

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DIRECT EXAMINATION OF DR. BROCKWAY BY MR. BROWN:

Q Is it your understanding that the quality of water which is -- which a DEQ permit for a waste lagoon is designed to address is not necessarily the only concern which the Butlers should have? In other words we've heard that the DEQ will play a role in the design of the lagoon so that it doesn't leak, and they will attempt to be sure that best management practices are followed, at least after contamination occurs. Now if you were the Butlers would you be concerned that that is enough to prevent contaminationof their springs or their wildlife pond?

A Well, I don't believe that just meeting the requirements of DEQ for constructionfor the waste containment system and the drainage plan by itself is enough to assure that there won't be pollution of the spring. And you know we had evidence of that last year. There were some dairies on the north side were apparently designed to meet the 25-year 24-hour storm containment, and actually ended up putting some contaminated water in the canal systems. So that the 25-year 12-hour storm is what's in the regs, but that's just what it says, it's what you expect once every 25 years. And we're going to get bigger storms than that, you know, in the other years. So meeting DEQ specs on containment doesn't mean that you won't get runoff from the lagoon sometime.

They recommend BMP's, and t hat's in the CAFFO [phonetic] guidelines. But I've never known them to, at least in my experience, to, you know, shut a guy down because he was not irrigating properly. And they don't have the horses or the people to go police that.

Dr. Brockway also testified in the Bosma case that once we do the damage, we cannot retreat. On page 217, Line 10 through page 219, Line 14, Dr. Brockway tells us:

DIRECT EXAMINATION OF DR. BROCKWAY BY MR. BROWN:

Q Once water is contaminated how do you decontaminate it if it's in the subsurface? Generally: Let's talk about bacteria and then about maybe nitrates and phosphates. How do you decontaminate the supply so that they would have safe drinking water if it became contaminated?

A Well, if -- it depends on the contamination. If it's bacteria, like if it's coliform bacteria you can chlorinate and meet specifications that way. It's more expensive to do that, but you can chlorinate and get rid of the bacteria. If it's a nitrage problem you can't afford to take the nitrate out.

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There are some means of doing it but not for home use or -- nor small commercial use. And if the aquifer becomes high in nitrate then there's not a lot you can do except eliminate the source and let the natural throughput from the aquifer clean it up.

Q Is the surface soil which you've observed out there, is that the type of soil which would filter, if you will, or cause nitrates or phosphates to precipitate out of the grounwater as it seeps down to the spring water table?

A Well, the bulk of the soils out there are -- are the tuten [phonetic] series, they're sandy loam, cobbly loam soils. And if you have a proper depth of soil andyou have water that's contaminated with bacteria filtering through it, and it takes about at least 30 centimeters or more, you can -- the soil if it'su niform will pretty much take care of the bacteria, it won't do anything for the nitrates. It will take out most of the phosphorous, because phosphorous has a tendency to absorb to soil particles. So phosphorous wouldn't be a problem but nitrate would. And if the travel time,a nd depending on the source, if you get ammonia in the groundwater, it will generally dissipate and you'll end up with nitrates. So I think the biggest concern there would be bacteria and nitrates in the groundwater.

Q Do nitrates -- would nitrates be pumped out of the waste lagoon?

A Yes.

Q Is there a way to filter pumpage from the waste lagoon to take out the nitrates before they're applied to the fields?

A No, nitrates are dissolved so you can't filter nitrates out. You can -- you can filter some of the fine particulate matter if you have a fine enough filter, but you can't get the nitrate out.

Q Do different crops, which are typically grown in this area, have much variation in the amount of nitrates they will use?

A Yes, they do. Alfalfa you don't put nitrogen on, it makes its own, it fixes it. Corn, grain, you need to put fertilizer on or nitrate.

Q So if you had alfalfa pastures and you pumped irrigation lagoon waste water onto it what would happen to the nitrates?

A Well, alfalfa in a typical rotation actually contributes water -- nitrates to the groundwater. So if you were to put irrigation water on that was high in nitrogen you would actually be exceeding the crop requirement, and that nitrate would just filtrate into the groundwater.

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As the quadrangle map of this case indicates, the site at issue is surrounded by domestic wells. Mrs. Robertson testified that a dairy immediately to the west has contaminated a domestic well that had been clean for forty (40) years, and did not show contamination until immediately after the dairy went up.

George Arkoosh testified that he discontinued use of the CAFO Feedlot site close to the new proposed dairy site because its use contaminated the local domestic wells. Although on cross examination Applicants' counsel sought to make light of the causal relationship between these confined animal feeding units of the ultimate contamination, Applicants presented absolutely no contrary evidence. Further, they did nothing to disengage the causal relationship between the placement of cattle directly above the Aquifer and the contamination of the wells; and, conversely, the removal of the cattle, the purification of those wells. The cause and effect relationship exists unrebutted.

Mr. Chapman testified that the State of Idaho through the Wellhead Protection Plan, identified dairies as direct contaminates of the Aquifer and has indicated that the Department of Water Resources should make provision to protect wellheads from dairy contamination in the permitting process. Mr. Chapman also testified that there is no distinction between the pollution of a municipal wellhead, and a domestic well.

The most frightening aspect of Applicants' approach in this case is that Applicants have not presented the Department of Water Resources with any specifics regarding the

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protection of the surface drainage system or the underlaying Aquifer. The Applicants currently operate dairies without even providing a best management practices plan, a set of procedures that admittedly any good dairy would develop and follow. It is clear that these operators cannot be expected to develop a best management practices plan for a proposed dairy if they have never used or followed such for their existing operations. Both the Applicants' witness and the Protestant's witness not only agreed that the designed criterion required of dairies are not adequate, and that the regulation and monitoring of dairies is not adequate, but both also agreed that the quality of the operator gave large significance to whether one may reasonably forecast contamination to the Aquifer and waterways. In this case, Jerome Fitzgerald testified that he would be the on sight manager of the plant. When asked if a Best Management Practices Plan existed for the ongoing Shoshone operation of the Applicants, he testified that, "We do the best we can." This "Cast your fate to the wind," attitude simply is not adequate for the inherent risk of contamination by a twenty-four hundred (2400) cow dairy. Further, when queried about the EPA fine levied against the Applicants at their Shoshone site for contamination of the Gooding-Milner Canal, the witness alternated between being dazed and baffled, and discussions of nonrelated irrelevancies. He admitted he was aware that there were waste pipes going from their dairy lagoon into the canal, but ultimately declined responsibility. Hardly the type of moral courage, responsibility, and sense of

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environmental awareness one would trust to protect one's domestic water supply.

III.

Will a proposed transfer constitute an enlargement in the use of the original right?

Arkoosh & Zidan, Inc., dug this well in 1977. They used it in 1977, 1978, and possibly some the next year. Thereafter, they did not use the well, and sold the property in 1993. George Arkoosh testified of their intent never to use it again, and that is why it was not transferred to the Bank for transfer even though the same was discussed. The parties discussed the transfer and rejected it because the well had been condemned.

The only countervailing evidence that this is not a both forfeited and abandoned water right was offered by Applicants on cross examination of George Arkoosh where they suggested that the proof of beneficial use submitted on April 24, 1987, showed that someone had used the well between 1980 and 1993. [See Exhibit 12]

The proof of beneficial use accrued on the face of the water license on April 24, 1987. This does not, however, indicate that the well had been used in 1987. In fact, the conclusion of the examiner and the Department of Water Resources file, Jim Stanton, is to the contrary.

The Protestants raised the issue of forfeiture as soon as they learned of the renewed operation of this well after so many years. See Exhibit "A" attached here to and incorporated herein by this reference as though the same were set forth in full. The

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response received by the Protestants was that the question of forfeiture would be adjudicated at this hearing. See Exhibit "B", attached hereto and incorporated herein by this reference as though the same were set forth in full. Although Exhibit "B" concludes that the well use is authorized, it commences with the assumption that this water right had been transferred in the Deed. [Exhibit "14"] This assumption is, on the face of the Deed, incorrect. Further, Exhibit "B" suggests this matter be taken up at hearing.

Further, Exhibit "B" does not address the forfeiture issue.

In his investigation of this matter, Jim Stanton concludes the following:

> The question of forfeiture from non-use has come up. I talked to the former owners of the property, who stated emphatically that they had never used this well. The licensing examiner also said tha thte well had never been used, but we issued the license anyway. This is obviously a supplemental well to their surface rights. I also obtained Idaho Power co. Records, which show that the well was used heavily in 1990 and 1991. Based on IPCO data, it appears that the license is still valid.

Obviously, acknowledging that the well was licensed in 1987, Jim Stanton used that as the base year, and measured five (5) years forward even though he acknowledged that the well had not been used at the date of Proof of Beneficial Use. He then assumed that the Idaho Power records for that particular service were for the well, rather than for the pump as explained by George Arkoosh at hearing, and concluded during the five (5) year period from 1987 forward the well had been used.

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The evidence now is quite clear that the well was not in use at the date of Proof of Beneficial Use; and, that the subsequent electrical use in 1991 and 1992 for that particular service was for the pump in the canal, and not for the well. It is interesting to note that although the Applicants put up a new service when they took over the property, no one testified in rebuttal that the old service was indeed hooked up to the well. They left the testimony of George Arkoosh stand unrebutted.

IV.

Is the proposed transfer in the local public interest, where local public interest defined as the affairs of the people in the area directly affected by the proposed use?

A. Violation of contract.

Allowing the establishment of this dairy upon the ground as proposed clearly violates the contract between Arkoosh and Zidan, Inc., and its successors and assigns, and the Glenns Ferry Bank, and their successors and assigns [Exhibit "H"]. The contract clearly provides that the ground will continued to be farmed in its historical manner to provide water to subsequent users. Anthony Fitzgerald testified first that they had no knowledge of the contract prior to closing, but did acknowledge that they knew the

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contract prior to changing the method of use of the real estate. Upon reconsideration, Andrew Fitzgerald was unable to say whether or not they knew of the contract prior to the closing of this matter. Remembering that the burden of proof falls squarely upon the Applicants in this matter, they are not able to show that they are innocent purchasers, without knowledge of the contract. Failing to carry their case, they are bound by the agreement of parties.

If local public interest has any meaning whatsoever, the Department of Water Resources should not allow permits and transfers of water rights that are in direct violation of the written agreements and contracts of local people. Complicity in such a scheme by the Department would make an administrative agency of the State as much an outlaw as those who ignore their deals. Such abandonment of responsible citizenship cannot be countenanced.

B. Application and Its Consequences Clearly Contrary to the Affairs of the People In the Area Directly Affected by the Proposed Use.

The Applicants confidently posited in its direct case in chief that this dairy plan and its site would meet all the local planning and zoning requirements. On close examination, that simply is not true. The Gooding County CAFO Ordinance [Exhibit "F"] prohibits the siting of a CAFO within one-quarter (1/4) of a mile of flood plain. [See Page 10, Paragraph 7.] The evidence in this case is undisputed that almost all the site is within either the Flood Plain of Turkey Creek, or one-half (½) mile therefrom,

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according to the Federal Emergency Management Agency's 1985 Flood Insurance Rate Map, [Exhibit " W"]. See this in conjunction with the plotting done on the topographic map in evidence herein.

Further, the Applicants have put on no evidence that the existence of this CAFO would not cause, either alone or in conjunction with other causes, contamination of ground water and drinking water beyond MCLs [See Page 9, Paragraph C1]. MCLs are defined in the ordinance at Page 4 as Maximum Containment Level as set forth in the Idaho Department of Health and Welfare's quality standards and waste water treatment requirements.

Finally, Applicants made no showing whatsoever that the land application of waste water would meet those criteria as set forth at Pages 16 and 17 of the Gooding County CAFO ordinance.

In summary, although the Applicants testified that the transfer and use of this water would be in the local public interest because it met all local planning and zoning, in fact Applicants made no factual showing in supportive of that assertion. Indeed, what factual showing was made that the siting of the suggested water use was directly contrary to the Gooding County Ordinance.

Probably more important in an assessment of local public interest than the firm rules laid down in an ordinance is the simple exercise of common sense. The Applicants

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propose that open sewage system in an area currently used for "country living". If Applicants possess the chutzpah to destroy property values, life styles, wild life habitat[1], wetlands, and the entire local aesthetic and gestalt, they should at least have the professionalism to go along with their hubris, such that they present some sound and mature designs to the Department. Once again, the Applicants have fully failed to not only carry their burden of proof, but even present any evidence that is usable to the hearing officer in this matter.

V.

Is the proposed use contrary to conservation of water resources within the State of Idaho?

Surely Applicants understand that there exists a moratorium upon drilling wells and recreating water rights in the area at issue of this pending application. This is the stricture that drives the Application in this matter. If the ground water right from this well cannot be moved and applied to dairy use, then Applicants cannot operate their dairy. In this case, what Applicants propose is contrary to the conservation of water resources in this Sate in two (2) respects. First, Applicants are not only proposing to pump water out of the Aquifer under the guise of an abandoned and forfeited water right, but are secondly also creating a contaminant to put back into the Aquifer and into

[1]It is called to the Hearing Officer's Attention that Applicants giggled and grinned during the testimony regarding the wildlife and fisheries in the area. Clearly, they do not take the protection of the local environment seriously.

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the state's surface streams without adequate control. The net outcome must necessarily be that not only will the Applicants draw down the Aquifer in a circumstance where that water should not be removed from the Aquifer, but Applicants propose to use the water removed from the Aquifer to make other waters of the State less usable or not usable depending on whether the contamination of surface water contamination of the streams, or contamination of the surrounding drinking wells. This move hardly suggests conservation. Instead, the local area's entire hydrologic system will immensely benefit if Applicants is not allowed to take abandoned and forfeited water from the Aquifer, and is not allowed to pollute the neighboring drainages and Aquifer by the use of transferred water which should remain where it is in the first instance.

SUMMARY AND CONCLUSION

Starting from the premise that the Applicants in this matter carries the burden of proof, the Applicants here simply has not shown the right to transfer water either by putting on no evidence, or not putting on adequate evidence, as to every issue as to which the Applicants carried the burden of proof. For instance, as to the first issue, injury to other water rights, Applicants had every opportunity to show a maturely designed and planned out facility that notwithstanding its precarious siting could in some way assure the safety of the underlying Aquifer and the Turkey Creek drainage.

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Instead, the Applicants have not even yet provided a design of the facility, agronomic rate of application, and the like. These were the very items absent in the Bosma application which in part prompted the hearing offer to issue an Order denying that application.

Likewise, Applicants had every opportunity to at least say when they bought the property the pump was hooked up to the electricity. That not being true, they avoided saying it. Applicants knew the truth of this well when they came on the property, and therefore remain silent on the issue.

Finally, the placement of the dairy at the proposed site is just simply an either very dumb idea or a crafty one. If Applicants' motivation is to find a ready made drainage where they can clandestinely move waste off their dairy site into the waterways of the State of Idaho, they have found their spot. In that regard, perhaps Applicants' move is extremely crafty, but should never be countenanced. On the other hand, if Applicants truly intend to protect the State's groundwater and waterways, they should give at least lip service to the local ordinances by showing a design that they can begin to sell. The ambiguity at the hearing in this matter appears to be that it is difficult to say whether your design will work if you have not provided your design and its consequences.

The Applicants bears the burden on all these matters and has miserably failed to

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provide significant data or evidence. For this reason, it is respectfully requested that this Application for water transfer be denied.

Dated this 19th day of May, 1997.

C. Tom Arkoosh
Attorney for Protestant Bonnie Arkoosh

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of May, 1997, I served a true and correct copy of the foregoing document upon the following persons, by causing to be deposited a copy thereof in the United States Mail, first class postage prepaid:

Robert E. Williams
FREDERICKSEN, WILLIAMS & MESERVY
Post Office Box 168
Jerome, Idaho 83338

C. Tom Arkoosh

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FILE COPY

C. TOM ARKOOSH
LAWYER

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116 FOURTH AVENUE WEST
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BOISE, ID 83701
C:\OFFICE\WPWIN\WPDOCS\DATA\ARKOOSH.BON\ALLEN.LTR

TELEPHONE (208) 934-8872
FACSIMILE (208) 934-8873

June 12, 1996

Allen Merritt
Department of Water Resources
222 Shoshone East
Twin Falls, Idaho 83301

In Re: Application For Transfer no. 4722 AND 4733

Dear Allen:

On Memorial Day of this year I noticed that the Applicants in the above matter were irrigating directly from the supplemental well, Water Right No. 37-07575, rather than using their primary water right, which set idle. By definition, this water is supplemental to the primary right, may not be used upon ground for which a primary right does not exist, and is licensed for purposes of providing water upon the failure or diminution of the primary right. We would therefore object to use of this supplemental right, drawing water from the Aquifer while allowing the canal right to set idle.

Also, we would ask that this matter be set on for hearing. We believe that it is time to obtain a determination upon our protest. Consequently, I am seeking conjunctively with this the Department's permission to take the corporate deposition of North Valley Milkers. Please review the enclosed.

Very truly yours,

C. Tom Arkoosh

CTA:bsb
cc: Rob Williams

Encl.

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EXHIBIT A

State Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 16, 1996

Tom Arkoosh
PO Box 32
Gooding, ID 83330

RE: Improper use of well complaint

Dear Tom:

On your complaint, I have investigated the use of the well located in SE¼NW¼SE¼, Section 11, Twp. 5S, Rge. 15E, B.M. On August 1, 1996, I met with Andrew Fitzgerald, owner, to review the use of the water associated with properties purchased by North Valley Milk, Inc. in 1994 from West One Bank as evidenced by Deed 156186. As you know these properties and deed include license 37-07575. The above described well use is authorized under license 37-07575 with associated conditions.

I found that the well is presently providing water to irrigate the lands in the NE¼SW and NW¼SE¼, Section 11, Twp. 5S, Rge. 15E., B.M. Andrew Fitzgerald explained that the canal shares (73 shares of Big Wood Canal Company) which had previously been associated with these lands have been transferred off to augment other shares on his other farm north of Shoshone. He further explained that the well has had the pump modified and presently provides approximately 1.2 cfs for irrigation of the approximate 70 acres. I did not measure the well output but have requested that Andrew provide documentation of this change to the pump. The other rights associated with the deed are being used on the other lands included in the deed as these rights are authorized.

Assuming the well indeed provides 1.2 cfs or less than 1.40 cfs, I must conclude that the well is being used as authorized under the license. Before concluding this, I have discussed the matter of the canal shares being moved off with the department's legal staff and administration. I have learned that recent licenses may indeed be conditioned to prevent this from happening but the conditions of license 37-07575 do not prevent this from happening.

As you may know the issue of the use of "supplemental wells" is a topic presently being discussed in the department's effort to negotiate rules for management of the Eastern Snake Plain Aquifer. Since there is not presently a rule to prevent the canal shares from being removed like the scenario of this well and the license conditions do not prevent removal of the shares I do not currently plan on limiting use of this well unless I determine that the well delivers more than 1.40 cfs.

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EXHIBIT B

If you have questions about the rule making effort I suggest you contact Norm Young at (208) 327-7910. If you have further questions about this matter we can discuss them at the conference scheduled for August 21, 1996 in Gooding or you can contact my office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Andrew Fitzgerald
Norm Young

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Department of Water Resources

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c:rlw\litigatn\brief.nor

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	**APPLICANT'S OPENING BRIEF**

Hearing on the above referenced applications, required because of the protest of the water transfers therein described by Bonnie Arkoosh, Leslie Renner, and John and Doris Robertson, was held before the Honorable L. Glen Saxton, hearing officer, on April 10 and April 30, 1997. During the hearing process witnesses and documentary evidence were produced by both the Applicant and Protestants. The hearing officer took official notice of several matters. This brief is submitted in support of the position of the Applicant with respect to these applications now pending.

BACKGROUND

The present applications involve transfers from Water Right 37-07575 which is currently licensed for 2.21 cfs./1942.5 acre feet per year for irrigation purposes. The applications seek to transfer a portion of this water right to property contiguous to the present point of diversion where it will be used in connection with a proposed new dairy

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to be constructed by the Applicant at the site. Another portion of the water right will be transferred to an existing dairy site owned by the Applicant near Wendell, Idaho, to allow for additional water at the site for stock water and commercial purposes. Another portion of the water right would be abandoned while the remaining water under 37-07575 would continue to irrigate a reduced amount of real property from its present point of diversion. The original application was filed by North Valley Milk, Inc., which has since been merged into 4 Bros. Dairy, Inc. both Idaho corporations.

ANALYSIS

Idaho Code § 42-222 enumerates the grounds upon which these transfers may be rejected. Those grounds are:

(a) Other water rights will be injured;

(b) The transfer constitutes an enlargement in use of the original right;

(c) The transfer is not consistent with the conservation of water resources within the state of Idaho;

(d) Transfer is not in the local public interest.

INJURY TO OTHER WATER RIGHTS

The substantial weight of the relevant evidence presented at the hearing establishes that the transfer of the water rights above proposed will not injure any existing water rights. Applicant's Exhibits "10", "21" and "22" contain the detailed analysis of Dr. Charles Brockway, expert hydrologist. These reports establish that there is no real likelihood of any injury to existing water rights by virtue of these transfers. Dr. Brockway's conclusions at page 9 of his report concerning lack of effect on the quantity of other water rights was not challenged by the Protestants.

The Protestants raised the specter of potential contamination of surface and groundwater, not as a direct result of the proposed diversions, but as a result of the operation of the new dairy at the Gooding site. No such suggestion was made by the Protestants with respect to the Wendell site.

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The Department of Water Resources is not charged with the regulation and operation of dairies. Dairy activities, to the extent that dairies are considered to be concentrated animal feeding operations within the definitions of the Federal Clean Water Act at 33 U.S.C. § 1301, et seq., and regulations thereunder, and are comprehensively regulated by the State of Idaho Department of Agriculture. Mike Wiggs and other witnesses testified of the present zero tolerance for dairy wastewater escaping from confined animal feeding operations. Wiggs further testified that the soil profiles demonstrated by Applicant's Exhibit "4" would evidence the ability to construct lagoons for the confinement of dairy wastewater within the current standards of the Department of Agriculture. Since the comprehensive regulatory scheme for the escapement of wastewater generated by the dairy already exists, it is unnecessary for the Department of Water Resources to impose any conditions or to deny the application on this basis. In any event, Andrew Fitzgerald testified that both dairies would be constructed and operated in full compliance with the law, and the hearing officer should defer to the regulatory scheme already in force.

The Protestants also raise the issue of potential contamination of groundwater through the discharge of wastewater from the proposed Gooding dairy. No such issue was raised for the Wendell transfer. Their theory is that contamination in the form of nitrates will find its way from the dairy lagoon or areas where the solid waste would be land-applied to the aquifer. However, Protestants' Exhibits "A", "B", "C" and "D" do not establish any credible evidence that existing water rights will be in any way damaged by the approval of the current transfer applications. These Exhibits "A", "B" and "C" are from a study designed to protect municipal water supply well heads. No municipal water well head was shown to be endangered by the Applicant's proposed transfers. To the extent that any of those exhibits identify dairies as a potential source of pollution to surface or groundwater, those issues are adequately addressed by other state and national regulatory bodies, and the hearing officer should defer to those bodies.

The evidence at the hearing showed that the state Department of Agriculture, the

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Idaho Department of Health & Welfare Division of Environmental Quality, and the United States of America acting through the Environmental Protection Agency, all have regulatory responsibility with respect to Concentrated Animal Feeding Operations, including dairies. Exhibit "B" specifically mentions that "CAFOs and dairies with inadequately (emphasis added) designed feedlots and waste storage structures may pose a groundwater impact." No evidence was offered to suggest these dairies are inadequately designed. The Department of Water Resources should reject the invitation offered by the Protestants that it become a second guesser and ultimate overseer of these already heavily regulated issues. No evidence that the dairy facility at Gooding being planned by the Applicant would not be designed and operated in accordance with all requirements of the law was offered. The hearing officer should not assume that the Applicant will violate the law in its operations.

The Protestants' expert, Mr. Chapman, attempted to contradict the testimony of Dr. Brockway regarding the lack of a likelihood of groundwater contamination from the Gooding dairy site. No such evidence was offered for the Wendell site. Considerable effort was spent to show that the Gooding dairy site was the same, hydrologically and geologically, as the Jacob Bosma site, which was the subject of Dr. Brockway's previous transcribed testimony reduced to Protestants' Exhibit "E". Dr. Brockway explained that his concerns about these issues are always "site specific". The criteria elucidated by Dr. Brockway in his testimony distinguishing the North Valley Milk/4 Bros. site from the Bosma site are persuasive:

(a) There is no perched, shallow aquifer in the present case. That was in direct contrast to the Bosma situation.

(b) There is no close proximity of any spring to the lagoon site.

(c) There is less soil porosity and fewer rock outcroppings in the present site than in Bosma.

Mr. Chapman admitted that his concerns regarding potential groundwater contamination by dairy sites would apply in equal force to all of Gooding, Lincoln and

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Jerome Counties, because of the fractured basalt underlay. Taking his testimony for all it is worth, no dairy, feedlot or other concentrated animal feeding operating site could be established in those counties. Interestingly, at one point, Mr. Chapman appeared to suggest that all sites are unique and that criteria underlying his concerns would vary from site to site. This, of course, is exactly the point that Dr. Brockway made in his testimony, and that the Gooding site does not pose a real threat to groundwater from the proposed dairy operation. No evidence was presented that the minimum water quality standard of the State of Idaho would be exceeded by these transfers. Without such proof, where is the injury?

ENLARGEMENT OF USE

Applicant's Exhibits "10", "21" and "22" conclusively establish that no enlargement of any water right will be the result of the proposed transfers. Dr. Brockway's analysis reflecting water consumption, in both drought and normal years, shows a net decrease in consumptive use. These conclusions were not challenged by the Protestants.

The Protestants apparently take the position that Water Right 37-07575 was either abandoned or forfeited by them prior to the date of the acquisition of the appurtenant real property by the Applicant. However, the beneficial use field report for this water right, of which the hearing officer took official notice, dated June 25, 1987, indicates that the well was operating and producing irrigation water at that date. The Department's file concerning this water right also evidences the filing of a proof of claim for Water Right 37-07575 in the pending statewide adjudication dated September 2, 1988, signed by Michael Arkoosh, now deceased, husband of Protestant Bonnie Arkoosh. Obviously, no abandonment or forfeiture had taken place at that date.

The evidence adduced at the hearing conclusively demonstrates that there was no forfeiture of the water right. Proof of the forfeiture of the water right must be made by clear and convincing evidence which certainly was not the case at this hearing. George Arkoosh who the Protestants offered as their chief witness on the historic use of the

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water right, was very uncertain as to the date upon which the water right was no longer used. His testimony should be entirely rejected, particularly in light of the field report and Proof of Claim for Water Right 37-07575.

The Applicant further believes that the letter of Tom Arkoosh to which the Department of Water Resources responded by letter dated August 16, 1996, admitted as the Applicant's Exhibit "7", is conclusive evidence that the water right has not been abandoned or forfeited, but is viable. The attorney referred to the water right as "supplemental" in his correspondence with the Department, not as "forfeited" or "abandoned" even at that late date, after the date of filing of the present applications.

Further, it is uncontradicted that the Applicant has resumed use of the water right which is subject to the transfer and has used it during the irrigation seasons of 1995, 1996 and 1997. The record also discloses an absence of any competing claim from a third party for these water rights. Under these circumstances, the Idaho Supreme Court recognized in *Jenkins v. Idaho Dept. of Water Resources, 647 P.2d 1256, 103 Idaho 384 (1982)*, and reaffirmed in *Dovel v. Dobson, 831 P.2d 527, 530, 122 Idaho 59, (1992)*, that any water right arguably forfeited for which use is resumed after the five year statutory period, but before any third party files a competing claim for the water right, is resumed. Any theoretical forfeiture to Water Right 37-07575 is overcome by this doctrine.

THE PROPOSED TRANSFER IS CONSISTENT WITH THE CONSERVATION OF WATER RESOURCES WITHIN THE STATE OF IDAHO

The Protestants offered no evidence to contradict the conclusion of Dr. Charles Brockway in Applicant's Exhibit "10", that the proposed transfers are consistent with water resource conservation practices in the state of Idaho. If the Protestants meant to indicate that potential pollution of groundwater and surface water sources by the proposed dairy would be contradictory to such conservation practices, the comments in the previous sections of the brief regarding the existing scope of regulation and the Applicant's intention to meet all lawful requirements are responsive to this issue as well.

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THE PROPOSED TRANSFERS ARE CONSISTENT WITH THE LOCAL PUBLIC INTEREST

The evidence adduced at hearing clearly establishes that the proposed dairy sites are both located in agriculturally zoned areas. No evidence of the transfer to the Wendell site being contrary to the public interest was offered by the Protestants. The economic benefits of dairies in the local and regional communities as established through Mike Sliman were not contradicted by the Protestants. The record also establishes that there are other concentrated animal feeding operations in the area surrounding the Gooding site. The family of protestant Bonnie Arkoosh, in fact, operated a beef cattle feeding operation of significant proportions immediately adjacent to the proposed dairy site. The Arkoosh family holds a grandfathered concentrated animal feeding operation permit for the same property at this time. (Applicant's Exhibit "11").

Some opinions were offered by Protestants' witnesses that property values would decline and that the quality of life would deteriorate near the Gooding site if the dairy were built. This is not direct evidence on whether the water transfer itself will cause the perceived problem. The use to which the subject property would be devoted after the water transfer is identified as the cause of the potential problem. The individuals testifying perceive these threats without anything more substantial than their own opinions to back them up. The letter of the Renners, admitted as Applicant's Exhibit "15", shows that the concerns of the neighbors are more related to the issue of dairy smell and that impact on water rights was not a concern. These isolated concerns should not affect a finding that the proposed transfers are within the broader scope of the public interest, as previously identified.

A copy of the Gooding County Zoning Ordinance effecting concentrated animal feeding operations was entered into evidence as Protestants' Exhibit "F". The evidence established that the Applicant here had not filed an application for a CAFO permit for the Gooding site, although they intended to do so once the water transfer application was approved. Examination of Protestants' Exhibit "F" will indicate that attempts have been

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made within Gooding County Ordinance No. 62 to address the concerns of the type raised by the present Protestants under the evasive standard "public interest". Again, the hearing officer should decline the implied invitation of the Protestants to regulate areas which are adequately addressed by other bodies. These hearings should not constitute a method by which compliance with Ordinance No. 62 can be measured.

Precedent is clearly established that the determination of what is within the term "public interest" is vested in the sound discretion of the Department of Water Resources. *Hardy v. Higginson, 849 P.2d 946, 123 Idaho 485 (1993)*. To do otherwise would be to grant to the immediate neighbors of any project a veto power over any land use, otherwise lawful, which they may not be comfortable with. Applicant's Exhibit "20" demonstrates widespread support for the perpetuation and expansion of the dairy industry in the Gooding County area, as corroborated by the testimony of Mike Sliman and Andrew Fitzgerald. The hearing officer should reject the speculative evidence offered by the Protestants.

SUMMARY

The hearing officer should recommend that both Transfer Nos. 4722 and 4723 be approved, the Applicant having met their burden of proof with respect to each of the elements of lack of injury to other water rights, lack of enlargement of water rich, consisting with conservation of water resources and consistency with local public interest.

RESPECTFULLY SUBMITTED this 16th day of May, 1997.

FREDERICKSEN, WILLIAMS & MESERVY

BY: _____
ROBERT E. WILLIAMS III
Attorney for North Valley Milk, Inc.

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SEP 12 2000

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this date I caused a true and correct copy of the foregoing instrument to be served upon the following:

C. Tom Arkoosh
Attorney at Law
P.O. Box 32
Gooding, ID 83330

Leslie Renner
2254 E 1300 S
Gooding, ID 83330

John and Doris Robertson
1326 S 2100 E
Gooding, ID 83330

X By depositing copies of the same in the United States mail, postage prepaid, at the post office at Jerome, Idaho.

DATED: May 12, 1997.

ROBERT E. WILLIAMS III

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SEP 12 2000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 15, 1997

ATTN LEONA PATTERSON
IDAHO SCHOOL FOR DEAF AND BLIND
202 14TH AVENUE EAST
GOODING ID 83330

Dear Leona:

This is a follow-up to our telephone conversation of 4/14 to confirm the reservation of Room 1 in the Round Building for a meeting to be held by this office on **Wednesday, April 30, 1997**, from 10:00 a.m. - 5:00 p.m.

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Very truly yours,

Mary Baldwin
Senior Secretary

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Department of Water Resources

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 14, 1997

RE: APPLICATIONS FOR TRANSFER NOS. 4722 & 4723 filed in the name of North Valley Milk, Inc

Dear Concerned Party:

This letter will serve as Notice that a Continance Hearing in the matter has been scheduled for **Wednesday, April 30, 1997** at 10:00 a.m. in Room 1, Round Building-Idaho School for Deaf and Blind; 202 14th Avenue East; Gooding, ID (same building previously used).

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

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SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of April, 1997 a letter scheduling a Continance Hearing was sent by regular U.S. Mail to all parties listed below:

Mary Baldwin
Secretary

ANDREW FITZGERALD SEC-TREAS
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

ROBERT E WILLIAMS ESQ
117 S ADAMS ST
JEROME ID 83338

BONNIE ARKOOSH
C/O C TOM ARKOOSH ESQ
PO BOX 32
GOODING ID 83330

LESLIE RENNER
2254 E 1300 S
GOODING ID 83330

JOHN & DORIS ROBERTSON
1326 S 2100 E
GOODING ID 83330

MICROFILMED
SEP 1 4 2000

C. Tom Arkoosh
LAWYER
POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

April 7, 1997

VIA FACSIMILE & U.S. MAIL

James C. Tucker
ROSHOLT, ROBERTSON & TUCKER
Post Office Box 1906
Twin Falls, Idaho 83303-1906

In re: Idaho Power Subpoena - Application for Transfer No. 4722 of Water Right 37-07575B and Application for Transfer No. 4723 of Water Right 37-07575C

Dear Jim:

I received and reviewed your blustry letter of April 7, 1997 (this date).

Following are what I believe to be the pertinent numbers:

Pole Number	Meter Number
2385	62 072 738
2353	62 075 249

These poles are located in Township 5 South, Range 15 East, Section 11, four (4) miles north of Gooding, two (2) East, one-half (1/2) north and either one and one-half (1 1/2) or one and three-quarters (1 3/4) east.

If I can provide any further information please advise. Thank you.

Sincerely yours,

Dictated by C. Tom Arkoosh
Transmitted in his absence to avoid delay.

C. Tom Arkoosh

CTA/bsh
cc: Bob Stahman, IPC Legal
IDWR, Southern Region
Glen Saxton, Chief Water Allocation Bureau IDWR Boise

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SEP 12 2000

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Department of Water Resources

C. Tom Arkoosh
LAWYER
POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

April 7, 1997

VIA FACSIMILE & U.S. MAIL

James C. Tucker
ROSHOLT, ROBERTSON & TUCKER
Post Office Box 1906
Twin Falls, Idaho 83303-1906

In re: Idaho Power Subpoena - Application for Transfer No. 4722 of Water Right 37-07575B and Application for Transfer No. 4723 of Water Right 37-07575C

Dear Jim:

I received and reviewed your blustry letter of April 7, 1997 (this date).

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If I can provide any further information please advise. Thank you.

Sincerely yours,

Dictated by C. Tom Arkoosh
Transmitted in his absence to avoid delay.

C. Tom Arkoosh

CTA/bsb
cc: Bob Stahman, IPC Legal
IDWR, Southern Region
Glen Saxton, Chief Water Allocation Bureau IDWR Boise

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ROSHOLT, ROBERTSON & TUCKER
Chartered
ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

April 7, 1997

VIA FACSIMILE: 934-8873

C. Tom Arkoosh
Attorney at Law
P.O. Box 32
Gooding, ID 83330

RE: Motion to Quash Subpoena Duces Tecum

Dear Tom:

After our telephone conversation of this morning, I attempted to get some further information relative to the record request that you are making of the Idaho Power Company in connection with the pending transfers before the IDWR. As I advised this morning, the primary difficulty with your request is its extensive scope and the fact that it seeks records that the Company considers confidential between the Company and its customers. In that latter regard, I understand from our discussions that the individuals or entities named in your subpoenas are parties to the pending transfer and have given their consent to your access to the Company's account records. With that in mind, I contacted the archive division of the central office of the Company in an effort to gain a better understanding as to what might be involved in accessing the requested records.

On records requests that require access to the Company's archives, the Company charges a search fee of $32 per hour. After discussing the scope of the inquiry with the supervisor at the archives, it appeared that the necessary search may take quite some time, given the fact that all we had available was the names of the prior customer accounts. Aside from the search cost, this would obviously tie up some of the Company's personnel, as well. In an effort to narrow the search, we also contacted the Gooding office and spoke with Kathy, the individual I believe that you have spoken to before about this subject. She recalled those discussions and that she had previously advised you that the task of accessing the records would be greatly facilitated if you could provide the Company with either account or meter numbers with regard to the specific meters with which you are concerned. With that information, she felt that the necessary search may be able to be completed there at the Gooding office thereby dispensing with the necessity of accessing information from the Company's archives.

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In short, it still appears that the Company does not have the necessary information to proceed with this specific search request. As such, for the reasons generally set forth in our Motion to Quash, the Company is unable to comply with the subpoena. If you could supply us with more specific information relative to the account numbers or the meter numbers involved, we will again review the matter with the Company. Any such search undertaken, of course, would be subject to the referenced $32 per hour search charge.

Very truly yours,

JAMES C. TUCKER

JCT:ae
cc: Bob Stahman, IPC Legal
IDWR, Southern Region
Glen Saxton, Chief Water Allocation Bureau
IDWR Boise

04079701.JCT

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SEP 12 2000

JAMES C. TUCKER
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
04049701.JCT/ae

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APR 04 1997
Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	**MOTION TO QUASH SUBPOENA DUCES TECUM**
and	
IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	

The Idaho Power Company (Company), pursuant to Rule 525 of the IDWR Rules of Procedure (IDAPA 37.01.01525), moves to quash the Subpoena Duces Tecum (Subpoena) issued by the Department on March 31, 1997. (A true and correct copy of that Subpoena being attached hereto as Exhibit A).

The grounds for this motion are as follows:

1. The subpoena powers granted to the Department relate only to documents and information relevant to issues pending before the Department and within its jurisdiction. The parties seeking the issuance of the Subpoena have not demonstrated how the requested records or information relate to the above identified transfer proceedings and in the absence of such a demonstration, a subpoena should not be issued for records of the Company that are otherwise confidential between the Company and specific customers of the Company.

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2. The Subpoena seeks records and information pertaining to entities or individuals that do not appear to be parties to the transfer proceedings pending before the Department, nor does it appear that such entities or individuals received notice that records specific to their respective accounts are the subject of a subpoena issued by the Department. In the absence of such notice and opportunity for hearing, the Department should not issue a subpoena for such records or information.

3. The Subpoena by seeking "[a]ll records of any type or nature for services existing or installed north of Gooding, Idaho for . . ." is vague, ambiguous, and overly expansive and burdensome. Development of a response to the Subpoena would require that the Company review and assemble "all records" relating to any type of services(s) for an indefinite time frame. The Company should not be compelled to incur the time and expense necessary to complete such a broad and ill-defined review of records or information that may not be relevant to the issues pending before the Department.

Wherefore, the Company requests that the Subpoena issued March 31, 1997 (Exhibit A) be quashed by the Department and the Company be relieved of any obligation to comply with same.

DATED this 4th day of April, 1997.

ROSHOLT, ROBERTSON & TUCKER

By: _____
JAMES C. TUCKER

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SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on this 4th day of April, 1997, I served a copy of the foregoing MOTION TO QUASH SUBPOENA DUCES TECUM, by depositing same in the United States mail, postage prepaid, in an envelope, addressed to the following:

C. Tom Arkoosh
Attorney at Law
P.O. Box 32
Gooding, ID 83330

North Valley Milk
425 N 250 W
Shoshone, ID 83352

Idaho Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

JAMES C. TUCKER

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SEP 12 2000

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Department of Water Resources

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

COPY

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APR 0 4 1997
Department of Water Resources
Southern Region

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	SUBPOENA - DUCES TECUM
and	
IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	

The State of Idaho to: IDAHO POWER COMPANY:

You are hereby commanded to forthwith provide the following items and documents to C. Tom Arkoosh Law Offices, 116 Fourth Avenue West, Post Office Box 32, Gooding, Idaho 83330, on or before April 9, 1997.

1. All records of any type or nature for services existing or installed north of Gooding, Idaho, for North Valley Milk, Inc., Four Brothers Dairy, and Greenhorn Farms.

SUBPOENA

EXHIBIT A

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By Order of the Department of Water Resources.

DATED this 31st day of March, 1997.

~~Hearing Officer~~ Director

SUBPOENA

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SEP 12 2000

TRANSMITTAL COVER SHEET

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TO: Glen Sexton

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1341 Fillmore Street, Suite 200
Twin Falls ID 83301-3380
PHONE: **736-3033**
FAX: **736-3037**

SENDER: Allen Merritt

CHARGES:

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ROSHOLT ROBERTSON & TUCKER
ATTORNEYS AT LAW

142 THIRD AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
(208) 734-0700
FAX (208) 736-0041

FACSIMILE TRANSMISSION

DATE: April 4, 1997

FAX TO: L. Glen Saxton FAX NO. 327-7866

FROM: Jim Tucker

RE: MOTION TO QUASH

NUMBER OF PAGES INCLUDING THIS ONE: 6

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE AT (208) 734-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 734-0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR COOPERATION.

ADDITIONAL MESSAGE: For your information, I have filed this motion today at the Southern Regional IDWR office.

MICROFILMED
SEP 12 2000

JAMES C. TUCKER
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
04049701.JCT/ae

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	**MOTION TO QUASH SUBPOENA DUCES TECUM**
and	
IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	

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3. The Subpoena by seeking "[a]ll records of any type or nature for services existing or installed north of Gooding, Idaho for . . ." is vague, ambiguous, and overly expansive and burdensome. Development of a response to the Subpoena would require that the Company review and assemble "all records" relating to any type of services(s) for an indefinite time frame. The Company should not be compelled to incur the time and expense necessary to complete such a broad and ill-defined review of records or information that may not be relevant to the issues pending before the Department.

Wherefore, the Company requests that the Subpoena issued March 31, 1997 (Exhibit A) be quashed by the Department and the Company be relieved of any obligation to comply with same.

DATED this 4th day of April, 1997.

ROSHOLT, ROBERTSON & TUCKER

By: _____
JAMES C. TUCKER

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SEP 12 2003

CERTIFICATE OF MAILING

I hereby certify that on this 4th day of April, 1997, I served a copy of the foregoing MOTION TO QUASH SUBPOENA DUCES TECUM, by depositing same in the United States mail, postage prepaid, in an envelope, addressed to the following:

C. Tom Arkoosh
Attorney at Law
P.O. Box 32
Gooding, ID 83330

North Valley Milk
425 N 250 W
Shoshone, ID 83352

Idaho Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

JAMES C. TUCKER

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SEP 12 2000

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MAR 3 1 1997
Department of Water Resources

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

COPY

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4722 OF WATER RIGHT) SUBPOENA
37-07575B IN THE NAME OF NORTH) - DUCES TECUM
VALLEY MILK, INC.)
and)
IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4723 OF WATER RIGHT)
37-07575C IN THE NAME OF NORTH)
VALLEY MILK, INC.)

The State of Idaho to: IDAHO POWER COMPANY:

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SUBPOENA

EXHIBIT A

MICROFILMED
SEP 12 2000

By Order of the Department of Water Resources.

DATED this 31st day of March, 1997.

~~Hearing Officer~~ - Director

SUBPOENA

MICROFILMED
SEP 12 2000

RECEIVED
APR 0 7 1997
Department of Water Resources

C. Tom Arkoosh
LAWYER
POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

April 3, 1997

VIA FACSIMILE
ORIGINAL TO FOLLOW BY MAIL

L. Glenn Saxton, Chief
Water Allocation Bureau
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

In re: In the Matter or Application For Transfer Nos. 4722 and 4723
In the Name of North Valley Milk, Inc.

Dear Mr. Saxton:

I have reviewed your letter of April 3, 1997.

The timing of the subpoena, I believe, is irrelevant to whether or not we have the hearing on April 10.

The real problem here is that at the pretrial in this matter in August, we were promised the report of the Claimant's expert by September 9. It came approximately five (5) months later, during the Legislative session. Our expert, Sherl Chapman, is engaged during the entire legislative session. After the Claimants had finished their work, they wrote the Department after a delay in excess of a year, insisting a hearing be set. When the hearing was set, I explained to the Department that I did not believe that Mr. Sherl Chapman could process the work he needed to do in the time frame subsequent to March and prior to the hearing. That has turned out to be exactly correct.

MICROFILMED
SEP 12 2000

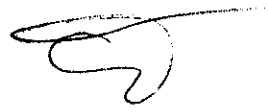
We expect to be prepared to go to hearing on April 10, except for the question of an expert. If we are prevented from having an expert because the actions of the claimant, and the subsequent scheduling at the request of the claimant over our objection, without some showing of necessity or prejudice, I believe we are being denied adequate process rights. I am not sure that Mr. Chapman will have had adequate time to complete his work. I am quite sure that Mr. Williams will not have been able to have taken Mr. Chapman's deposition by then, which he wants to do.

I am entirely unclear why a thirty (30) day delay in this matter at one of the Protestant's requests in a circumstance created entirely by the Claimant would prejudice anybody. I cannot tell you whether Mr. Williams objects or does not object because he is unavailable.

I would ask for you to reconsider the determination set forth in your letter of April 3, 1997, whether or not the parties can agree to a continuance.

Let me add one more difficulty. Bonnie Arkoosh, a Protestant herein, will not be able to attend the hearing on April 10th. She will have an exploratory surgery in Boise on April 8th. We learned of this today. I do not object to going ahead without her, but it is a matter to consider.

Sincerely yours,



C. Tom Arkoosh

CTA/bsb
cc: Robert Williams
Leslie Renner
John and Doris Robertson
Allen Merritt
C:\OFFICE\WPWIN\WPDOCS\DATA\ARKOOSH.BON\NORTHVAL\SAXTON.LTR

MICROFILMED
SEP 12 2000

FAX TRANSMISSION

LAW OFFICES
116 4TH AVE. W., P.O. BOX 32
GOODING, ID 83330
(208) 934-8872
FAX: (208) 934-8873

To: L. Glenn Saxton **Date:** April 3, 1997

Fax #: (208) 327-7866 **Pages:** 3, including cover

From: C. Tom Arkoosh

Subject: North Valley Milk Transfers

COMMENTS:

CONFIDENTIALITY NOTE
The documents accompanying this telecopy transmission contain information from C. Tom Arkoosh which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this telecopied information is prohibited. If you have received this telecopy in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

IF ALL PAGES ARE NOT RECEIVED, PLEASE TELEPHONE (208)934-8872

OR TELECOPY MESSAGE TO US AT (208) 934-8873.

THANK YOU

TELECOPY OPERATOR: Brenda Battles

TIME SENT: _____ A.M. 5:21 P.M.

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SEP 12 2008

C. Tom Arkoosh
LAWYER
POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

April 3, 1997

VIA FACSIMILE
ORIGINAL TO FOLLOW BY MAIL

L. Glenn Saxton, Chief
Water Allocation Bureau
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

In re: In the Matter or Application For Transfer Nos. 4722 and 4723
In the Name of North Valley Milk, Inc.

Dear Mr. Saxton:

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? ask Allen M. about this since many could not find anything in their water file.

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SEP 12 2000

We expect to be prepared to go to hearing on April 10, except for the question of an expert. If we are prevented from having an expert because the actions of the claimant, and the subsequent scheduling at the request of the claimant over our objection, without some showing of necessity or prejudice, I believe we are being denied adequate process rights. I am not sure that Mr. Chapman will have had adequate time to complete his work. I am quite sure that Mr. Williams will not have been able to have taken Mr. Chapman's deposition by then, which he wants to do.

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Sincerely yours,

C. Tom Arkoosh

CTA/bsh
cc: Robert Williams
Leslie Renner
John and Doris Robertson
Allen Merritt
C:\OFFICE\WPWIN\WPDOCS\DATA\ARKOOSH.BON\NORTHVAL\SAXTON.LTR

MICROFILMED
SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 3, 1997

C. Tom Arkoosh
P.O. Box 32
116 Fourth Ave. W.
Gooding, ID 83330

RE: IN THE MATTER OR APPLICATION FOR TRANSFER NOS. 4722 AND 4723 IN THE NAME OF NORTH VALLEY MILK, INC.

Dear Mr. Arkoosh:

In view of the short time frame before the hearing scheduled on April 10, 1997 in the above referenced matter, I tried to set up a conference call today between you and Robert Williams in connection with the Motion to Vacate and Reset Hearing (motion) which you filed with the department today (April 3, 1997). The department was advised that Mr. Williams will not be available until Monday, April 7, 1997.

I am not inclined to grant the motion. On March 31, 1997, the department granted your request dated March 27, 1997 to issue a subpoena to Idaho Power Company to produce certain information for the hearing. It is not clear what has changed within the last week to now seek a delay in the hearing.

I can't determine from the Certificate of Service which accompanied your motion that you have served Leslie Renner and John and Doris Robertson who are the other protestants in the matter.

If, however, you are able to work out some agreement with Mr. Williams and the other protestants for delay of the hearing, agree on a date to reschedule the hearing and advise me of such agreement not later than 4:00 p.m. on Monday, April 7, 1997, I will vacate the hearing set for April 10, 1997. If you are unable to work out an agreement, please plan on the hearing as scheduled.

Sincerely,

L. Glen Saxton

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: Robert Williams
Leslie Renner
John and Doris Robertson
Allen Merritt

MICROFILMED
SEP 12 2000

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 1, 1997

C. Tom Arkoosh
P.O. Box 32
Gooding, ID 83330

RE: IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 AND 4723 IN THE NAME OF NORTH VALLEY MILK, INC.

Dear Mr. Arkoosh:

Enclosed is a copy of a Subpoena issued by the Director of the Department of Water Resources in connection with the above referenced matter.

By copy of this letter, I am forwarding a copy of your correspondence dated March 27, 1997 which requested issuance of a Subpoena and a copy of the signed Subpoena to the other parties in the above referenced matter. I am forwarding the copies rather than requiring you to do so, since I can not determine from your submittal that you have served a copy upon all the parties as you are required to do by IDAPA Rule 37.01.01302 (Rule of Procedure 302) and due to the short time left before the hearing scheduled on April 10, 1997 in Gooding.

If you have questions, please feel free to contact me.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 2

c: North Valley Milk
Robert E. Williams
John and Doris Robertson
Leslie Renner
Idaho Power Company
IDWR - S. Region

MICROFILMED
SEP 12 2000

TRANSMITTAL COVER SHEET

OMNIFAX G66

TO: Glen Saxton

TOTAL PAGES SENT: 4

DOCUMENT DESCRIPTION: More info Re: NV Milk

FROM: IDAHO DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls ID 83301-3380

PHONE: 736-3033
FAX: 736-3037

SENDER: Mary

CHARGES:

One (1) free copy per request, cover sheet not counted. Two (2) or more copies per request will cost $0.25 per page. ($0.50 minimum)

Please consider this document as a billing statement.

The charge for your fax copies is: _____
Please remit to the above address.

COMMENTS: Glen - Jim Stanton knew by this fax received on 4/2/97 that he put in Allen's office. This may change your decision.

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SEP 12 2000

FAX TRANSMISSION

LAW OFFICES
116 4th Ave. W., P.O. Box 32
Gooding, ID 83330
(208) 934-8872
Fax: (208) 934-8873

To: DEPT OF WATER RESOURCES
ATTN: WATER ALLOCATIONS

Date: April 2, 1997

Fax #: 736-3037

Pages: 3 (including cover page)

From: C. TOM ARKOOSH

Subject: APPLICATION FOR TRANSFER OF WATER RIGHT IN THE NAME OF NORTH VALLEY MILK, INC.

COMMENTS:

CONFIDENTIALITY NOTE

The documents accompanying this telecopy transmission contain information from C. Tom Arkoosh which is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this telecopied information is prohibited. If you have received this telecopy in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

IF ALL PAGES ARE NOT RECEIVED, PLEASE TELEPHONE (208)934-8872

OR TELECOPY MESSAGE TO US AT (208) 934-8873.

THANK YOU

TELECOPY OPERATOR: _____

TIME SENT: _____ A.M. _____ P.M.

RECEIVED
APR 02 1997
Department of Water Resources
Southern Region

MICROFILMED
SEP 12 2000

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	AFFIDAVIT IN SUPPORT OF MOTION TO VACATE AND RESET HEARING
and	
IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	

STATE OF IDAHO)
:ss.
County of _____)

COMES NOW, Sherl Chapman, and upon his oath and by his personal knowledge deposes and says:

1. I am Sherl Chapman, an Hydrogeologist, employed in the field of Hydrogeology since 1967. I have been in the consulting field since 1974. I have been

MICROFILMED
SEP 12 2000

engaged by the Protestant in the above entitled matter to report upon the Claimant's request for transfer of water right.

2. That during the months of January, February and March, due to my job as Public Affairs Director for the Idaho Water Users Association, I am heavily engaged with the Idaho Legislature which is in session during this period of time.

3. That, although I was engaged prior to the Legislative Session, I have not been able to review this water right nor the report of Charles Brockway prior to that time period.

4. That the Legislative Session has now concluded, and I have time to do the work for which I was engaged, commencing with a review of the real property and water rights.

5. That I anticipate needing another thirty (30) days subsequent to the hearing now set on April 10, 1997, in order to successfully complete my work.

FURTHER YOUR AFFIANT SAYETH NOT

Dated this 1 day of April, 1997.

Sheri Chapman

"State of Idaho)
) ss
County of Ada)

I, [illegible], a notary public, do hereby certify that on this 1 day of April, 1997, personally appeared before me Sheri Chapman who, being by me first duly sworn, declared that he is the above of [illegible] and that he signed the foregoing document as [illegible], and that the statements therein contained are true."

[illegible] (official signature and seal)

Residing at Boise, Idaho
My commission expires [illegible]

MICROFILMED
SEP 12 2003

TRANSMITTAL COVER SHEET

OMNIFAX G66

TO: Glen Saxton

TOTAL PAGES SENT: 6

DOCUMENT DESCRIPTION: Motion to Vacate & Re-set Hearing

Re: IT 4722, 4723 - North Valley Milk
37-07575 ~~Parts~~ Parts

FROM: IDAHO DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls ID 83301-3380

PHONE: 736-3033
FAX: 736-3037

SENDER: Mary

CHARGES:

One (1) free copy per request, cover sheet not counted. Two (2) or more copies per request will cost $0.25 per page. ($0.50 minimum)

Please consider this document as a billing statement.

The charge for your fax copies is: _____
Please remit to the above address.

COMMENTS: Allen is out of office until 4/7. Thought you might want to reply to this as soon as possible.

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SEP 12 2000

RECEIVED
APR 03 1997
Department of Water Resources
Southern Region

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4722 OF WATER RIGHT)
37-07575B IN THE NAME OF NORTH)
VALLEY MILK, INC.)
and)
IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4723 OF WATER RIGHT)
37-07575C IN THE NAME OF NORTH)
VALLEY MILK, INC.)

MOTION TO VACATE
AND RESET HEARING

COMES NOW, the Protestant in the above entitled action and respectfully moves the Department for its Order vacating the hearing in the above matter set for April 10, 1997, and resetting the same within a thirty (30) day time frame. This Motion is made for the reason that the report of the Claimant's expert was not provided us as committed at pretrial herein; and, consequently, Protestant's expert has not been able to do his review and report thereon, as set forth in the Affidavits filed herewith.

MICROFILMED
SEP 12 2000

DATED this 1st day of April, 1997.

C. Tom Arkoosh

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of April, 1997, I served a true and correct copy of the foregoing document upon the following persons, by causing to be deposited a copy thereof in the United States Mail, first class postage prepaid:

ROBERT E. WILLIAMS, III
Post Office Box 168
Jerome, Idaho 83338

C. Tom Arkoosh

MICROFILMED
SEP 12 2000

Telephone: (208) 934-8872

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC. and IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	AFFIDAVIT IN SUPPORT OF MOTION TO VACATE AND RESET HEARING

STATE OF IDAHO)
:ss.
County of Gooding)

COMES NOW, C. Tom Arkoosh, and on his oath and by his personal knowledge deposes and says:

1. That at the pretrial in the above entitled matter held on August 21, 1996, the Claimant committed his report from Charles Brockway would be given to the Protestants on or before September 9th, 1996.

MICROFILMED
SEP 12 2000

2. That said report was not provided until on or about December 30, 1996.

3. That during the period of January until March, Protestants expert, Hydrologist Sherl Chapman, is engaged in public affairs during the Idaho Legislative session.

4. That your affiant informed the Department and Claimants of this prior engagement.

5. That due to this engagement, Sherl Chapman has not been able to make his review and report thereon.

6. That Sherl Chapman has an appointment to review the real property and water rights involved herein on Friday, April 4, 1997. That in that circumstance, he will not be able to timely report for the hearing scheduled for April 10, 1997. That an extra thirty (30) days should provide sufficient time for Sherl Chapman to do his contemplated work.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated this 14th day of April, 1997.

C. Tom Arkoosh

MICROFILMED
SEP 12 2006

SUBSCRIBED AND SWORN to before me this 1st day of April, 1997.

Brenda S. Patterson
NOTARY PUBLIC FOR IDAHO
Residing at: Gooding Ida.
My Commission Expires: 3/15/98

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SEP 12 2000

FAX TRANSMISSION

LAW OFFICES
116 4TH AVE. W., P.O. BOX 32
GOODING, ID 83330
(208) 934-8872
FAX: (208) 934-8873

To: DEPT OF WATER RESOURCES
ATTN: WATER ALLOCATIONS

Date: April 2, 1997

Fax #: 736-3037

Pages: 3 (including cover page)

From: C. TOM ARKOOSH

Subject: APPLICATION FOR TRANSFER OF WATER RIGHT IN THE NAME OF NORTH VALLEY MILK, INC.

COMMENTS:

CONFIDENTIALITY NOTE
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OR TELECOPY MESSAGE TO US AT (208) 934-8873.

THANK YOU

TELECOPY OPERATOR: _____

TIME SENT: _____ A.M. _____ P.M.

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APR 02 1997
Department of Water Resources
Southern Region

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SEP 12 2000

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8672

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	AFFIDAVIT IN SUPPORT OF MOTION TO VACATE AND RESET HEARING
and	
IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	

STATE OF IDAHO)
:ss.
County of _____)

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1. I am Sherl Chapman, an Hydrogeologist, employed in the field of Hydrogeology since 1967. I have been in the consulting field since 1974. I have been

MICROFILMED
SEP 12 2008

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2. That during the months of January, February and March, due to my job as Public Affairs Director for the Idaho Water Users Association, I am heavily engaged with the Idaho Legislature which is in session during this period of time.

3. That, although I was engaged prior to the Legislative Sesssion, I have not been able to review this water right nor the report of Charles Brockway prior to that time period.

4. That the Legislative Session has now concluded, and I have time to do the work for which I was engaged, commencing with a review of the real property and water rights.

5. That I anticipate needing another thirty (30) days subsequent to the hearing now set on April 10, 1997, in order to successfully complete my work.

FURTHER YOUR AFFIANT SAYETH NOT

Dated this 1 day of April, 1997.

Sheri Chapman

"State of Idaho)
) ss
County of Ada)

I, Roger Clute, a notary public, do hereby certify that on this 1 day of April, 1997 personally appeared before me Sheri Chapman, who, being by me first duly sworn, declared that he is the Above ~~of the corporation~~ and that he signed the foregoing document as ~~of the corporation~~, and that the statements therein contained are true."

Roger Clute (official signature and seal)

Residing at Boise, Idaho
My commission expires 10/22/2000

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SEP 12 2000

RECEIVED
MAR 3 1 1997
Department of Water Resources

C. TOM ARKOOSH
Attorney at Law
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872

COPY

ATTORNEY FOR PROTESTANT BONNIE ARKOOSH

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4722 OF WATER RIGHT 37-07575B IN THE NAME OF NORTH VALLEY MILK, INC.	SUBPOENA - DUCES TECUM
and	
IN THE MATTER OF APPLICATION FOR TRANSFER NO. 4723 OF WATER RIGHT 37-07575C IN THE NAME OF NORTH VALLEY MILK, INC.	

The State of Idaho to: IDAHO POWER COMPANY:

You are hereby commanded to forthwith provide the following items and documents to C. Tom Arkoosh Law Offices, 116 Fourth Avenue West, Post Office Box 32, Gooding, Idaho 83330, on or before April 9. 1997.

1. All records of any type or nature for services existing or installed north of Gooding, Idaho, for North Valley Milk, Inc., Four Brothers Dairy, and Greenhorn Farms.

MICROFILMED
SEP 1 2 2000

By Order of the Department of Water Resources.

DATED this 31st day of March, 1997.

~~Hearing Officer~~ Director

SUBPOENA

MICROFILMED
SEP 12 2000

TO: File DATE: March 27, 1997

FROM: Jim Stanton

SUBJECT: Apps. for Transfer #4722 & 4723, North Valley Milk

Yesterday I got a call from attorney Tom Arkoosh regarding these transfers. He disagreed with my conclusion that the underlying water right is still valid based on power records supplied by IPCO. I faxed him the 1990-91 record that was the basis of my conclusion. I then called Idaho Power in order to verify that the record applied to the well instead of to the nearby canal pump. Kelly in their Boise office checked their records, and also talked to their field man in the Gooding office, but could not say which pump the record applied to. Their billing format has changed, and the old records have been destroyed, so she wasn't able to interpret the record I had (which I had faxed to her). I tried to make it clear to IPCO when I got these records that I only wanted the well data, and as far as I knew thats what they sent me. But now I'm not sure.

MICROFILMED

SEP 1 2 2000

C. Tom Arkoosh
LAWYER
POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

RECEIVED
MAR 3 1 1997
Department of Water Resources

March 27, 1997

Department of Water Resources
1301 North Orchard
Boise, Idaho 83706
Attn: Glenn Saxton

In re: Issuance of Subpoena

Dear Mr. Saxton:

Enclosed please find an original Subpoena. Please issue and return to this office in the envelope provided. Also, please conform a copy and mail in the envelope provided to Idaho Power to expedite their preparation of the documents.

If you have any questions, do not hesitate to contact this office. Thank you for your time and consideration to this matter.

Sincerely yours,

Brenda Butler

Secretary to C. Tom Arkoosh

CTA/bsb
Encl.
C:\OFFICE\WPWIN\WPDOCS\DATA\ARKOOSH.BON\NORTHVAL\DEPTWRES.LTR

MICROFILMED
SEP 1 2 2000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 27, 1997

Robert E. Williams
PO Box 168
Jerome, ID
83338

RE: Application for Transfer #4723, North Valley Milk Inc.

Dear Mr. Williams;

Per your request, enclosed is a copy of the above-referenced application. I hope this will be useful in your discussions with Mr. Fitzgerald and Dr. Brockway. While reviewing the file after we spoke on this matter, I noticed that 0.15 cfs is the theoretical capacity of the 7.5 hp pump that the Mr. Fitzgerald is using in the Wendell dairy. So it makes sense to transfer enough water to cover the operation of this system.

Regards,

James E. Stanton
Sr. Water Resource Agent

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SEP 12 2000

RECEIVED
JAN 2 4 1997
DEPARTMENT OF WATER RESOURCES

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 4722 & 4723 WATER RIGHT NO. 37-07575 PARTS	)	NOTICE OF HEARING
NORTH VALLEY MILK, INC. Applicant	)	
JOHN & DORIS ROBERTSON, LESLIE RENNER, AND BONNIE ARKOOSH, Protestants	)	SOURCE: Groundwater COUNTY: Gooding

North Valley Milk, Inc., applicant, has filed with the Department of Water Resources two (2) applications to transfer the public waters of the State of Idaho. On April 19, 1995, Transfer No. 4722 was filed and AMENDED on January 8, 1996. On May 3, 1995 Transfer No. 4723 was filed.

The Department has received protests against the approval of said applications from the above captioned protestants. The conferences held on February 28, 1996 and August 20, 1996 did not resolve the matter.

THEREFORE, The Department has set the matter for Hearing on **Thursday, April 10, 1997 at 10:00 a.m. in Room 1, Round Building-Idaho School for Deaf and Blind; 1450 Main Street-Gooding, ID.**

The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the department. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Glen L. Saxton.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 22nd day of January, 1997.

Allen D. Merritt, P.E. - Regional Manager

MICROFILMED
SEP 12 2000

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of January, 1997 a true and correct copy of the Notice of Hearing was forwarded with all required charges prepared, by the method indicated below, to the parties listed:

Mary Baldwin
Secretary

ANDREW FITZGERALD SEC-TREAS NORTH VALLEY MILK INC 425 N 250 W SHOSHONE ID 83352	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
ROBERT E WILLIAMS ESQ 117 S ADAMS ST JEROME ID 83338	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
BONNIE ARKOOSH C/O C TOM ARKOOSH ESQ PO BOX 32 GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
LESLIE RENNER 2254 E 1300 S GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____
JOHN & DORIS ROBERTSON 1326 S 2100 E GOODING ID 83330	Hand delivered U.S. Mail-Regular U.S. Mail-Certified Fax	____ ____ __x__ ____

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NAME AND ADDRESS OF SENDER

Indicate type of mail
☐ Registered
☐ Insured
☐ COD
☐ Certified ☐ Express Mail

Check appropriate block for Registered Mail:
☐ With Postal Insurance
☐ Without Postal Insurance

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee	Rest. Del. Fee / Remarks
1	1685	Walker Water Systems GF-10/11/96	.32	1.60	1.10	2.52						
2	1686	Walker Water Systems AM-10/15/96	.32	1.10	1.10	2.52						
3	1687	Greg Smith JS-10/22/96	.32	1.10	1.10	2.52						
4	1688	Greg Smith AM-12/2/97	~~.55~~	1.10	1.10	2.~~55~~			1997			
5	1689	Gary Slette (ESQ) AM-1/10/97 Gregory TR	.32	1.10	1.10	2.52						
6	1690	Blaine Co. P+Z Leonard Harley										
7	1691 (3)	Doug Werth (ESQ)										
8	1692	Gary Slette (ESQ) AM-1/22/97 Gregory TR	.32	1.10	1.10	2.52						
9	1693	Blaine Co. P+Z Leonard Harley										
10	1694 (3)	Doug Werth (ESQ)										
11	✓ 1695	Andrew Fitzgerald AM-1/22/97 North Valley Milk NV Milk TR	.32	1.10	1.10	2.52						
12	✓ 1696	Bonnie Arkbosh c/o C. Tom Arkbosh (ESQ)										
13	✓ 1697	Leslie Renner										
14	✓ 1698	John + Doris Robertson										
15	✓ 1699 (6)	Robert E. Williams (ESQ)										

Total Number of Pieces Listed by Sender

Total Number of Pieces Received at Post Office

POSTMASTER, PER *(Name of receiving employee)*

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail document reconstruction insurance is $50,000 per piece subject to a limit of $500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is $500. The maximum indemnity payable is $25,000 for Registered Mail, $400 for COD and $400 for Insured Mail. Special handling charges apply only to Third- and Fourth-Class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

MICROFILMED DEC 12 2000

☆ U.S. GOVERNMENT PRINTING OFFICE: 1984-445-138

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: NV Milk TR

ANDREW FITZGERALD SEC-TRE
NORTH VALLEY MILK INC
425 N 250 W
SHOSHONE ID 83352

4a. Article Number 1695

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery 1-23-97

5. Signature (Addressee) Andrew T. Fitzgerald

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form **3811**, December 1991 ☆U.S. GPO: 1992—323-402 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE





Official Business

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, $300

RECEIVED

JAN 24 1997

Department of Water Resources
Southern Region

MICROFILMED

SEP 12 2000

Print your name, address and ZIP Code here

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra *fee*):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: NV milk TR

BONNIE ARKOOSH
C/O C TOM ARKOOSH ESQ
PO BOX 32
GOODING ID 83330

MICROFILMED

4a. Article Number 1696

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery 1-24-97

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent) Stephi Brown

PS Form **3811**, December 1991 ☆U.S. GPO: 1992—323-402 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

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JAN 27 1997

Department of Water Resources
Southern Region

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

U.S. MAIL

Print your name, address and ZIP Code here

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380

MICROFILMED

SEP 12 2000

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
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- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: NU melk TR

LESLIE RENNER
2254 E 1300 S
GOODING ID 83330

MICROFILMED

4a. Article Number 1697

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery 1-23-97

5. Signature (Addressee) John Renner

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form **3811**, December 1991 ☆U.S. GPO: 1992—323-402 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, $300

U.S. MAIL

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JAN 24 1997
Department of Water Resources
Southern Region

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SEP 12 2000

Print your name, address and ZIP Code here

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380

s your RETURN ADDRESS completed on the reverse side?

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: NV Milk Tr.

JOHN & DORIS ROBERTSON
1326 S 2100 E
GOODING ID 83330

4a. Article Number 1698

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

SEP 12 2000

7. Date of Delivery 1-24-97

5. Signature (Addressee) X Doris Robertson

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

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PS Form **3811**, December 1991 ☆U.S. GPO: 1992—323-402 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

U.S. MAIL

RECEIVED

JAN 27 1997

Department of Water Resources
Southern Region

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SEP 12 2000

Print your name, address and ZIP Code here

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380

s your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: NV milk TR

ROBERT E WILLIAMS ESQ
117 S ADAMS ST
JEROME ID 83338

4a. Article Number 1699

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee) D. Lewis

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

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PS Form **3811**, December 1991 ☆U.S. GPO: 1992—323-402 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

JAN 27 1997

Department of Water Resources
Southern Region

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

U.S. MAIL

Print your name, address and ZIP Code here

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SEP 12 2000

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380

State of Ida.
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 22, 1997

ATTN LEONA PATTERSON
ADMINISTRATION BLDG
ID SCHOOL FOR DEAF & BLIND
1450 MAIN
GOODING ID 83330

Dear Leona:

The purpose of this letter is to confirm the reservation of Room 1, in the Round Building for a meeting to be held by this office on Thursday-April 10, 1997 from 10:00 a.m.- 5:00 p.m.

If you have any questions please feel free to contact me or Allen Merritt, Southern Regional Office Manager.

Thank you very much for your assistance in this matter.

Very truly yours,

Mary Baldwin
Senior Secretary

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SEP 12 2000

From: DWR03::DWR60::AMERRITT 14-JAN-1997 17:03
To: DWR03::GSAXTON
CC: AMERRITT
Subj: REVIEW OF FIRST TWO NORTH VALLEY MILK TRANSFERS #4722 & #4723

I HAVE REVIEWED THE FILES AND IT APPEARS THAT THE APPLICANT HAS ON PURPOSE REDUCED THE FLOW RATE. IT APPEARS HE HAS DONE THIS SINCE HIS EXISTING IRRIGATION WELL HAS BEEN MODIFIED FOR SPRINKLER IRRIGATION TO A DESIGNATED SITE WHOSE PROPORTIONATE SHARE OF THE RIGHT IS APPROXIMATELY 1.38 CFS. INFORMATION IS THE WELL HAS BEEN MODIFIED WITH CAPACITY OF 1.2 CFS.
I UNDERSTAND THE MODIFICATION OF THE WELL IS FAIRLY RECENT SO ABANDONMENT MAY NOT BE AN ISSUE HOWEVER AT ISSUE WILL PROBABLY BE CONVERTING A "SUPPLEMENTAL" WELL TO A "PRIMARY" WELL.

I HAVE COPIED PROTESTS AND A LETTER I SENT TO ARKOOSH AND HAVE SENT IN MAIL.

ALLEN

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SEP 12 2000

Applicants

Exhibits

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SEP 12 2000

Department of Water Resources
APPLICANT'S
Exhibit 1
Date Admitted 4/10/97

Four Brothers Dairy
Local Water Budget or Consumptive Ulse Analysis Typical Year
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U from Well Right		Projected C U from Well Right			
	Original farm af/year**	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354		69	0	0	
Stockwater CU				78	35	
Commercial CU				28	13	
Irrigation CU	498	**498**	226	106	47	**379**

*From IDWR Dairy Use Worksheet
In a typical year, Big Wood water right terminated on July 1 and AMF#2 supplemental right is on
Big Wood River water right with a priority of 1886 right is for 265 inches on 384 acres= 0.69 in/acre
Supplemental AMF #2 right is for 175 inches on 384 acres= 0.46 in/acre
At 1 inch per acre, Big Wood River right supplies 69.0% of the water requirement when it is on
At 1 inch per acre, AMF #2 right supplies 45.6% of the water requirement when it is on
***Well will provide 100%of irrigation demand for these acres
Well provided **42.9% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares
Based on Allen & Brockway 1983 Consumptive Use for Idaho
Average Monthly ET Shoshone WNW station

	April	May	June	July	Aug	Sept	Oct	Annual
Avg Daily mm	3.07	6.00	7.10	6.72	5.12	3.44	1.20	
Avg Monthly ft	0.302	0.610	0.699	0.683	0.521	0.339	0.122	3.276
% of annual	9.2%	18.6%	21.3%	20.9%	15.9%	10.3%	3.7%	100.0%
Acc. %	9.2%	27.9%	49.2%	70.0%	85.9%	96.3%	100.0%	
Big Wood %annua	6.4%	12.9%	14.7%	0	0	0		**33.9%**
AMF#2 % annual	0.0%	0.0%	0.0%	9.5%	7.2%	4.7%	1.7%	**23.2%**
Well % annual	2.9%	5.8%	6.6%	11.4%	8.7%	5.6%	2.0%	**42.9%**
							total	100.0%

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Four Brothers Dairy
Regional Annual Water Budget or Consumptive Use Analysis Typical Year
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U				Projected C U			
	Original farm af/year**	Dairy Site Sec 10 af/year	Dairy Site Wendell af/year	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354	56	20		69	0	0	
Stockwater CU						78	35	
Commercial CU						28	13	
Irrigation CU	497	183	66	**746**	226			**379**

*From IDWR Dairy Use Worksheet
***Well will provide 100%of irrigation demand for these acres
**Well provided 42.9% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares

Δ = 367

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Four Brothers Dairy
Local Water Budget or Consumptive Ulse Analysis **Drought Year**
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U from Well Right		Projected C U from Well Right			
	Original farm af/year**	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354		69	0	0	
Stockwater CU				78	35	
Commercial CU				28	13	
Irrigation CU	631	**631**	226	106	47	**379**

*From IDWR Dairy Use ~~Worksheet~~
In a drought year, Big Wood water right is never on and AMF#2 supplemental right is on
Big Wood River water right with a priority of 1886 right is for 265 inches on 384 acres= 0.69 in/acre
Supplemental AMF #2 right is for 175 inches on 384 acres= 0.46 in/acre
At 1 inch per acre, Big Wood River right supplies 69.0% of the water requirement when it is on
At 1 inch per acre, AMF #2 right supplies 45.6% of the water requirement when it is on
***Well will provide 100%of irrigation demand for these acres
**Well provided 54.4% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares
Based on Allen & Brockway 1983 Consumptive Use for Idaho
Average Monthly ET Shoshone WNW station

	April	May	June	July	Aug	Sept	Oct	Annual
Avg Daily mm	3.07	6.00	7.10	6.72	5.12	3.44	1.20	
Avg Monthly ft	0.302	0.610	0.699	0.683	0.521	0.339	0.122	3.276
% of annual	9.2%	18.6%	21.3%	20.9%	15.9%	10.3%	3.7%	100.0%
Acc. %	9.2%	27.9%	49.2%	70.0%	85.9%	96.3%	100.0%	
Big Wood %annua	0	0	0	0	0	0		0.0%
AMF#2 % annual	4.2%	8.5%	9.7%	9.5%	7.2%	4.7%	1.7%	**45.6%**
Well % annual	5.0%	10.1%	11.6%	11.4%	8.7%	5.6%	2.0%	**54.4%**
							total	100.0%

Department of Water Resources
APPLICANT'S
Exhibit 2
Date Admitted 9/10/02

SEP 17 2000
SEP 12 2000
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Four Brothers Dairy
Regional Annual Water Budget or Consumptive Use Analysis *Drought Year*
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U				Projected C U			
	Original farm af/year**	Dairy Site Sec 10 af/year	Dairy Site Wendell af/year	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354	56	20		69	0	0	
Stockwater CU						78	35	
Commercial CU						28	13	
Irrigation CU	631	183	66	**880**	226			**379**

354 $(\frac{39.3}{12})$ .544

*From IDWR Dairy Use Worksheet
***Well will provide 100%of irrigation demand for these acres
**Well provided 54.4% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares

D-501

MICROFILMED
SEP 17 2000

WATER DISTRICT #37 & 37-M

CANAL NAME UNION CANAL NUMBER 27 1992

OWNER BONNIE ARKOOSH

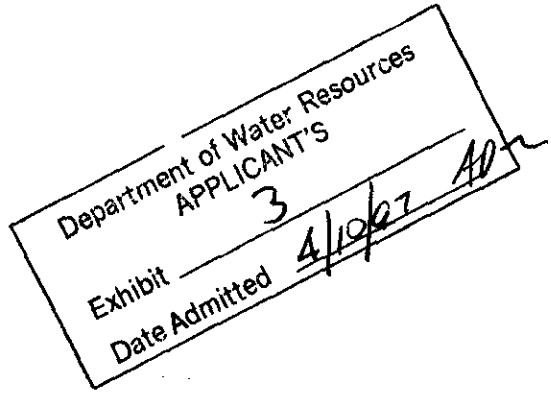
DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DATE
1			2.50	2.50	2.50		1
2			2.50	2.50	2.50		2
3		3.20	2.50	2.50	2.50		3
4		3.20	2.50	2.50	2.50		4
5		3.20	2.50	2.50	2.50		5
6		3.20	2.50	2.50	2.50		6
7		3.20	2.50	2.50	2.50		7
8		3.20	2.50	2.50	2.50		8
9		3.20	2.50	2.50	2.50	2.30	9
10		3.20	2.50	2.50	2.50	2.30	10
11		3.20	2.50	2.50	2.50	2.30	11
12		3.20	2.50	2.50	2.50	2.30	12
13	Priority Cut	3.20 Cut	2.50	2.50	2.50	2.30	13
14	5/13/1992	3.20	2.50	2.50	2.50	2.30	14
15		3.20	2.50	2.50	2.50	2.30	15
16		3.20	2.50	2.50	2.50	2.30	16
17		3.20	2.50	2.50	2.50	2.30	17
18		3.20	2.50	2.50	2.50	2.30	18
19		3.20	2.50	2.50	2.50	2.30	19
20		3.20	2.50	2.50	2.50		20
21		3.20	2.50	2.50	2.50		21
22		3.20	2.50	2.50	2.50		22
23		3.20	2.50	2.50	2.50		23
24		2.50	2.50	2.50	2.50		24
25		2.50	2.50	2.50	2.50		25
26		2.50	2.50	2.50	2.50		26
27		2.50	2.50	2.50	2.50		27
28		2.50	2.50	2.50	2.50		28
29		2.50	2.50	2.50	2.50		29
30		2.50	2.50	2.50	2.50		30
31		2.50		2.50	2.50		31
TOTAL	0.00	87.20	75.00	77.50	77.50	25.30	

YEARLY C.F.S. 342.50

YEARLY ACRE FEET 678.15

TOTAL NO. OF DAYS 132

YEARLY MEAN 2.59



MICROFILMED
SEP 12 2000

WATER DISTRICT #37 & 37-M

CANAL NAME UNION CANAL NUMBER 27 1993

OWNER BONNIE ARKOOSH

DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DATE
1				0.50	0.50	0.50	1
2				0.50	0.50 Cut	0.50	2
3				0.50	0.50	0.50	3
4	Priority Cut 8/2/1993			0.50	0.50	0.50	4
5				0.50	0.50	0.50	5
6				0.50	0.50	0.50	6
7				0.50	0.50	0.50	7
8				0.50	0.50	0.50	8
9				0.50	0.50	0.50	9
10					0.50	0.50	10
11					0.50	0.50	11
12					0.50	0.50	12
13					0.50	0.50	13
14					0.50	0.50	14
15				0.50	0.50	0.50	15
16				0.50	0.50	0.50	16
17				0.50	0.50	0.50	17
18				0.50	0.50	0.50	18
19				0.50	0.50	0.50	19
20				0.50	0.50	0.50	20
21				0.50	0.50	0.50	21
22				0.50	0.50	0.50	22
23				0.50	0.50	0.50	23
24				0.50	0.50	0.50	24
25				0.50	0.50	0.50	25
26				0.50	0.50	0.50	26
27				0.50	0.50	0.50	27
28				0.50	0.50	0.50	28
29				0.50	0.50	0.50	29
30			0.50	0.50	0.50	0.50	30
31				0.50	0.50		31
TOTAL	0.00	0.00	0.50	13.00	15.50	15.00	
MEAN							
A. F.	0	0	0.99	25.74	30.69	29.7	

YEARLY C.F.S. 44.00

YEARLY ACRE FEET 87.12

TOTAL NO. OF DAYS 88

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WATER DISTRICT #37 & 37-M

CANAL NAME UNION CANAL NUMBER 0027 1994

OWNER NORTH VALLEY MILK

DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DATE
1							1
2							2
3					1.20		3
4					1.20		4
5					1.20		5
6					1.60		6
7					1.60		7
8					1.60		8
9					1.60		9
10					2.00		10
11					2.00		11
12					2.00		12
13					2.00		13
14					2.00		14
15					2.00		15
16					2.00		16
17					2.00		17
18	Priority Cut				2.00		18
19					2.00		19
20					2.00		20
21							21
22							22
23							23
24							24
25							25
26							26
27							27
28							28
29							29
30							30
31							31
TOTAL	0.00	0.00	0.00	0.00	32.00	0.00	

YEARLY C.F.S. 32.00

YEARLY ACRE FEET 63.36

TOTAL NO. OF DAYS 18

YEARLY MEAN 1.78

78

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WATER DISTRICT #37 & 37-M

CANAL NAME UNION CANAL NUMBER 0027

OWNER NORTH VALLEY MILK 1995

DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DAT
1			2.80	2.80	2.80	2.80	
2			2.80	2.80	2.80	2.80	
3			2.80	2.80	2.80	2.80	
4			2.80	2.80	2.80	2.80	
5			2.80	2.80	2.80	2.80	
6			2.80	2.80	2.80	2.80	
7	Good All Season		2.80	2.80	2.80	2.80	
8			2.80	2.80	2.80	2.80	
9			2.80	2.80	2.80	2.80	
10			2.80	2.80	2.80	2.80	1
11			2.80	2.80	2.80	2.80	1
12			2.80	2.80	2.80	2.80	1
13			2.80	2.80	2.80	2.80	1
14			2.80	2.80	2.80	2.80	1
15		1.60	2.80	2.80	2.80	2.80	1
16		1.60	2.80	2.80	2.80	2.80	1
17		1.60	2.80	2.80	2.80	2.80	1
18		1.60	2.80	2.80	2.80	2.80	1
19		1.60	2.80	2.80	2.80	2.80	1
20		1.60	2.80	2.80	2.80	2.80	2
21		1.60	2.80	2.80	2.80	2.80	2
22		1.60	2.80	2.80	2.80	2.80	2
23		1.60	2.80	2.80	2.80	2.80	2
24		1.60	2.80	2.80	2.80	2.80	2
25		1.60	2.80	2.80	2.80	2.80	2
26		1.60	2.80	2.80	2.80	2.80	2
27		1.60	2.80	2.80	2.80	2.80	2
28		1.60	2.80	2.80	2.80	2.80	2
29		1.60	2.80	2.80	2.80	2.80	2
30		2.80	2.80	2.80	2.80	2.80	3
31		2.80		2.80	2.80		3
TOTAL	0.00	29.60	84.00	86.80	86.80	84.00	

YEARLY C.F.S. 371.20

YEARLY ACRE FEET 734.98

TOTAL NO. OF DAYS 139

YEARLY MEAN 2.67

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WATER DISTRICT #37 & 37-M

CANAL NAME UNION CANAL NUMBER 0027

OWNER NORTH VALLEY MILK 1996

DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DATE
1		2.40	2.40	3.00	3.00	3.00	1
2		2.40	2.40	3.00	3.00	3.00	2
3		2.40	2.40	3.00	3.00	3.00	3
4		2.40	2.40	3.00	3.00	3.00	4
5		2.40	2.40	3.00	3.00	3.00	5
6		2.40	2.40	3.00	3.00	3.00	6
7	Good All Season	2.40	2.40	3.00	3.00	3.00	7
8		2.40	2.40	3.00	3.00	3.00	8
9		2.40	2.40	3.00	3.00	3.00	9
10		2.40	2.40	3.00	3.00	3.00	10
11		2.40	2.40	3.00	3.00	3.00	11
12		2.40	2.40	3.00	3.00	3.00	12
13		2.40	2.40	3.00	3.00	3.00	13
14		2.40	2.40	3.00	3.00	3.00	14
15		2.40	2.40	3.00	3.00	3.00	15
16		2.40	2.40	3.00	3.00	3.00	16
17		2.40	2.40	3.00	3.00	3.00	17
18		2.40	2.40	3.00	3.00	3.00	18
19		2.40	2.40	3.00	3.00	3.00	19
20		2.40	2.40	3.00	3.00	3.00	20
21		2.40	2.40	3.00	3.00	3.00	21
22		2.40	2.40	3.00	3.00	3.00	22
23		2.40	2.40	3.00	3.00	3.00	23
24		2.40	2.40	3.00	3.00	3.00	24
25		2.40	2.40	3.00	3.00	3.00	25
26		2.40	2.40	3.00	3.00	3.00	26
27		2.40	2.40	3.00	3.00	3.00	27
28		2.40	2.40	3.00	3.00	3.00	28
29		2.40	2.40	3.00	3.00	3.00	29
30	2.40	2.40	3.00	3.00	3.00	3.00	30
31		2.40		3.00	3.00		31
TOTAL	2.40	74.40	72.60	93.00	93.00	90.00	

YEARLY C.F.S. 425.40

YEARLY ACRE FEET 842.29

TOTAL NO. OF DAYS 154

YEARLY MEAN 2.76

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Addison Avenue East • Box 353 •
Twin Falls, Idaho 83301
(208) 734-3050 • 1-800-759-3050

SOIL ANALYSIS REPORT

208/886-7716

Report for: 4 BROS. DAIRY 559
425 NORTH 250 WEST
SHOSHONE ID 83352

Report No. 53190/53191
Date Received 4/01/97
Date Reported 4/02/97

Grower Name: 4 BROS. DAIRY

SOIL TEST DATA	Sample 1	Sample 2	Sample 1	Sample 2	
			1 2'DEEP N HOLE	2 31/2 DP N HLE	SAMPLE IDENTITY
pH			NONE GIVEN	NONE GIVEN	CROP
SALTS, mmhos/cm					YIELD GOAL
SODIUM, meq/100g			NG	NG	ACRES
CEC, meq/100g			NONE GIVEN	NONE GIVEN	PAST CROP T/Acre Residue
EXCESS, Lime, %			0	0	MANURE, T/Acre
ORGANIC Matter, %			0	0	NUTRIENTS Previously Applied
ORGANIC N, lb/Acre		VL	RECOMMENDATIONS, lbs. or Units Actual Nutrient Per Acre		
NITRATE-N, ppm					NITROGEN
PHOSPHORUS, ppm					P_2O_5
POTASSIUM, ppm					K_2O
CALCIUM, meq/100g					CALCIUM
MAGNESIUM, meq/100g					MAGNESIUM
SULFUR, ppm					SULFATE-SULFUR
ZINC, ppm					ZINC
IRON, ppm					IRON
MANGANESE, ppm					MANGANESE
COPPER, ppm					COPPER
BORON, ppm					BORON
SOIL TEXTURE from CEC					ELEMENTAL SULFUR

Department of Water Resources
APPLICANT'S
Exhibit 4
Date Admitted 4/10/97

RATINGS	ACTUAL AND RECOMMENDED PERCENT OF CEC								RELATION OF CEC TO SOIL TEXTURE
VL – Very Low L – Low M – Medium H – High VH – Very High	SAMPLE	Actual % Potassium	Recommended Potassium	Actual % Calcium	Recommended Calcium	Actual % Magnesium	Recommended Magnesium	Actual % Sodium	Recommended Sodium	0-5 Sand 5-12 Loamy Sand 12-18 Sandy Loam 18-24 Silt Loam 24-36 Clay Loam 36+ Clay
	1		3.0-6.0%		65-80%		10-20%		<3.0%	
	2									

REMARKS
53190 SOIL TEXTURE IS SILTY CLAY - % SAND IS 14.0, % SILT IS 42.0, % CLAY IS 44.0.
53191 SOIL TEXTURE IS SILTY CLAY LOAM - % SAND IS 16.0, % SILT IS 52.0, % CLAY IS 32.0.

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Supervised by: Dr. Dale Stukenholtz

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Stukenholtz Laboratory, Inc.

Addison Avenue East • Box 353 •
Twin Falls, Idaho 83301
(208) 734-3050 • 1-800-759-3050

SOIL ANALYSIS REPORT

208/886-7716

Report for: 4 BROS. DAIRY 559
425 NORTH 250 WEST
SHOSHONE ID 83352

Report No. 53192/53193
Date Received 4/01/97
Date Reported 4/02/97

Grower Name: 4 BROS. DAIRY

SOIL TEST DATA	Sample 1	Sample 2	Sample 1	Sample 2	
			3 2'DEEP S HOLE	4 31/2 DP S HLE	SAMPLE IDENTITY
pH			NONE GIVEN	NONE GIVEN	CROP
SALTS, mmhos/cm					YIELD GOAL
SODIUM, meq/100g			NG	NG	ACRES
CEC, meq/100g			NONE GIVEN	NONE GIVEN	PAST CROP T/Acre Residue
EXCESS, Lime, %			0	0	MANURE, T/Acre
ORGANIC Matter, %			0	0	NUTRIENTS Previously Applied
ORGANIC N, lb/Acre		VL	RECOMMENDATIONS, lbs. or Units Actual Nutrient Per Acre		
NITRATE-N, ppm					NITROGEN
PHOSPHORUS, ppm					P_2O_5
POTASSIUM, ppm					K_2O
CALCIUM, meq/100g					CALCIUM
MAGNESIUM, meq/100g					MAGNESIUM
SULFUR, ppm					SULFATE-SULFUR
ZINC, ppm					ZINC
IRON, ppm					IRON
MANGANESE, ppm					MANGANESE
COPPER, ppm					COPPER
BORON, ppm					BORON
SOIL TEXTURE from CEC					ELEMENTAL SULFUR

RATINGS	SAMPLE	ACTUAL AND RECOMMENDED PERCENT OF CEC								RELATION OF CEC TO SOIL TEXTURE	
		Actual % Potassium	Recommended Potassium	Actual % Calcium	Recommended Calcium	Actual % Magnesium	Recommended Magnesium	Actual % Sodium	Recommended Sodium		
VL – Very Low	1		3.0-6.0%		65-80%		10-20%		<3.0%	0-5	Sand
L – Low										5-12	Loamy Sand
M – Medium										12-18	Sandy Loam
H – High										18-24	Silt Loam
VH – Very High	2									24-36	Clay Loam
										36+	Clay

REMARKS

53192 SOIL TEXTURE IS SILTY CLAY - % SAND IS 10.0, % SILT IS 46.0, % CLAY IS 44.0.

53193 SOIL TEXTURE IS CLAY - % SAND IS 10.0, % SILT IS 30.0, % CLAY IS 60.0.

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Supervised by: Dr. Dale Stukenholtz

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 16, 1996

Department of Water Resources
APPLICANT'S
Exhibit 7
Date Admitted 4/10/97 ADR

Tom Arkoosh
PO Box 32
Gooding, ID 83330

RE: Improper use of well complaint

Dear Tom:

On your complaint, I have investigated the use of the well located in SE¼NW¼SE¼, Section 11, Twp. 5S, Rge. 15E, B.M. On August 1, 1996, I met with Andrew Fitzgerald, owner, to review the use of the water associated with properties purchased by North Valley Milk, Inc. in 1994 from West One Bank as evidenced by Deed 156186. As you know these properties and deed include license 37-07575. The above described well use is authorized under license 37-07575 with associated conditions.

I found that the well is presently providing water to irrigate the lands in the NE¼SW and NW¼SE¼, Section 11, Twp. 5S, Rge. 15E., B.M. Andrew Fitzgerald explained that the canal shares (73 shares of Big Wood Canal Company) which had previously been associated with these lands have been transferred off to augment other shares on his other farm north of Shoshone. He further explained that the well has had the pump modified and presently provides approximately 1.2 cfs for irrigation of the approximate 70 acres. I did not measure the well output but have requested that Andrew provide documentation of this change to the pump. The other rights associated with the deed are being used on the other lands included in the deed as these rights are authorized.

Assuming the well indeed provides 1.2 cfs or less than 1.40 cfs, I must conclude that the well is being used as authorized under the license. Before concluding this, I have discussed the matter of the canal shares being moved off with the department's legal staff and administration. I have learned that recent licenses may indeed be conditioned to prevent this from happening but the conditions of license 37-07575 do not prevent this from happening.

As you may know the issue of the use of "supplemental wells" is a topic presently being discussed in the department's effort to negotiate rules for management of the Eastern Snake Plain Aquifer. Since there is not presently a rule to prevent the canal shares from being removed like the scenario of this well and the license conditions do not prevent removal of the shares I do not currently plan on limiting use of this well unless I determine that the well delivers more than 1.40 cfs.

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If you have questions about the rule making effort I suggest you contact Norm Young at (208) 327-7910. If you have further questions about this matter we can discuss them at the conference scheduled for August 21, 1996 in Gooding or you can contact my office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

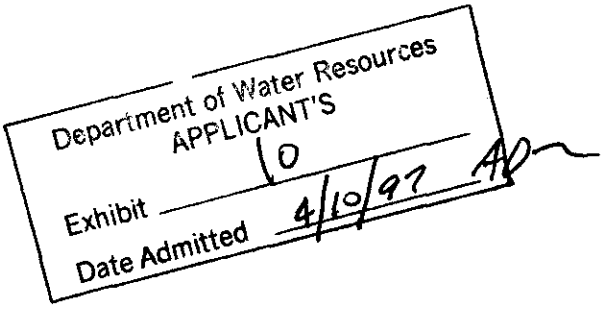
CC: Andrew Fitzgerald
Norm Young

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Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575

Four Brothers Dairy, Inc.

Gooding County, Idaho



Prepared by Brockway Engineering, PLLC

Charles E. Brockway, P.E.

November 26, 1996

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Hydrologic Evaluation of Proposed Transfers 4722 and 4723 for Water Right 37-07575

Four Brothers Dairy, Inc.

Prepared by Brockway Engineering P.L.L.C.
C.E. Brockway P.E.
November 26, 1996

PURPOSE OF EVALUATION

The purpose of this evaluation is to provide a determination of differences between historical and projected water use if the proposed transfers are allowed. This analysis therefore addresses the regional impact of the proposed transfers, conservation of the resource, and provides insight into the potential interference with senior rights.

The report also provides an analysis of potential local well interference due to pumping of new wells on the proposed dairy sites

GENERAL

The lands irrigated under water right 37-07575 are located in Sections 10,11, and 14 T5S R15E in Gooding county. It is proposed to transfer water from this right to a proposed dairy site located in the NW1/4 NE1/4 and the SW1/4 NE1/4 section 10 of T5S R15E in Gooding County and an existing dairy in Section 29 T7S R15E. Figure 1 shows the locations of the current place of use and proposed dairy sites.

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HYDROLOGY

This Eastern Snake Plain aquifer encompasses about 10,000 square miles north of the Snake River from Hagerman to St. Anthony. The Snake Plain Aquifer has been the subject of several hydrologic studies to define the geologic structure, hydrologic and hydraulic characteristics and directions of flow. The U.S. Geological Survey study under the Regional Aquifer Systems Analysis program, completed in 1990 was the most comprehensive study of the aquifer and resulted in water table configuration data, estimated flow magnitudes and directions, and a computer model of the aquifer. Studies by the Idaho Department of Water Resources are now on-going to define the response of the aquifer to historical and potential new development. These studies are helpful in evaluating the effects, both regional and local, of changes in water use associated with water right changes.

The direction of flow in the Snake Plain aquifer is generally west or southwest as determined from water level elevation contours. Figure 2 shows water table contours and approximate flow directions as determined from the 1987 USGS Hydrologic Atlas HA-703 map developed for the USGS Regional Aquifer Systems Analysis program. The flow westward trending flow lines culminate in various springs in the Hagerman/Malad river area.

The land at the current place of use and at both dairy sites overlies the Eastern Snake River Plain Aquifer. This aquifer consists of very permeable to medium permeability basalt flows and interbed flows. Ground water flow in the

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aquifer is essentially from east to west with depths to water from 100 to 165 feet depending on the ground surface elevation. The basalt sequences include fine grained interbed materials including clay, basalt sequences, and brecciated lava sequences. Drillers logs adjacent to the area indicate significant similar materials to depths of 400 feet. Hydraulic conductivity values for the aquifer underlying the area are estimated at 500 ft/day which is typical of basalt aquifers in the area[1]. Based on an effective saturated depth of 200 feet, the transmissivity is estimated at 100000 ft^2/day. The water table gradient is approximately 25 ft/mile resulting in an estimated 30 cfs of water per mile width of the aquifer flowing continuously toward the west. The basalt aquifer system underlying the area is recharged primarily from irrigation water percolating below the root zone of crops and leakage from canal and lateral systems, underflow from the northern streams and precipitation on the plain.

Response of the water table in the vicinity of the proposed Four Brothers Dairy is best depicted by the hydrograph of the U.S. Geological Survey observation well 5S 15E 35DBD2 which is located approximately 2 miles east and 3 miles south of the proposed dairy. This well has been measured at least twice each year since 1972. Generally the water level elevation fluctuates about 10 feet annually from a low in May to highs in September. The hydrograph for this well is shown on Figure 3. Water levels in this well appear to be recovering from the 1987-94 drought period

[1] Lindholm, G. F. (1996). *Summary of the Snake River Plain Regional Aquifer-System analysis in Idaho and Eastern Oregon.* USGS Prof. Paper 1408-A.

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TRANSFER PROPOSAL

Transfers 4722 and 4723 filed by North Valley Milk, Inc., predecessor to Four Brothers Dairy, propose to split water right 37-07575 and to change the nature of use to provide water for a dairy in Section 10, T5S R15E and for a dairy near Wendell in Section 29 T7S R15E. Permit 37-07575 currently is utilized for irrigation of 354 acres in Sections 10, 11, 14 and 15 T5S R15E with an authorized diversion of 2.21 cfs. and an authorized annual consumptive use of 1080 acre feet. Transfer 4722 proposes to split the right to provide 0.38 cfs of water from two wells in the NW1/4 NE1/4 Section 10 for a new dairy (37-07575B) and 1.38 cfs for continued irrigation of 69 acres in Section 11 (37-0757A). Transfer 4723 would further split the right to provide 0.25 cfs of water to a proposed dairy in Section 29, T7S R15E . Based on the proposed transfers, the total irrigated area from the well on the original place of use after the transfer will be 69 acres with the well serving as the sole source or irrigation water.

At the dairy site in Section 10 T5S R15E, the area which would be occupied by the dairy facilities (approximately 56 acres) is currently irrigated. This area will no longer be irrigated. The dairy near Wendell is served currently from a well on the dairy which is situated on a 20-acre site formerly irrigated with surface water. Those canal shares are currently used on other land adjacent to the dairy.

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SOILS

Primarily wind-blown silt loam soils overly the basalt with typical cemented layers at 24 to 36 inches. These soils have depths ranging up to 60 inches as indicated in the USDA Natural Resources Conservation Service (formerly Soil Conservation Service) Soil Classification. Row crops and alfalfa are currently produced on these areas. The soil complexes are suitable for irrigation with lagoon effluent provided they are irrigated under water and nutrient guidelines to maintain adequate hydraulic loadings and balance nutrient uptake with crop requirements.

WATER BUDGET

To assist in preparation of the proposed transfers, dairy water use projections have been prepared by the Idaho Department of Water Resources. A similar analysis was prepared by Brockway Engineering using the IDWR Dairy Water Use Worksheet as a guide. Based on this analysis, diversion volumes and consumptive use associated with dairies supporting a selected number of milking cows and non-milking cows are calculated. The dairy water use worksheets for both proposed dairies area provided in Appendix A. My understanding is that, according to the IDWR dairy worksheet and application for amendment of the permit, there will be 800 head of milking cows and 200 non-milking cows on the Wendell site and 1800 milking cows and 500 non-milking cows on the Section 10 site.

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Consumptive use by irrigated crops was estimated using published data[2]. Using the Shoshone 1WNW weather station, the annual consumptive use for alfalfa is 994 mm/year (39.1 inches/year).

A comparison of estimated consumptive use from all sources between the historical (all irrigation) water use on the farm and the projected (w/ two dairies) consumptive use is shown in Table 1. Consumptive use for the dairies is taken from the IDWR type worksheets and the crop consumptive use is computed using the annual alfalfa consumptive use. The areas occupied by the dairies were formerly irrigated so there is a reduction in irrigated acreage of 56 and 20 acres for the Sec 10 and Wendell dairies respectively.

The water budget analysis shows that the estimated total annual historical consumptive use is 628 acre feet with partial irrigation of 354 acres on the farm and 56 and 20 acres irrigated respectively on the Sec 10 and Wendell dairy sites. With the dairies constructed and operating, the estimated annual consumptive use from all sources irrigated with the well and consumptive use from the dairy operations is 378 acre feet or a reduction of 250 acre feet.

[2] Allen, R.G. and C. E. Brockway (1983). *Estimating Consumptive Irrigation Requirements for Crops in Idaho.* University of Idaho, Moscow, Idaho.

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Table 1. Water budget analysis for historical and projected use.

	Historical Use (ac-ft/year)			Projected Use (ac-ft/year)		
	Original farm	Dairy site (Sec. 10)	Dairy site (Wendell)	Original farm	Dairy site (Sec. 10)	Dairy site (Wendell)
Irrigated acres	354*	56	20	69	0	0
Stockwater CU	0	0	0	0	77.7	34.7
Commercial CU	0	0	0	0	27.8	12.7
Irrigation CU	381	182	65	225	0	0
TOTAL CU	381	182	65	225	106	47
Total Historical	**628**					
Total Projected	**378**					

* Well provided an estimated 33% of irrigation demand for these acres

LOCAL HYDROLOGY AND WELL EFFECTS

The proposed dairy in Sec 10 contemplates diversion of 0.38 cfs from two wells in the NW1/4 NE1/4 of Section 10 near the dairy facilities. These wells will be developed in fractured basalt as are adjacent wells in the area. Based on estimated aquifer properties from USGS studies and driller's logs from local wells, the aquifer hydraulic conductivity is estimated as 500 ft/day. With a saturated depth of 200 ft, the transmissivity is estimated at 10^5 ft^2/day. The storativity is estimated to be 0.15.

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These wells will be diverting from the basalt aquifer in areas of relatively high transmissivity and will therefore cause small local drawdown of the water table. An analysis of the drawdown from a single well pumping 0.38 cfs from the aquifer with a transmissivity of 10^5 ft^2/day shows extremely small declines in the water table as expected. The well interference computation, given in Appendix A, shows a drawdown in the pumped well of only 0.55 feet and a drawdown 1/4 mile away of only 0.12 feet for a well pumping 0.38 cfs continuously. The wells will not pump continuously so these estimated drawdowns are conservative and will not interfere with operation of neighboring domestic or irrigation wells. Drillers logs of nearby domestic wells indicate well depths of 200 to 300 feet with static water levels varying from 120 to 165 feet. Several wells, where pumping rate and drawdown were measured by the driller, indicate very small drawdown or no drawdown for pumping rates of 10-15 gpm. Therefore, the projected local drawdown of the proposed dairy well will not change pumping levels significantly in any adjacent wells.

Decreasing the discharge from the irrigation well in Section 11 from 2.21 to 1.38 cfs as proposed under the transfers will significantly decrease the drawdown in water levels at the well and away from the well. Also shown in Appendix A is the calculation of estimated drawdown from the well pumping 1.38 cfs as proposed, and the difference in drawdown resulting from a decrease in discharge from 2.21 to 1.38 cfs. The decrease in drawdown at the well is over 1.0 feet and the drawdown decrease at ¼ mile from the well is 0.23 feet.

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CONCLUSIONS

1. The transfers associated with applications 4722 and 4723 will result in a decrease in net consumptive use under water right 37-07575. The estimated decrease will amount to 250 acre feet per year.

2. Utilization of sprinkler irrigation on the remaining irrigated areas increases irrigation efficiency and planned use of water conservation practices on the dairies decreases diversion requirements and is not wasteful. These practices are consistent with accepted procedures for conservation of the water resource.

3. Pumping from the dairy wells proposed for these transfers will not result in significant local drawdown in neighboring wells. The drawdown from pumping 0.38 cfs, as proposed on Transfer 4722, will result in a maximum drawdown of 0.12 feet at a distance of 1320 feet (1/4 mile) from the well after 120 days of continuous pumping. Continuous pumping is not contemplated so the estimated drawdown is conservative.

4. Reduction of the maximum discharge from the irrigation well in Section 11 from 2.21 cfs to the proposed 1.38 cfs will decrease local water level drawdown significantly. It is estimated that the decrease in drawdown at the well will be more than 1.0 feet and the difference at ¼ mile from the well will be about0.23 feet after continuous pumping of 120 days.

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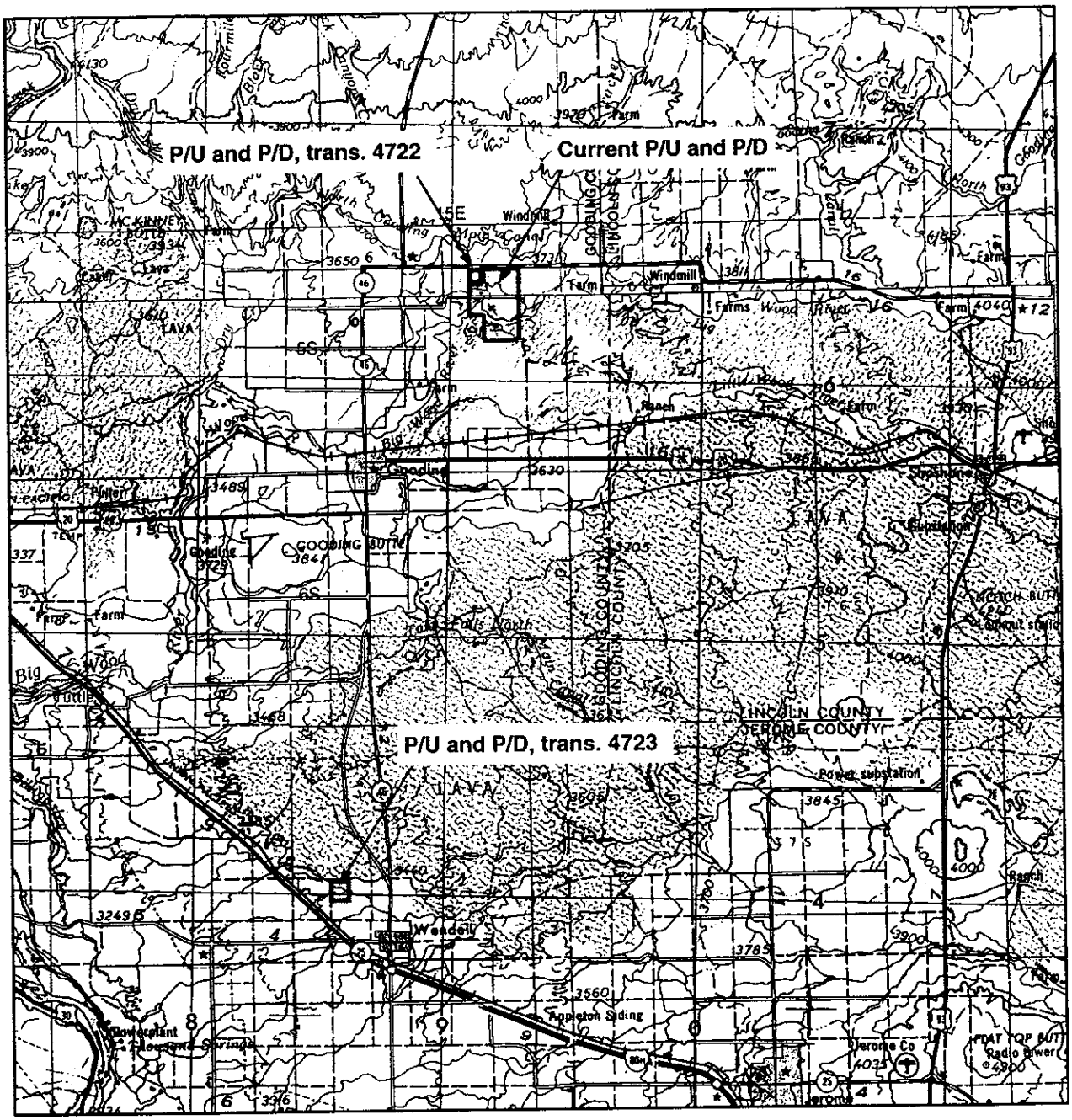


Figure 1. Vicinity map for transfer applications 4722 and 4723 (license 37-07575) for North Valley Milk, Inc.

Brockway Engineering, PLLC 11/25/96

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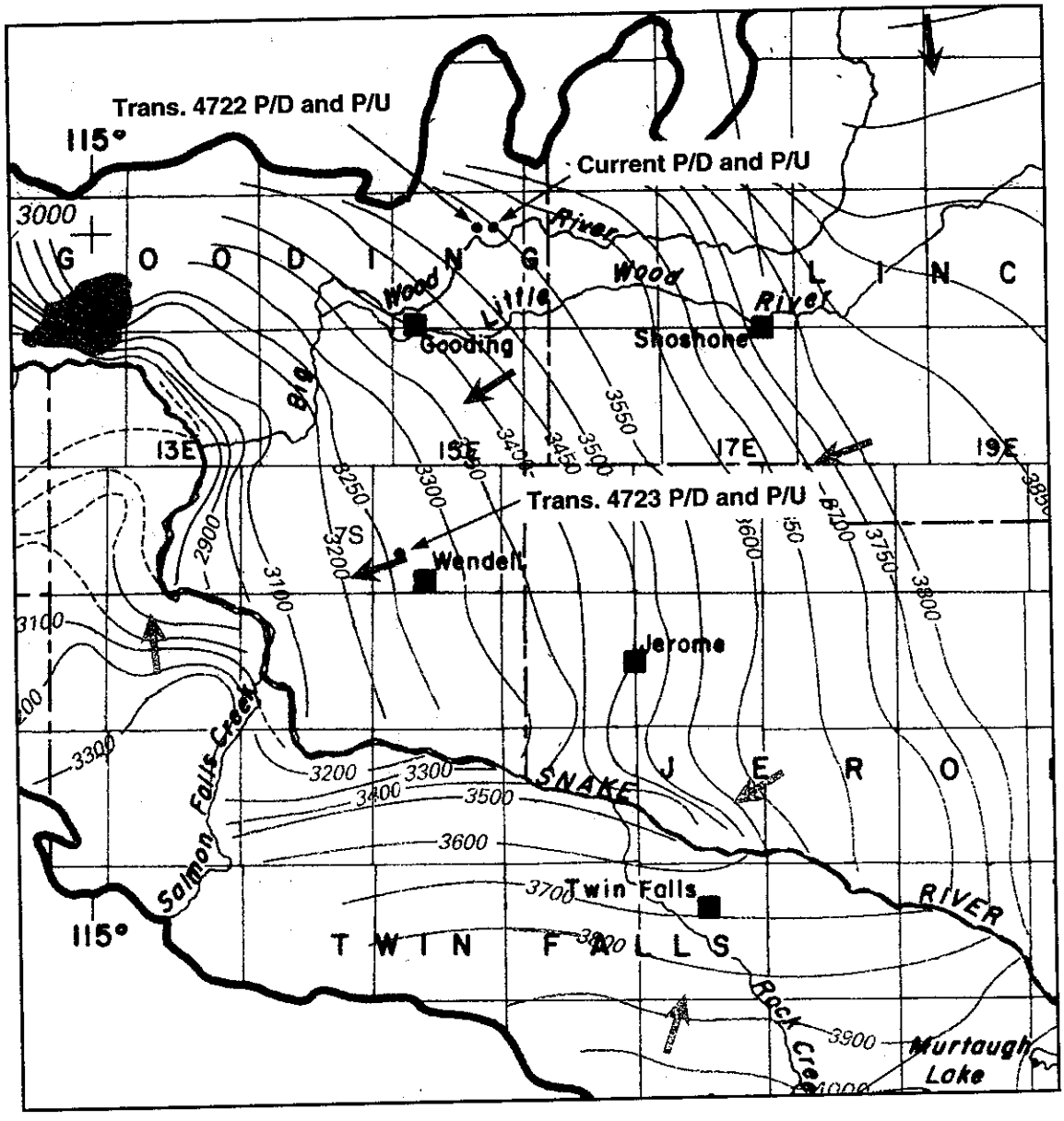
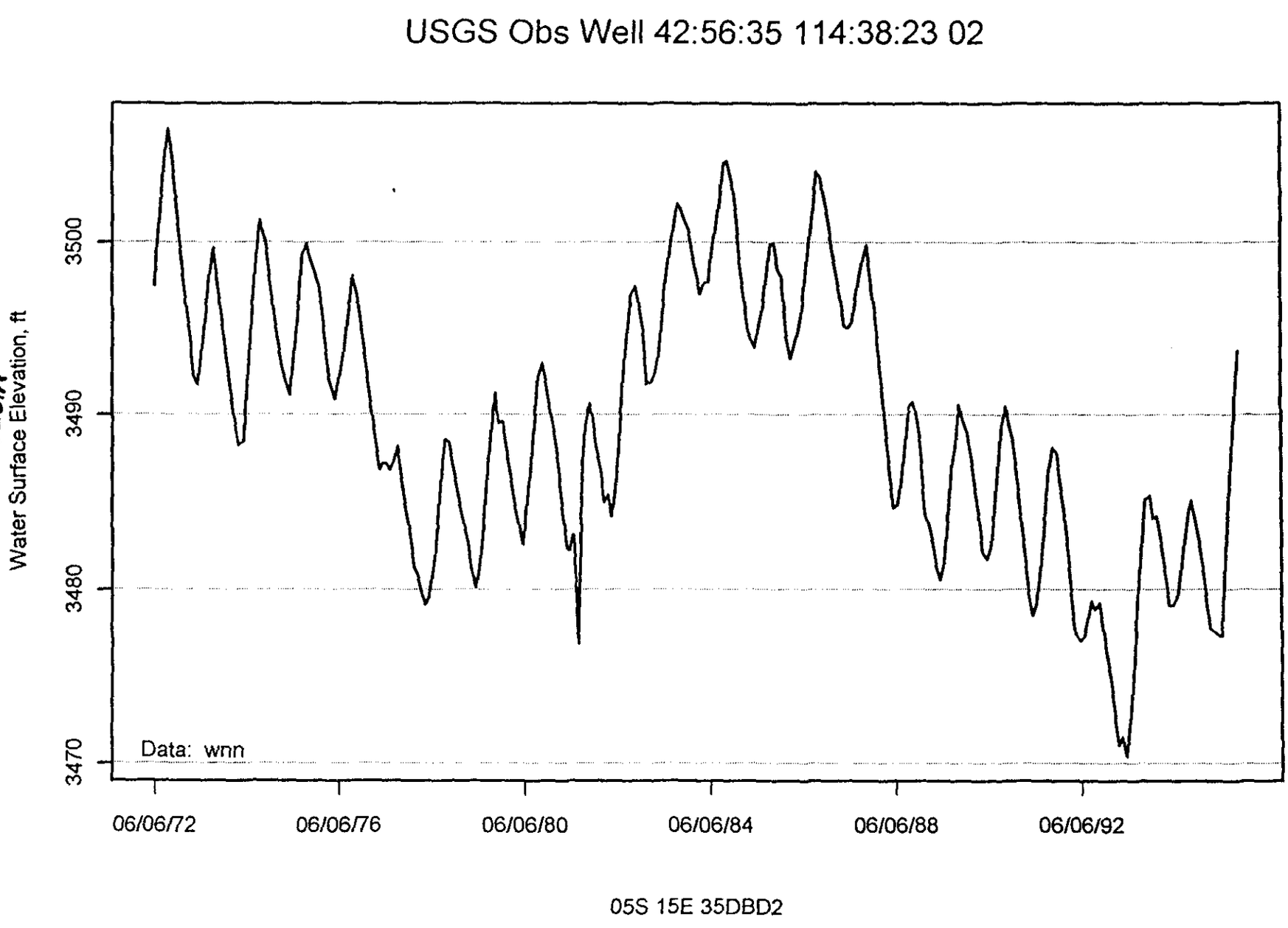


Figure 2. A portion of USGS Atlas HA-703 showing Spring 1980 water table configuration for North Valley Milk, Inc. transfer applications 4722 and 4723 (license 37-07575).

Brockway Engineering, PLLC 11/25/96

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APPENDIX A

MICROFILMED
SEP 1 2 2000

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IDAHO DEPARTMENT OF WATER RESOURCES

DAIRIES: WATER USE WORKSHEET

FILE # or NAME ----- Four Brothers Sec10
REVIEWER ---------- ceb
DATE ---------- November 1, 1996

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE ---	----------	1800
NUMBER OF NONMILKING CATTLE ----------	----------	500
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO ----------	----------	5.0
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) ----------		3.3
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMAT R AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS -		2
NUMBER OF MILKINGS PER DAY ----------	----------	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): **

MILKING CATTLE @35 GPD/HD ----------	1.17
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	1.17
NONMILKING CATTLE @12 GPD/HD ----------	0.11
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.11
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	1.28

DIVERSION VOLUME (AF/YEAR):

STOCKWATER	
MILKING CATTLE @35 GPD/HD ----------	70.6
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	71.0
NONMILKING CATTLE @12 GPD/HD ----------	6.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	6.7
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	77.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT -------	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR ----------	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING ------	27.2
TOTAL ----------	27.8
TOTAL DIVERSION VOLUME ----------	105.6

Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ
Format modified and equivalent irrigated acreage addedby C.E. Brockway P.E. 10/15/94

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

	PUMP 1	PUMP 2 EMERGE	PUMP 3 EMERGENCY
PUMP HORSEPOWER (HP) ----------			
LIFT (FT) ----------			
DISCHARGE PRESSURE (PSI) ----------			
FRICTION LOSSES (FT) ----------			

CALCULATIONS

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

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

CONSUMPTIVE USE VOLUME (AF\YEAR):

STOCKWATER		
MILKING ----------		10.4
NONMILKING ----------		0.0
TOTAL ----------		10.4
COMMERCIAL ----------		16.7
TOTAL CONSUMPTIVE USE ----------		27.1
EQUIVALENT IRRIGATED ACREAGE-DIVERSION		
NORMAL IRRIGATION DIVERSION RATE MINERS INCHES /ACRE		1.00
AREA SEASONALIRRIGATION DIVERSION VOL. AF/ACRE		4.00
EQUIVALENT IRRIGATED ACREAGE ACRES		26.39
MAXIMUM EQUIVALENT DIV. RATE	26.39 IN. OR CFS	0.53
EQUIVALENT IRRIGATED ACREAGE-CONSUMPTIVE USE		
AREA AVG. ALFALFA CONSUMPTIVE USE INCHES/YEAR		39.10
EQUIVALENT ALFALFA ACREAGE C.U. FOR DAIRY C.U.-ACRES		8.31

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IDAHO DEPARTMENT OF WATER RESOURCES

DAIRIES: WATER USE WORKSHEET

FILE # or NAME ----- Four Brothers Wendell
REVIEWER --------- ceb
DATE ------------- November 1, 1996

REQUIRED DAIRY DATA

NUMBER OF MILKING CATTLE ---	800
NUMBER OF NONMILKING CATTLE ----------	200
IF LAGOON IS AEROBIC, ENTER ITS SURFACE AREA IN ACRES; IF ANAEROBIC, ENTER ZERO ----------	3.0
EVAPOTRANSPIRATION FACTOR FOR AREA (AC-FT/AC-YR) ----------	3.3
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMAT R AUTOMATIC, OR 3 IF SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS -	2
NUMBER OF MILKINGS PER DAY ----------	3

CALCULATIONS

DIVERSION RATE FOR STOCKWATER (CFS): **

MILKING CATTLE @35 GPD/HD ----------	0.52
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	0.52
NONMILKING CATTLE @12 GPD/HD ----------	0.04
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	0.04
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	0.56

DIVERSION VOLUME (AF/YEAR):

STOCKWATER	
MILKING CATTLE @35 GPD/HD ----------	31.4
MILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) * ---	32.0
NONMILKING CATTLE @12 GPD/HD ----------	2.7
NONMILKING CATTLE (NUMBER OF CATTLE ROUNDED UP) *	2.7
TOTAL (BASED UPON ROUNDED NUMBERS) ----------	34.7
COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT -------	0.5
PARLOR FLOOR AND MILKHOUSE FLOOR ----------	0.1
CATTLE WASHING BASED UPON METHOD OF WASHING ------	12.1
TOTAL ----------	12.7
TOTAL DIVERSION VOLUME ----------	47.4

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Dev.: MSterling
Mod.: ADM & KKC
Mod.: 8/5/94 DRJ
Format modified and equivalent irrigated acreage addedby C.E. Brockway P.E. 10/15/94

THEORETICAL FLOW ESTIMATION

REQUIRED PUMP INFORMATION

	PUMP 1	PUMP 2 EMERGE	PUMP 3 EMERGENCY
PUMP HORSEPOWER (HP) ----------	7.50		
LIFT (FT) ----------	190		
DISCHARGE PRESSURE (PSI) ----------	50		
FRICTION LOSSES (FT) ----------	2.0		

CALCULATIONS

THEORETICAL FLOW RATE (CFS) ** ------	0.15	0.00	0.00
DIVERSION VOLUME (AFA) *** ----------	108.8	0.0	0.0

* NUMBER OF CATTLE ROUNDED UP TO AGREE WITH EXISTING TABLES.
** PUMP EFFICIENCY WAS ASSUMED TO BE 70%.
*** DIVERSION VOLUME IS THE ABSOLUTE MAXIMUM VOLUME BASED ON THE THEORETICAL FLOW RATE ASSUMING PUMP RUNS CONTINUOUSLY EVERY DAY OF THE YEAR.
**** BASED ON 2 HOUR DIVERSION TO MEET VOLUME

CONSUMPTIVE USE VOLUME (AF\YEAR):

STOCKWATER	
MILKING ----------	4.6
NONMILKING ----------	0.0
TOTAL ----------	4.6
COMMERCIAL ----------	10.0
TOTAL CONSUMPTIVE USE ----------	14.6

EQUIVALENT IRRIGATED ACREAGE-DIVERSION

NORMAL IRRIGATION DIVERSION RATE MINERS INCHES /ACRE			1.00
AREA SEASONALIRRIGATION DIVERSION VOL. AF/ACRE			4.00
EQUIVALENT IRRIGATED ACREAGE ACRES			11.85
MAXIMUM EQUIVALENT DIV. RATE	11.85	IN. OR CFS	0.24

EQUIVALENT IRRIGATED ACREAGE-CONSUMPTIVE USE

AREA AVG. ALFALFA CONSUMPTIVE USE INCHES/YEAR	39.10
EQUIVALENT ALFALFA ACREAGE C.U. FOR DAIRY C.U.-ACRES	4.49

POTENTIAL WELL DRAWDOWN **FOUR BROTHERS DAIRY SEC 10 TRANSFER APPLICATION**

WELDIN1.xls

C.E. BROCKWAY NOVEMBER 2, 1996

AQUIFER PROPERTIES BASED ON USBR GROUNDWTER MANUAL-ALLUVIAL SYSTEM

EST. HOLE DIA. 8 INCHES

USING THEIS FORMULA S=114.6*Q/T*W(U)

DRAWDOWN IN FT

PUMPING RATE GPM

T= COEFFICIENT OF TRANSMISSIBILITY GPD/FT

W(U)= WELL FUNCTION OF 'U'

W(U)=-.5772-LOGeU +U-U^2/(2*2!)+U^3/(3*3!)-U^4/(4*4!) .....

U=1.87*r^2*S/(T*t)

r=DISTANCE IN FT. FROM CENTER OF PUMPED WELL TO DRAWDOWN POINT

S=COEFFICIENT OF STORAGE

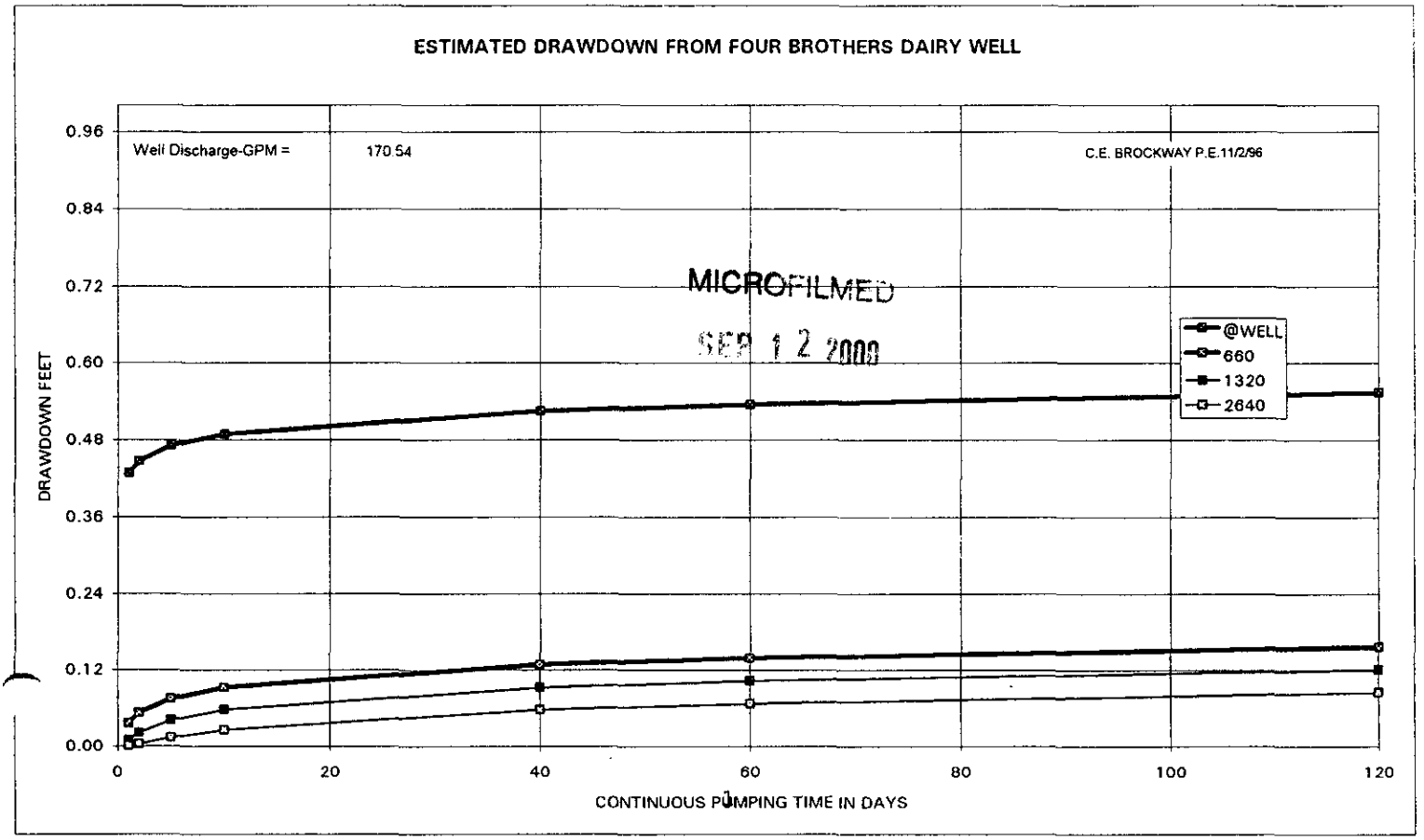
T=COEFFICIENT OF TRANSMISSIBILITY, GPD/FT

t= TIME SINCE PUMPING STARTED, DAYS

INPUT			K=	152.90	M/DAY	ALLUVIAL AQUIFER
r1=	0.333	FT	K=	501.51	FT/DAY	
r2=	660	FT	K=	0.00580454	CFS/FT^2	
r3=	1320	FT	K=	3.74E+03	GPD/FT^2	
r4=	2640	FT	SAT. DEPTH EST.=	200	FT	
r5=	5280	FT	TRANSMISSIVITY=	748256	GPD/FT	
S=	0.15		TRANSMISSIVITY=	1.16E+00	FT^2/SEC	
T=	748256	GPD/FT	TRANSMISSIVITY=	100034.2	FT^2/DAY	
Q/WEL	170.54	GPM =	0.380	CFS		

TIME	TIME	U	WELL	DRAW	SPEC.	U	WELL	DRAW	U	WELL	DRAW	U	WELL	DRAW
	t	w/r1	FUNCT.	DOWN	CAP	W/r2	FUNCT.	DOWN @	W/r3	FUNCT.	DOWN	W/r4	FUNCT.	DOWN @
MIN	DAYS	0.3333333	W(U)1	@WELL	GPM/FT	660	W(U)2	660	1320	W(U)3	1320	2640	W(U)4	2640
1440	1	4.165E-08	16.4167	0.43	398	1.633E-01	1.3919	0.04	6.532E-01	0.4090	0.01	2.613E+00	0.0214	0.00
2880	2	2.083E-08	17.1099	0.45	382	8.165E-02	2.0082	0.05	3.266E-01	0.8436	0.02	1.306E+00	0.1341	0.00
7200	5	8.330E-09	18.0261	0.47	362	3.266E-02	2.8768	0.08	1.306E-01	1.5846	0.04	5.225E-01	0.5333	0.01
14400	10	4.165E-09	18.7193	0.49	349	1.633E-02	3.5539	0.09	6.532E-02	2.2156	0.06	2.613E-01	1.0101	0.03
57600	40	1.041E-09	20.1056	0.53	325	4.082E-03	4.9280	0.13	1.633E-02	3.5539	0.09	6.532E-02	2.2156	0.06
86400	60	6.942E-10	20.5111	0.54	318	2.722E-03	5.3321	0.14	1.089E-02	3.9539	0.10	4.355E-02	2.5998	0.07
172800	120	3.471E-10	21.2042	0.55	308	1.361E-03	6.0239	0.16	5.443E-03	4.6416	0.12	2.177E-02	3.2716	0.09

DAYS	@WELL	660	1320	2640 DISTANCE FEET
1	0.43	0.04	0.01	0
2	0.447	0.05	0.02	0.00
5	0.47	0.08	0.04	0.01
10	0.49	0.09	0.06	0.03
40	0.53	0.13	0.09	0.06
60	0.54	0.14	0.10	0.07
120	0.55	0.16	0.12	0.09



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POTENTIAL WELL DRAWDOWN **FOUR BROTHERS IRRIGATION WELL SECTION 11** WELLINT2.xls

C.E. BROCKWAY NOVEMBER 2, 1996

AQUIFER PROPERTIES BASED ON USBR GROUNDWTER MANUAL-ALLUVIAL SYSTEM

EST. HOLE DIA. 8 INCHES

USING THEIS FORMULA S=114.6*Q/T*W(U)

DRAWDOWN IN FT

PUMPING RATE GPM

T= COEFFICIENT OF TRANSMISSIBILITY GPD/FT

W(U)= WELL FUNCTION OF 'U'

W(U)=-.5772-LOGeU +U-U^2/(2*2!)+U^3/(3*3!)-U^4/(4*4!) .....

U=1.87*r^2*S/(T*t)

r=DISTANCE IN FT. FROM CENTER OF PUMPED WELL TO DRAWDOWN POINT

S=COEFFICIENT OF STORAGE

T=COEFFICIENT OF TRANSMISSIBILITY, GPD/FT

t= TIME SINCE PUMPING STARTED, DAYS

INPUT			K=	152.90	M/DAY	ALLUVIAL AQUIFER
r1=	0.500	FT	K=	501.51	FT/DAY	
r2=	660	FT	K=	0.00580454	CFS/FT^2	
r3=	1320	FT	K=	3.74E+03	GPD/FT^2	
r4=	2640	FT	SAT. DEPTH EST.=	200	FT	
r5=	5280	FT	TRANSMISSIVITY=	748256	GPD/FT	
S=	0.15		TRANSMISSIVITY=	1.16E+00	FT^2/SEC	
T=	748256	GPD/FT	TRANSMISSIVITY=	100034.2	FT^2/DAY	
Q/WEL	664	GPM =	1.48	CFS		

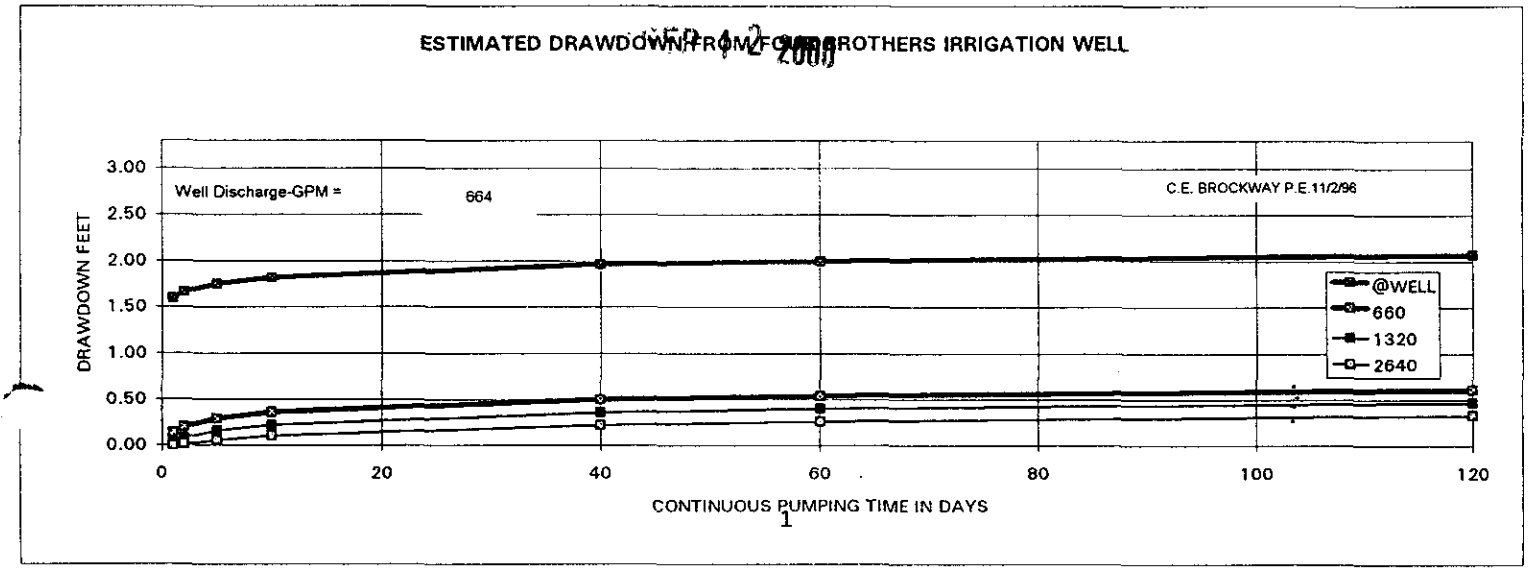
TIME MIN	TIME t DAYS	U w/r1 0.5	WELL FUNCT. W(U)1	DRAW DOWN @WELL	SPEC. CAP GPM/FT	U W/r2 660	WELL FUNCT. W(U)2	DRAW DOWN @ 660	U W/r3 1320	WELL FUNCT. W(U)3	DRAW DOWN 1320	U W/r4 2640	WELL FUNCT. W(U)4	DRAW DOWN @ 2640
1440	1	9.372E-08	15.6058	1.59	418	1.633E-01	1.3919	0.14	6.532E-01	0.4090	0.04	2.613E+00	0.0214	0.00
2880	2	4.686E-08	16.2989	1.66	401	8.165E-02	2.0082	0.20	3.266E-01	0.8436	0.09	1.306E+00	0.1341	0.01
7200	5	1.874E-08	17.2152	1.75	379	3.266E-02	2.8768	0.29	1.306E-01	1.5846	0.16	5.225E-01	0.5333	0.05
14400	10	9.372E-09	17.9084	1.82	365	1.633E-02	3.5539	0.36	6.532E-02	2.2156	0.23	2.613E-01	1.0101	0.10
57600	40	2.343E-09	19.2947	1.96	338	4.082E-03	4.9280	0.50	1.633E-02	3.5539	0.36	6.532E-02	2.2156	0.23
86400	60	1.562E-09	19.7001	2.00	331	2.722E-03	5.3321	0.54	1.089E-02	3.9539	0.40	4.355E-02	2.5998	0.26
172800	120	7.810E-10	20.3933	2.07	320	1.361E-03	6.0239	0.61	5.443E-03	4.6416	0.47	2.177E-02	3.2716	0.33

Q=1.38 DAYS	@WELL	660	1320	2640	DISTANCE FEET
CFS 1	1.59	0.14	0.04	0	
2	1.658	0.20	0.09	0.01	
5	1.75	0.29	0.16	0.05	
10	1.82	0.36	0.23	0.10	
40	1.96	0.50	0.36	0.23	
60	2.00	0.54	0.40	0.26	
120	2.07	0.61	0.47	0.33	

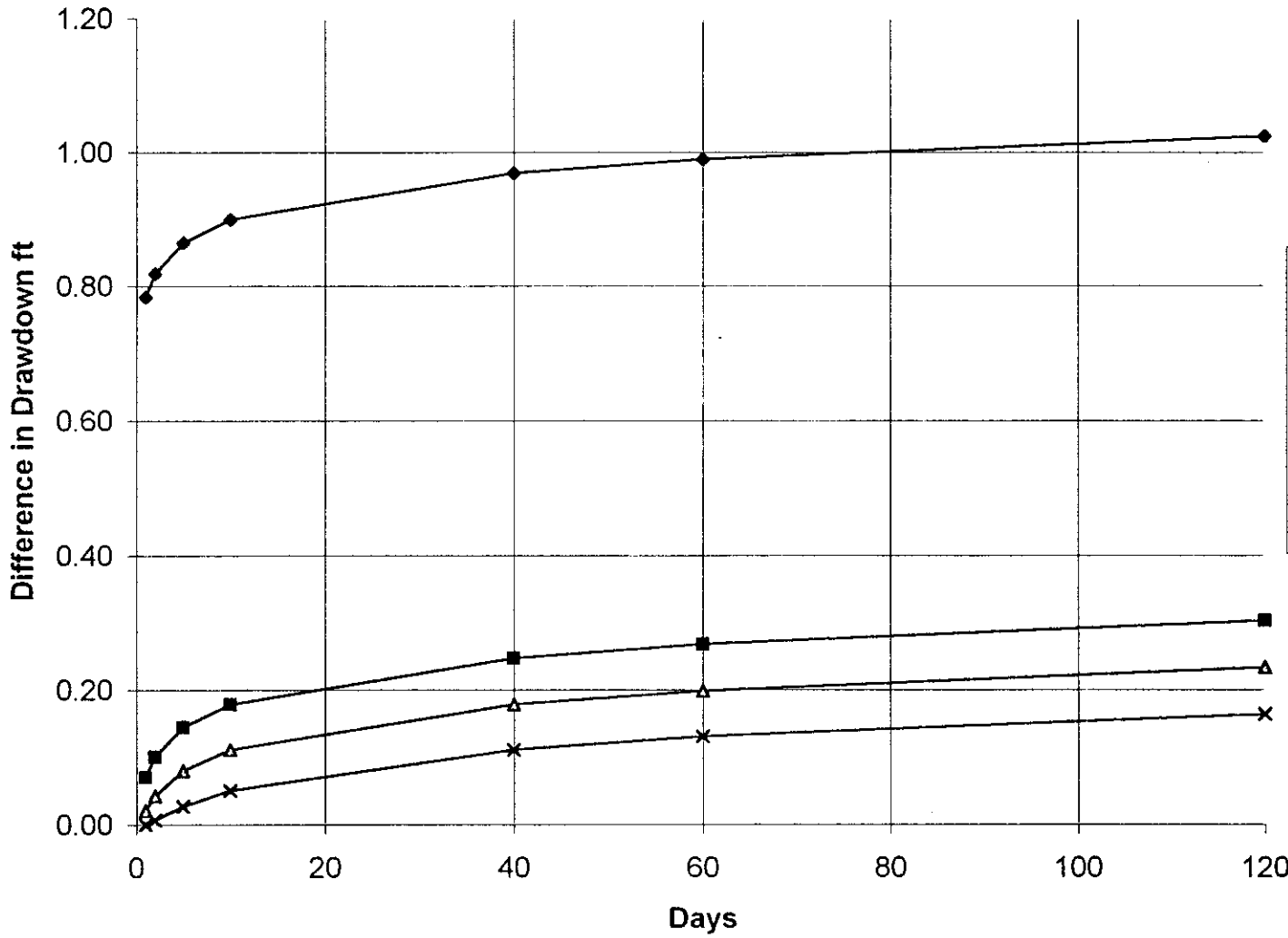
Q=2.21 DAYS	@WELL	660	1320	2640	DISTANCE FEET
CFS 1	2.37	0.21	0.06	0.00	
2	2.48	0.31	0.13	0.02	
5	2.62	0.44	0.24	0.08	
10	2.72	0.54	0.34	0.15	
40	2.93	0.75	0.54	0.34	
60	2.99	0.81	0.60	0.39	
120	3.10	0.92	0.71	0.50	

DIFFERENCE	@WELL	660	1320	2640
1	0.78	0.07	0.02	0.00
2	0.82	0.10	0.04	0.01
5	0.86	0.14	0.08	0.03
10	0.90	0.18	0.11	0.05
40	0.97	0.25	0.18	0.11
60	0.99	0.27	0.20	0.13
120	1.02	0.30	0.23	0.16

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Four Brothers Irrigation Well Sec 11 Drawdown Differences
Discharge Difference 2.21- to 1.38 cfs



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SEP 12 2000

4 for Wat

GOODING COUNTY
GRANDFATHER CAFO SITING PERMIT

Permit No. G96-115 Date: April 02, 1996

Permission is hereby granted to: Arkoosh Produce, Inc

Mailing Address: P.O. Box 93 Gooding, Idaho 83330

CAFO Address: 4 Miles North, 3 Miles East of Gooding

Legal Description: Section 10, Township 05 South, Range 15 EBM

Total Number of Acres: 2000 Acres

Total Number of Acres where CAFO is Located: 100+ Acres

Zoning District: AG

Number of Animal Units: 1000 Fee: $ 0

This permission is granted under Gooding County Zoning Ordinance #60, Article XVII, Section C. Any increase in structures or change in the location of structures must conform to the restrictions as outlined in Section C-1. A Confined Animal Feeding Operation (CAFO) can be transferred or sold upon written notification to the Administrator by the holder of the existing permit. Article XVII, Section C-4.

Building permits shall be required for all structures with the exception of three (3) sided Agricultural assessory buildings (hay, loafing, and commodity sheds). Article XVII, Section A.

It is understood and agreed by the applicant that the approval of the application does not constitute a privilege to violate the Federal, State, and Local regulations and specifications.

APPROVED BY THE GOODING COUNTY PLANNING AND ZONING ADMINISTRATOR.

Dated this 3 day of April, 1996.

Judy Dawson
Administrator

Department of Water Resources
APPLICANT'S
Exhibit 11
Date Admitted 4/10/97

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2 2000

State of Idaho
Department of Water Resources

OCT 20 1989

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07575

Department of Water Resources
Southern Region Office

Priority: March 28, 1977

Maximum Diversion Rate: 2.21 CFS
Maximum Diversion Volume: 942.5 AF

This is to certify, that ARKOOSH & ZIDAN INC.
RT. 1 BOX 204
GOODING, ID 83330
has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 28, 1977; and has submitted Proof of Beneficial Use on April 24, 1987. An examination indicates that the works have a diversion capacity of 2.210 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 01/01	2.21 CFS	942.5 AF

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 11, Township 05S, Range 15E GOODING County

100624

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
05S	15E	10	SESE	19					19
		11	NESW	38	SWSW	34	SESW	38	
			NWSE	32	SWSE	38			180
		14	NWNE	36	SWNE	14	NENW	39	
			NWNW	36	SWNW	7	SENW	16	148
		15	NENE	7					7

Total number of acres irrigated: 354

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 reflect cropping patterns or acceptable standards of water delivery 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. A totalizing measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
6. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for the lands above.

MICROFILMED
SEP 12 2000

Department of Water Resources
APPLICANT'S
Exhibit 12
Date Admitted 4/30/97

G-002845 E002080

DEED

FOR VALUE RECEIVED, West One Bank, Idaho, Successor by merger to Idaho State Bank duly organized and existing under the laws of the State of Idaho, Grantor, does hereby grant, bargain, sell and convey unto

NORTH VALLEY MILK, INC., an Idaho Corporation

Grantee, whose address is

the following described real property situated in GOODING

County, State of IDAHO

SEE ATTACHED "EXHIBIT A"

TOGETHER WITH THE FOLLOWING DESCRIBED WATER RIGHTS:

135 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0599

130 INCHES OF DECREED RIVER WATER WITH A PRIORITY DATE OF 4-27-1896, STATE ID #37-0600A

AND 174.63 INCHES OF AMERICAN FALLS SUPPLEMENTAL WATER.

AND TOGETHER WITH 142 SHARES OF BIG WOOD CANAL COMPANY WATER.

TO HAVE AND TO HOLD, The said premises, with their appurtenances unto the said Grantee and heirs and assigns forever.

IN WITNESS WHEREOF, The Grantor, pursuant to its By-Laws has caused its name to be hereunto subscribed by its Assistant Vice President

this 15th day of March , 1994 .

156186

WEST ONE BANK, IDAHO

NOTARY PUBLIC (SEAL)

STATE OF IDAHO COUNTY OF GOODING
FIRST AMERICAN TITLE
Filed for record at the request of John B. Carnahan
35 min. past 3 o'clock P m. this 18
of March, 1994 Fee $12.00
JOHN A. MYERS Recorder
By Helen K. Pratt Deputy

BY: John Carnahan

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 15th day of March , 1994 , before me a Notary Public in and for said State, personally appeared John B. Carnahan , known to me to be the Assistant Vice President of West One Bank, Idaho, who executed this instrument on behalf of said Bank, and acknowledged to me that such association executed the same.

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

MICROFILMED
SEP 12 2000

Notary Public for Idaho
Residing at Melba , Idaho
My commission expires: 7/15/94

m\B&SDEED1

Department of Water Resources
APPLICANT'S
Exhibit 14
Date Admitted 4/19/97

EXHIBIT A

The Southeast Quarter of the Southeast Quarter, East 150.0 feet of the Southwest Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho. EXCEPT tract described as follows:

BEGINNING at the Northwest corner of said Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southwest Quarter of the Southeast Quarter, 150.0 feet;
Thence South parallel with the East boundary of said Southwest Quarter of the Southeast Quarter, 950.00 feet;
Thence East parallel with the North boundary of said South One-half of the Southeast Quarter, 400.00 feet;
Thence North parallel with the West boundary of said Southeast Quarter of the Southeast Quarter, 350.00 feet;
Thence East parallel with the North boundary of said Southeast Quarter of the Southeast Quarter, 1070.00 feet more or less to the East boundary of said Southeast Quarter of the Southeast Quarter of Section 10;
Thence North along the East boundary of said Southeast Quarter of the Southeast Quarter, 600.00 feet to the Northeast corner of said Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southeast Quarter of the Southeast Quarter, 1320.00 feet more or less to THE POINT OF BEGINNING.

AND

The Southwest Quarter of the Southwest Quarter of Section 11, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The East One-half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The North One-half of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter and the West One-half of the Southeast Quarter of Section 11, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

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EXHIBIT A CONTINUED .

CONTINUED EXHIBIT A - 2

LESS AND EXCEPTING:

A Parcel of land being a part of the Southeast Quarter of the Northeast Quarter of Section 10, Part of the Northeast Quarter of the Southeast Quarter of Section 10 and part of the Northwest Quarter of the Southwest Quarter of Section 11, all of which is located in Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho and more particularly described as follows:

COMMENCING at the Southeast corner of said Section 10;
Thence North 00° 34' 58" East along the East boundary of Section 10 for a distance of 1329.70 feet to the Southeast corner of the Northeast Quarter of the Southeast Quarter of Section 10 and being the TRUE POINT OF BEGINNING;
Thence North 89° 54' 58" West along the South boundary of the Northeast Quarter of the Southeast Quarter of Section 10 for a distance of 1316.36 feet to the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 10;
Thence North 00° 22' 50" East along the West boundary of the Northeast Quarter of the Southeast Quarter for a distance of 1329.36 feet;
Thence North 00° 22' 50" East along the West boundary of the Southeast Quarter of the Northeast Quarter of Section 10 for a distance of 24.09 feet;
Thence North 65° 38' 29" East for a distance of 158.26 feet;
Thence North 56° 24' 44" East for a distance of 82.50 feet;
Thence North 43° 09' 43" East for a distance of 106.13 feet;
Thence North 69° 09' 19" East for a distance of 90.17 feet;
Thence South 80° 27' 08" East for a distance of 79.68 feet;
Thence South 70° 06' 44" East for a distance of 63.82 feet;
Thence North 88° 35' 31" East for a distance of 55.80 feet;
Thence North 84° 26' 50" East for a distance of 91.09 feet;
Thence North 83° 24' 29" East for a distance of 77.81 feet;
Thence North 70° 30' 14" East for a distance of 71.27 feet;
Thence North 35° 23' 39" East for a distance of 61.13 feet;
Thence North 09° 10' 56" East for a distance of 60.88 feet;
Thence South 41° 18' 31" East for a distance of 371.92 feet to a Point on the Arc of a 100° 50' 18" curve Right which is a point on the centerline of a canal;
Thence along the Arc of the 100° 50' 18" curve Right for a distance of 95.37 feet to the point of tangent, said Arc having a long chord bearing and distance of South 74° 50' 20" East, 83.07 feet;
Thence continuing along the center of the canal on the following courses:

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CONTINUED EXHIBIT A - 3

South 25° 47' 46" East, 89.37 feet;
South 20° 43' 42" East, 187.27 feet;
South 52° 43' 06" East, 51.74 feet;
South 60° 41' 03" East, 179.27 feet;
South 69° 06' 31" East, 113.99 feet;
South 65° 34' 48" East, 25.91 feet;
South 80° 58' 21" East, 35.61 feet;
South 83° 25' 49" East, 100.88 feet;
North 85° 34' 43" East, 35.12 feet;

Thence leaving the center of the canal South 04° 04' 11" East for a distance of 951.22 feet to a point on the South boundary of the Northwest Quarter of the Southwest Quarter of Section 11;

Thence South 89° 39' 09" West along the South boundary of the Northwest Quarter of the Southwest Quarter for a distance of 533.39 feet to the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 11 and being the TRUE POINT OF BEGINNING.

AND

The Northwest Quarter of the Northeast Quarter and the North One-half of the Northwest Quarter and the Southwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northwest Quarter of Section 14, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

The Northeast Quarter of the Northeast Quarter of Section 15, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

AND

East 150 feet of the Northwest Quarter of the Northeast Quarter of Section 15, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

END OF EXHIBIT A

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SEP 12 2000

Andy Fitzgerald
North Valley Milk, Inc.
425 N. 250 W.
Shoshone, ID 83352

Dear Andy:

Since you are the only family member we are acquainted with we are directing this letter to you.

We just wanted to inform you of the reasons we are objecting to your transfer applications. We have sold an acre of ground and had hoped to sell a couple of more acres of land for homesites. The land just happens to be across from where we have heard you are intending to put your dairy. If we had not been able to sell the acre of ground we would be a world of hurt because of the cattle market. And we were hoping to sell a couple more in case the cattle market doesn't come back for awhile as they are predicting. But I am sure you know that people do not want to live next door to a dairy. Lets face it--they are noisy and smell bad.

We have nothing against you or your family; we would like to be good neighbors. And for that matter like I said we have only heard rumors and don't really know what your intentions are or where.

Please understand our position in this matter.

Sincerely,

John & Leslie Renner

Department of Water Resources
APPLICANT'S
Exhibit 15
Date Admitted 4/10/97

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SEP 12 2000

REVISED PLAN

Prepared by:
Robert Ohlensehlen

Dairy Waste System Design
University of Idaho
College of Agriculture
07/25/96

General Dairy Information

Date Plan Prepared 07/25/96

Dairy Owner/Operator... Andrew Fitzgerald
Address... 180 4 Mile Road
Shoshone
4 Brothers - New Construc
2175 East 1300 South Good

ID 83352 Department of Water Resources
APPLICANT'S
Exhibit 17
Date Admitted 4/10/97

Dairy Herd Information

Milking Cows.....	1800	Replacement Heifers 100 to 300 lbs.....	0
Dry Cows.....	500	300 to 500 lbs....	0
Average Weight of Cows...	1400	500 to 700 lbs....	0
		700 to 900 lbs....	0
		900 to 1100 lbs...	0

Herd Waste Information

	Milking Herd:		Replacements:
Daily Manure Produced.....	4411	.....	0 Cu.Ft.
Daily Bedding per Cow.....	1.47	.....	0.00 Cu.Ft.
% of Manure Stored as Liquid.....	15	.....	0 Percent
Volume of Manure Stored as Liquid...	662	.....	0 Cu.Ft.

Milk Parlor Water Volumes

Milkings per Day..... 3

Gallons of Water for:

Cleaning Parlor Floor.....	225	gallons	Cleaning Equipment.....	75	gallons
Cleaning Milkroom.....	75	gallons	Cleaning Cows (per hd).....	0.50	gallons
Cleaning Bulk Tank.....	150	gallons	Total Used to Clean Cows.....	2955	gallons
Cleaning Pipeline.....	300	gallons	Total Water Used in Parlor.....	3780	gallons

Holding Pen Water Volumes

Number of Sprinklers in Holding Pen..... 120
Output of Sprinklers in G.P.M..... 4.98
Minutes Sprinklers Operated Daily..... 80
Water Used to Flush Holding Pen..... 2,000 gallons

Total Water in Holding Pen..
49,808 gallons

Total Water in the Parlor..
53,588 gallons

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Runoff Information and Volumes

Corral Areas and Runoff

	Length	Width	Slope	Runoff Vol. (Storm+Winter)
Area 1	2,040	1,300	1	517,183
Area 2	0	0	0	0
Area 3	0	0	0	0
Area 4	0	0	0	0
Area 5	0	0	0	0

25 Year 24 Hour Storm Value in Inches..... 2.2 inches

One in 5 Year Winter Precipitation Value in Inches..... 1.00 inches

Total Area for Which Runoff Calculations Are Being Made..... 2,652,000 sq.ft.

Total Volume of All 25 yr. Storm Runoff..... 296,183 cu.ft.

Total Volume of Winter Precipitation Runoff.. 221,000 cu.ft.

Total of All Runoff..... 517,183 cu.ft.

Total Barn Water to be Stored..... 53,588 cu.ft.

Total Manure to be Stored..... 662 cu.ft.

All Storage Required..... 1,925,894 cu.ft.

Lagoon Storage Information

Primary Storage

Percent of Runoff Stored in Primary Lagoon..... 100 %

Days of Storage Provided in Primary Lagoon..... 180 days

Number of Cells in the Primary Lagoon..... 2

Length of the Cells in the Primary Lagoon..... 397 ft.

Width of the Cells in the Primary Lagoon..... 450 ft.

Depth of the Cells in the Primary Lagoon..... 8 ft.

Freeboard Provided for Cells in the Primary Lagoon..... 2 ft.

Side Slope of the Cells in the Primary Lagoon..... 2 to 1

Total Volume of Waste Stored in Primary Lagoon..... 1,925,894 cu.ft.

Secondary Storage

Percent of Runoff Stored in Secondary Lagoon..... 0 %

Days of Storage Provided in Secondary Lagoon..... 180 days

Length of the Cells in the Secondary Lagoon..... 0 ft.

Width of the Cells in the Secondary Lagoon..... 0 ft.

Depth of the Cells in the Secondary Lagoon..... 0 ft.

Freeboard Provided for Cells in the Secondary Lagoon..... 2 ft.

Side Slope of the Cells in the Secondary Lagoon..... 2 to 1

Total Volume of Waste Stored in Secondary Lagoon..... 0 cu.ft.

Conatainment Berm

Percentage of Runoff Stored in Containment Berm..... 0 %

Length of Runoff Containment Berm..... 0 ft.

Width of Runoff Containment Berm..... 0 ft.

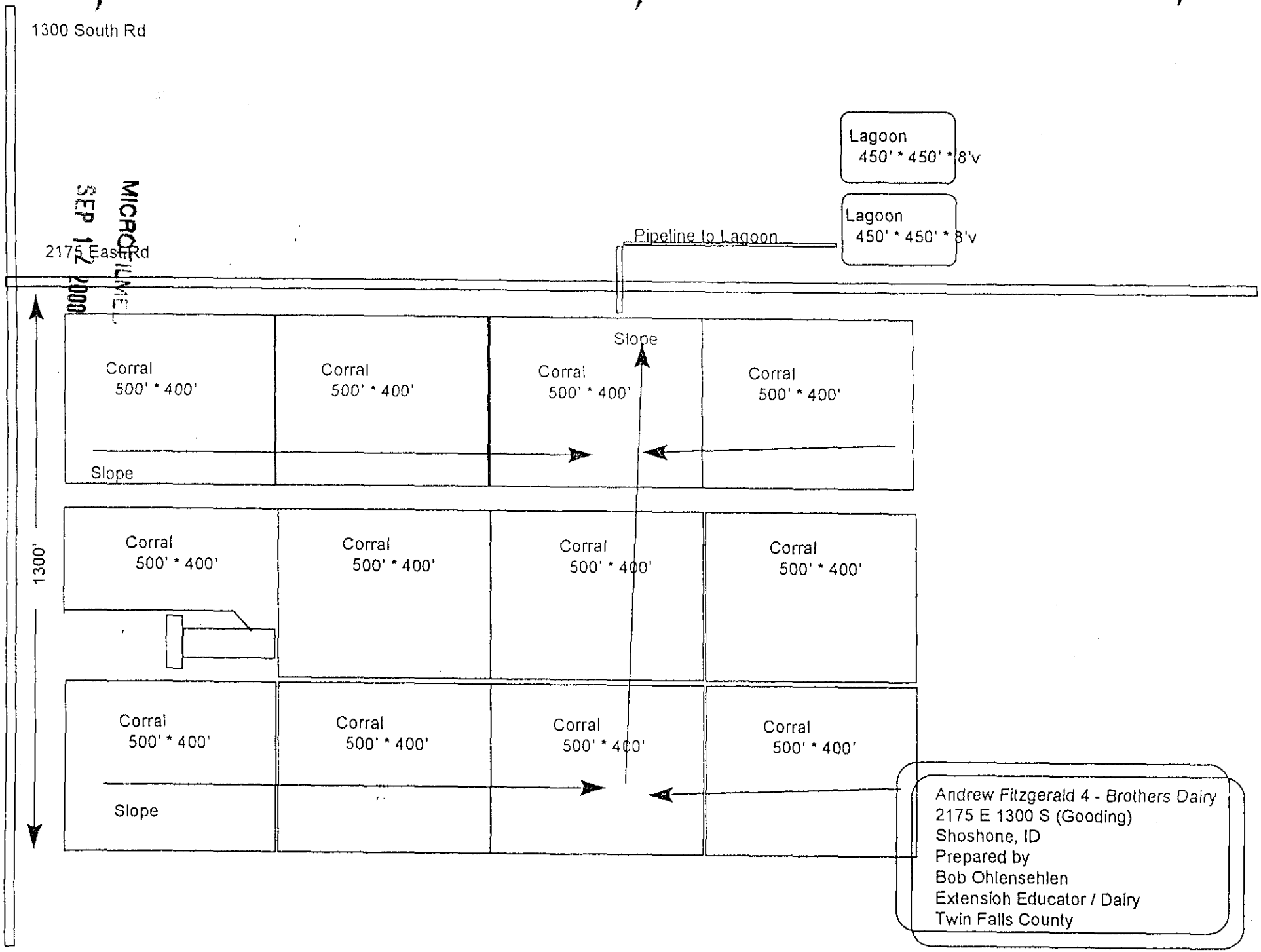
Depth of Runoff Containment Berm..... 0 ft.

Volume of Runoff Conatainment Berm..... 0 cu.ft.

Total Storage Provided..... 1,925,894 cu.ft.

Total Storage Required..... 1,925,894 cu.ft.

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1300 South Rd
2175 East Rd
Lagoon
450' * 450' * 8'v
Lagoon
450' * 450' * 8'v
Pipeline to Lagoon
Slope
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Slope
1300'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Corral
500' * 400'
Slope
Andrew Fitzgerald 4 - Brothers Dairy
2175 E 1300 S (Gooding)
Shoshone, ID
Prepared by
Bob Ohlensehlen
Extension Educator / Dairy
Twin Falls County

A37 02622
DEEPWELL
well

4-BROS. DAIRY
788 ACRES
2175 E 1300 S
600DW6 IDAHO

MAIN

KERVER 300HP

JOHN RENNER
NEIGHBOR 400HD
HOUSE

4722

HOUSE
WELL
NEW WELLS
BARN
2
CORRALS
8

WASTE WATER
PIVOT
4

LAGOONS
3

FEED

Large drum sprinkled 4/30/27 Adm
Department of Water Resources
Application 19
Permit Approved 4/30/27
Delivery Adm

FOSSLECO
300HP

PIVOT
6

HIGHLINES

UNION DITCH
600 HD
HIKOOSH
FEEDLOT

WELL
HIKOOSH
HOUSE

DEEPWELL
A37-07575

PIVOT
PIVOT

360HP
ADAMS

LEGUINECHE

7

Dry up.

Dry up

FRANCE
5000 HD

4723
WENDELL

U.S.
U.S.

12

PETITION

127 SIGNATURES

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
M.W. Easterday	2114 E. 1850 S. Gooding	M.W. Easterday
Randy Harney	DVM PO Box 357 Montour	Randy Harney
Jeanette Cantrell	1365 Spruce Ct, Gooding	
Linda Hasfurther	1620 St. Hwy 46 Gooding	
Kristie Brown	1920 E. 1700 S. Gooding, ID. 83330	Kristi Brown
Robert Mcnaldson	2371 US 26 Gooding Id 83330	RMcnaldson
Darren Carraway	Pioneer Rd Bliss, ID 83314	
Sheny Pruett	Bliss Rd 83314	
Brenda Kuhn	9204 mile Rd. Gooding Id.	Brenda Kuhn
Todd Kuhn	" " "	Todd Kuhn
Diane Bundy	1826 E. 1700 S.,	Gooding, Id 83330
Gary Childers	178 West Road.	Jerome Id 83338

Department of Water Resources
Exhibit 20
Date 4/10/01 AM

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SEP 12 2000

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PETITION

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
Rusty Jewa	Shoshone	
Jack Leavy	Shoshone	
Libby Renner	902 West 7th Shoshone	
Maureen Sauerwein	1310 Hwy 46 Gooding	Maureen Sauerwein
Dawn Welborn	Shoshone	
Ricky R Harris	Shashone	Ricky Harris
Sandy Allison	Shoshone	Sandy Allison
Penny Kerner	Shoshone	Penny Kerner
D. E. Hiser	Shoshone	Hiser
Verna Eden	Shashone, Id	
James L. Butler	Gooding Id.	
Mary Cerini	Shoshone Id	
Mae Adams	760 W 470 N Gooding	Mae Adams
	148 E 520 N Shoshone I.D.	
Dennis Babcock	754 W 470 N Gooding, 83330	

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Elmer A Holdaway 694W 4 mile Rd.
Sauna Holdaway 694W. 4 Mile Rd. Gooding
Jess Hamaker 131 E 520 N Shoshone
KEL CRANE 432 N 150 E Shoshone
Bart Williams 700 N 700 W
Jan Peters 421 Hwy 75 Shoshone
Doug Kerner 2104 E 1300 S Gooding Id

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PETITION

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
Carl Karlsen	450-2 250w	Carl Karlsen
Hele Bowman	429 Nebraska	Hele Bowman
Lee Ann Brown	2150 Main St. #11	Lee Ann Brown
Brian Rioux	2150 Main St. #11	Brian Rioux
Joanna Lloyd	1838 A S. 1800 E.	Joanna Lloyd
Claudette Sabala	1598 E 1600S	Claudette Sabala
Malisa Smith	2276 BE 575S.	Malisa Smith
William G. Ward	1502 Barley Grandview Ln.	William G Ward
Jason Jones	1229 Malta ave	Jason Jones
Claire Eden	634 W 470 N Gooding	Claire Eden
Sonya Zupper	Rt 2 Box 241 Fairfield	Sonya Zupper
Teresa M Duffee	2129 California #2 Gooding	Teresa M Duffee
Mark Hallfield	2000 East 191 South Gooding	Mark Hallfield
Ray Tostado	2216 A US Hwy 26 - Gooding	Ray Tostado
M. Kevin Gifford	2109 S. Main Gooding Id.	M. Kevin Gifford
Edward A Shipley	1275 N - 200 E Rupert Id 83350	Edward A Shipley

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SEP 12 2000

11

PETITION

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
Craig Bryce	298 W Vanity Dr. Rupert	Craig Bryce
Mickie Karlson	445W 250W Shoshone	Mickie Karlson
Dary Eden	800 W 414 N Shoshone	Dary Eden
Jim Allen	826 Colorado Gooding	Jim Allen
Darryl Dyton	156 ½ mi Rd Shoshone, Id 83352	
Lyle R. Sodergaard	494 N. 1300 W	Lyle R Sodergaard
Curt Bartholomew	102 Main Gooding	Curt Bartholomew
Craig L. Olsen	P.O. Box 52 Gooding	
Allen Peterson	1542 E. 2900 S	Wendell
Christina Johnson	1004 Del Mar Dr. Twin Falls Id.	
Scott Johnson	1004 Del Mar Dr. Twin Falls, ID	

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Colleen Smith 2276 BE 1575 S Gooding I.D.

David L Smith 2276 BE 1575 Gooding I.D.

[illegible] 410 [illegible] [illegible]

Sharon Cheney 2000 Merriot Rd Gooding Id 83330

~~R.P. ARCANTATMULA 3593 Eastlake Dr., West Richland, WA 99353~~

~~Linda M. Arcantatmula 3593 Eastlake Dr. West Richland, WA 99353~~

John Moody PO Box 303 Gooding

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SEP 12 2000

37

PETITION

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
Jerome FITZGERALD	28525 1800E	Jerome Fitzgerald
Justin Schoessler	1761 E 2350 S.	Justin Schoessler
[redacted]		
Ben Guesa	Gooding ID	Ben Guesa
Aaron Kelley	Wendell	Aaron Kelley
Greg Reitsma	34725 1900E Wendell	
[illegible]	Wendell	
CHARLES WALLIS	WENDELL ID	
[illegible]		
[illegible]	Wendell	
[illegible]	Wendell	
[illegible]	Wendell	
[illegible]	Hagerman	
Bill Fein	WENDELL	Bill Fein
[illegible]	Wendell	David Daly
Steve Bilbao	Gooding	Steve Bilbao

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Cheryl Benstra - Hagerman - Cheryl Benstra

Pete Pechtra 1813 E 3105 Wendell

Wendell

WENDELL KEN STERRETT

Wendell

Wendell Timothy J Rudolph

Wendell

Wendell

Shane Collins

Wendell

Wendell

Wendell

Carl Hoon

Wendell

Wendell

Wendell

Jack VerBree JR

Wendell

Jim Scarrow

Wendell

Harry G. DeLoRe 2844 Pitching ROAD Hagerman

Wendell

Wendell

Wendell

MICROFILMED

2000

PETITION

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
Michael Slimon	PO Box 491 Gooding	
Joe E. Ochsner	226 7th Ave W. Gdg	Joe E. Ochsner
Silas S. Cheney	1682S 1500E Gooding	Silas Cheney
Jack Lopez	1536 E 1700S Gooding	Jack Lopez
Fred Mabbott	229 Nebraska Gooding Id.	Fred Mabbott
Mike Slimon	P.O. Box. 491 Gooding Id.	Mike Slimon
MIKE SABALA	1670 S 180 E GOODING ID.	Mike Sabala
Jim FRASER	717 03rd Ave East Gooding Id.	Jim Fraser
Joe PAVKOV	1962 E 2100S	Gooding Ida Joseph C Pavkov
Gary Osborne	1625 E 1776S	Gdg Ida.
Kelly Bates	1631E 1500S	
Jeff Pavkov	1962 E. 2100S. Gooding ID	Jeff Pavkov
Steve Toomey	650W 521N	Shoshone Ida
Dan B Bate	box 163	Gooding, Id
R.H. Dalton	1071 E 2250 South.	
Wayne Hafen	700E. 212S.	Jerome.

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SEP 12 2000

PETITION

Support the Ag Industry

We the undersigned support 4 Bros Dairy and the construction of a new dairy site in north Gooding County. (For more information call 886-7716)

Name	Address	Signature
Kathy Whittaker	Dietrich, Id.	K. Whittaker
Patricia Metzler	815 S. Curtis 29, Boise	Patricia Metzler
Buz Chapman	515 East 18th Jerome Id	Buz Chapman
Susan Bailey	PO Box 1703 Bluff # 4105	Sun Valley ID Susan Bailey

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Herschel Kerrow Shoshone ID

Bret C. Asher Hagerman Idaho

MICROFILMED

DEC 12 2000

Local typ rev.

Department of Water Resources
APPLICANT'S
Exhibit 21
Date Admitted 4/30/97

JUL 17 2000
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Four Brothers Dairy
Local Water Budget or Consumptive Ulse Analysis (Typical) Year Revised
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U from Well Right		Projected C U from Well Right			
	Original farm af/year**	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354		69	0	0	
Stockwater CU				78	35	
Commercial CU				28	13	
Irrigation CU	385	**385**	226	106	47	**379**

*From IDWR Dairy Use Worksheet

In a typical year, Big Wood water right terminated between June 15 and July 1 and AMF#2 supplemental right is on

Big Wood River water right with a priority of 1886 right is for	265 inches on	384 acres=	0.69 in/acre
Supplemental AMF #2 right is for	175 inches on	384 acres=	0.46 in/acre
Historically, 69 Big Wood Canal shares @5/8 in	43.1 inches on	384 acres=	0.11 in/acre

At 1 inch per acre, Big Wood River right supplies 69.0% of the water requirement when it is on
At 1 inch per acre, AMF #2 right supplies 45.6% of the water requirement when it is on
At 1 inch per acre, Big Wood shares supplies 12.2% of the water requirement when it is on

***Well will provide 100%of irrigation demand for these acres
**Well provided 33.2% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares
Based on Allen & Brockway 1983 Consumptive Use for Idaho
Average Monthly ET Shoshone WNW station

	April	May	June	July	Aug	Sept	Oct	Annual
Avg Daily mm	3.07	6.00	7.10	6.72	5.12	3.44	1.20	
Avg Monthly ft	0.302	0.610	0.699	0.683	0.521	0.339	0.122	3.276
% of annual	9.2%	18.6%	21.3%	20.9%	15.9%	10.3%	3.7%	100.0%
Acc. %	9.2%	27.9%	49.2%	70.0%	85.9%	96.3%	100.0%	

Big Wood Canal%	1.1%	2.3%	2.6%	2.5%	1.9%	1.3%	0.5%	12.2%
Big Wood %annual	6.4%	12.9%	7.4%	0	0	0	0	26.6%
AMF#2 % annual	0.0%	0.0%	4.9%	9.5%	7.2%	4.7%	1.7%	28.0%
Well % annual	1.7%	3.5%	6.5%	8.8%	6.7%	4.4%	1.6%	**33.2%**
							total	100.0%

Four Brothers Dairy
Regional Annual Water Budget or Consumptive Use Analysis Typical Year Revised
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U				Projected C U			
	Original farm af/year**	Dairy Site Sec 10 af/year	Dairy Site Wendell af/year	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354	56	20		69	0	0	
Stockwater CU						78	35	
Commercial CU						28	13	
Irrigation CU	385	183	66	**634**	226			**379**

*From IDWR Dairy Use Worksheet
***Well will provide 100%of irrigation demand for these acres
**Well provided 33.2% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares

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SEP 1 2 2000

Four Brothers Dairy
Local Water Budget or Consumptive Ulse Analysis (Drought Year Revised)
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U from Well Right		Projected C U from Well Right			
	Original farm af/year**	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354		69	0	0	
Stockwater CU				78	35	
Commercial CU				28	13	
Irrigation CU	490	**490**	226	106	47	**379**

*From IDWR Dairy Use Worksheet
In a drought year, Big Wood water right is never on and AMF#2 supplemental right is on

Big Wood River water right with a priority of 1886 right is for		265 inches on	384 acres=	0.69 in/acre
Supplemental AMF #2 right is for		175 inches on	384 acres=	0.46 in/acre
Historically,	69 Big Wood Canal shares @5/8 in	43.1 inches on	384 acres=	0.11 in/acre

At 1 inch per acre, Big Wood River right supplies 69.0% of the water requirement when it is on
At 1 inch per acre, AMF #2 right supplies 45.6% of the water requirement when it is on
At 1 inch per acre, Big Wood shares supplies 12.2% of the water requirement when it is on

***Well will provide 100%of irrigation demand for these acres
**Well provided 42.2% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares
Based on Allen & Brockway 1983 Consumptive Use for Idaho
Average Monthly ET Shoshone WNW station

	April	May	June	July	Aug	Sept	Oct	Annual
Avg Daily mm	3.07	6.00	7.10	6.72	5.12	3.44	1.20	
Avg Monthly ft	0.302	0.610	0.699	0.683	0.521	0.339	0.122	3.276
% of annual	9.2%	18.6%	21.3%	20.9%	15.9%	10.3%	3.7%	100.0%
Acc. %	9.2%	27.9%	49.2%	70.0%	85.9%	96.3%	100.0%	

Big Wood Canal%	1.1%	2.3%	2.6%	2.5%	1.9%	1.3%	0.5%	12.2%
Big Wood %annual	0	0	0	0	0	0	0	0.0%
AMF#2 % annual	4.2%	8.5%	9.7%	9.5%	7.2%	4.7%	1.7%	45.6%
Well % annual	3.9%	7.9%	9.0%	8.8%	6.7%	4.4%	1.6%	**42.2%**
							total	100.0%

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Four Brothers Dairy
Regional Annual Water Budget or Consumptive Use Analysis Drought Year Revised
Proposed water right transfers 4722 and 4723
Water Permit No 37-07575

Crop Consumptive Use 39.3 inches/year-alfalfa(from Allen and Brockway, 1983, Shoshone 1NW)

	Historical C U				Projected C U			
	Original farm af/year**	Dairy Site Sec 10 af/year	Dairy Site Wendell af/year	Total af/year	Original farm af/year***	Dairy Site Sec 10 af/year*	Dairy Site Wendell af/year*	Total af/year
Irrigated Acres	354	56	20		69	0	0	
Stockwater CU						78	35	
Commercial CU						28	13	
Irrigation CU	489	183	66	**738**	226			**379**

*From IDWR Dairy Use Worksheet
***Well will provide 100%of irrigation demand for these acres
**Well provided 42.2% percent of irrigation demand for these acres
remainder was provided by BWCC and AFRD shares

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Exhibits

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Department of Water Resources
APPLICANT'S
Exhibit A Protestants
Date Admitted 4/30/97 TRS

The responsibilities of IDEQ are listed below.

- Perform the duties as the lead state agency for the Idaho Wellhead Protection Program (duties include the development, coordination, and implementation of the Idaho Wellhead Protection Plan).

- Review and certify local wellhead protection plans as established by the policy guidelines discussed in Chapter 2.

- Provide technical assistance to public water supply systems and/or local governments on all aspects of the plan.

- Update Basic I wellhead protection area delineations for the five major hydrogeologic settings when appropriate.

- Delineate non-refined wellhead protection areas in fractured granitic or metamorphic rocks, carbonates, and other consolidated rock on a case-by-case basis as requested.

- Prioritize local government requests for federal or state grants should funding be available.

- Prioritize wellhead protection efforts based on the criteria listed in Chapter 2.

- Coordinate the program with other state agencies that are responsible for implementing regulations addressing potential contaminant sources in wellhead protection areas. A discussion of these agencies and associated responsibilities is discussed under the section on General Ground Water Roles and Responsibilities and in Appendix E.

- Provide public education on ground water protection, prevention of ground water contamination, and ground water restoration, in coordination with other state programs and agencies.

- Develop guidance manuals, forms, and other necessary material.

- Provide a biennial status report to the EPA as required by the Safe Drinking Water Act Amendments, 1986. A tracking system will be developed to assist IDEQ in meeting this requirement and in assessing progress of the program.

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Table E-1 Continued

Potential Sources of Ground Water Contamination	Ground Water Quality Impact Concerns	Source Management by		Administered By	Program is		Ground Water Protection Addressed		Recommendations and Comments to Improve Ground Water Protection in Existing Programs
		Program	Authority		Reg	Vol	S	NS	
Animal Wastes	Infiltration and runoff from CAFOS and dairies with inadequately designed feedlots and waste storage structures	Dairies (Grade A)	Regulations for Grade A Dairies and Pasteurization Plants	IDA (7/1/92)	x			x	1. The focus of the program is on surface water quality rather than ground water quality. 2. SCDs should include an inventory of statewide CAFO operations in their five year program. SCD. 3. Establish a monitoring and research program to determine the degree of CAFO impacts on ground water quality. CES/DEQ, IWRRI. 4. Develop informational and educational programs for ground water protection from CAFOS at all levels. 5. Provide additional personnel for technical assistance to design and implement CAFO waste management systems. SCS, DEQ IDA. 6. Provide financial/cost share assistance for implementation of CAFO waste management systems. ASCS, SCS-RCD, SAWQP. 7. Address the ground water quality protection shortcomings of the NPDES permit. DEQ, EPA. 8. Coordinate Requirements of all agencies into CAFO management systems. SCC. 9. Expand and promote Idaho waste management guidelines for CAFOS to address ground water quality protection DEQ lead. 10. The focus of the program is on surface water quality rather than ground water quality.
		Dairies (Grade B)	Idaho Dairy Laws, Rules and Regulations	IDA	X			X	
			Waste Management Guidelines	DEQ		X		X	
		CAFOS	NPDES Permit	EPA, DEQ	X			X	
		Compliance checks and complaint response	Idaho Water Quality Standards and Wastewater Treatment Requirements	DEQ Technical Advisory Committee	X			X	
		Water right permitting	Title 42, Chapter 2, Idaho Code, Rules and Regulations for Water Appropriations	IDWR	X			X	
		Concentrated animal feedlot operations waste management	Idaho Waste Management Guidelines	DEQ Technical Advisory Committee		X		X	
		Financial/cost share assistance for implementation		ASCS, SCS-RCD, SCD		X		X	
		Technical assistance for waste management system evaluation and design.		ASCS, SCS, SAWQP		X		X	

Reg = Regulatory, Vol = Voluntary, S = Specific, NS = Non specific
The potential sources of ground water contamination are listed in alphabetical order.

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Table 5.1 - Continued

CATEGORY III Sources designed to retain substances during transport or transmission	
Sources	**Examples/Related Activity**
Materials transport or transfer	♦ Transfer stations ♦ Vehicles carrying hazardous materials or waste
Pipelines	♦ Geothermal lines ♦ Petroleum lines ♦ Sewer lines ♦ Slurry lines

CATEGORY IV Sources discharging substances as a consequence of other planned activities	
Source	**Examples/Related Activity**
Animal feeding operations	♦ Animal clinics ♦ Aquaculture ♦ Dairies ♦ Feedlots ♦ Kennels ♦ Poultry farms ♦ Race tracks ♦ Zoos
De-icing salt applications	♦ Airports ♦ Transportation corridors
Irrigation practices	♦ Agricultural return water
Mining	♦ Mine site runoff ♦ Ore processing by cyanidation
Percolation of atmospheric pollutants	♦ Acid rain
Pesticide and fertilizer applications	♦ Agriculture lands ♦ Cemeteries ♦ Demossing of irrigation canals ♦ Golf courses ♦ Lawns ♦ Parks ♦ Transportation corridors
Urban runoff	♦ French drains ♦ Infiltration basins ♦ Storm wells

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Table 10. Daily production and composition of manure (feces and urine). Upper figure is average; lower figures represent range given in literature. Dashes indicate data not available or entry not appropriate.
Source: Agricultural Waste Management Field Manual, USDA SCS.

	Dairy Cattle	Beef Cattle	Feeder Swine	Breeder Swine	Poultry	Ducks[1]	Sheep	Horses	Catfish	People
					lb/day/1,000 lb live weight					
Manure	85 72-90	62 41-88	69 50-90	50	53 32-67	---	36 30-40	50 40-60	---	31.2
Total Solids	9.3 6.8-13.5	8.9 6.0-11.1	7.2 6.0-9.0	4.3	13.9 9.0-17.4	[2]24 [2]13-31	9.5 8.4-10.7	17.5	3.1 2.8-3.5	3.4 2.4-4.4
Volatile Solids	6.9 5.7-7.9	6.9 4.8-8.2	5.7 4.0-7.0	3.2	10.8 8.0-12.9	[3]14.5 [3]8.7-17.5	8.0 6.0-9.1	---	---	2.0 1.1-2.6
BOD_5	1.4 0.8-1.8	1.5 1.0-1.8	2.3 2.0-2.8	1.3	3.4 1.6-5.5	5.1 4.1-7.6	0.8 0.7-0.9	1.4	2.3 1.1-4.9	1.36 0.6-2.10
COD	8.4 4.2-13.3	7.9 6.6-9.0	5.9 4.7-7.1	5.2	12.5 9.5-15.8	---	10.0 7.5-12.0	---	---	3.12 1.0-3.5
Total nitrogen as N	0.37 0.29-0.51	0.43 0.30-0.58	0.45 0.20-0.70	---	0.86 0.45-1.50	1.42 1.17-1.62	0.40 0.34-0.45	0.30	1.6 0.7-2.5	0.20 0.14-0.26
Total phosphorus as P	0.069 0.026-0.100	0.090 0.023-0.170	0.17 0.09-0.27	---	0.40 0.20-0.75	0.62 0.4-0.9	0.075 0.040-0.120	0.12	0.25 0.24-0.26	0.024
Total phosphorus as P_2O_5	0.16	0.21	0.39	---	0.92	1.42	0.17	0.27	0.57	0.055
Total potassium as K	0.20 0.08-0.35	0.23 0.11-0.38	0.25 0.10-0.60	---	0.35 0.12-0.50	0.9 0.6-1.2	0.32 0.24-0.40	0.25	1.5 0.7-2.4	0.064
Total potassium as K_2O	0.24	0.28	0.30	---	0.42	1.08	0.39	0.30	1.8	0.077
					ft²/day/1,000 lb live weight					
Manure	1.37	1.00	1.11	.81	0.85	---	0.58	0.81	---	0.50

[1]Based on production figures per 1,000 ducks and assuming an average weight of 4 pounds per duck on swim water.
[2]Suspended solids.

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Department of Water Resources
Protestants
Exhibit D
Date Identified 9/30/97 KZS

Exhibit 15
Date Admitted 4/10/97

Q Okay, thank you.

MR. BROWN: I have nothing further.

MR. HOLLIFIELD: I don't have anything.

MR. SAXTON: Thank you. Additional witnesses, Mr. Brown?

MR. BROWN: Yes, I have one more. Mr. Chuck Brockway.

CHUCK BROCKWAY, PROTESTANT'S WITNESS, IS SWORN

MR. SAXTON: Thank you. You may be seated. Mr. Brown?

DIRECT EXAMINATION

BY MR. BROWN:

Q Could you identify yourself for us, Mr. Brockway?

A Yeah, I'm Chuck Brockway, I live in Twin Falls, Idaho, I'm on the staff of the University of Idaho Civil and Ag Engineering Departments.

MR. BROWN: Mr. Hollifield, would you be willing to stipulate to Mr. Brockway's qualifications as hydrologist?

MR. HOLLIFIELD: I will.

MR. BROWN: Thank you.

BY MR. BROWN:

Q Mr. Brockway, have you been retained by the Butlers to give opinions with regard to the transfer of water which we are here today about?

A Yes.

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Q And have you formed any opinions?
A I have.
Q And let's deal with quantity of water first. Is it your understanding that a well has been drilled in August of this year which we've referred to earlier today?
MR. BROWN: And I do not -- could we give Mr. Brockway the well driller's -- M, Exhibit M?
BY MR. BROWN:
Q Now is it your understanding, Mr. Brockway, that Exhibit M represents the well which was drilled in August of this year to -- and is the place to which water would be diverted if the transfer is granted?
A It's my understanding that this is a well that the transfer indicates I believe two wells.
Q Okay. Have you seen that document Exhibit M before today?
A No.
MR. BROWN: Could you hand the witness Exhibit E?
BY MR. BROWN:
Q Have you seen the documents which comprise Exhibit E before?
A Yes, but the ones I had were a little more readable, but I've seen them.
Q Okay. Is it in fact true that on the first page of Exhibit E you drew the dotted line which is referred to as

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surface drainage area?
A Yes, I did.
Q And what does that line delimit?
A It's essentially the water, the surface watershed area that would drain into the two draws that go on either side of the Butler spring if there were no canal there. And the canal does intercept the surface water from the east part of this watershed.
Q In other words from the right-hand side of the dark line that's described as the canal?
A Yes.
Q Now can you give me some indication of about what size of the area is which -- where the surface would drain to the gullies?
A The area inside the dotted line is 235 acres.
Q Okay. Have you determined how many acres are above the canal?
A I did not.
Q Now can you explain to me what your understanding of the hydrology of the spring, the Butler spring is?
A The Butler spring is a natural spring that's fed from a perched water system that essentially is recharged from the area to the east of the spring. Not necessarily just the dotted area, but the area to the east of the spring which can include the higher ground also, to the east and to the east of

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the canal also.

Q Do you know how deep the water table is in the general area indicated by Exhibit 4, which is the map we've been using today?

A Well, there are some wells in the vicinity to assist in delineating the water table. There are -- there is the, what I want to call the perched water table, which is the upper water system that feeds the Butler spring. And the depth to that water is indicated in my opinion by the static water level in the driller's log for the new well, which is Exhibit M, which is about 60 feet. So if you look at the water table east of the spring, the spring is about 125 feet lower than the elevation of the ground surface at the well. So if you subtract 60 feet depth to water from that, the water level in the well is about 65 feet above the spring and the gradient is toward the spring.

Q Now have you formed any opinion about whether or not the operation of a well, year round for the dairy operation, in the quantity of .018 CFS which is asked for in the transfer would impact spring flows?

A Well, I think in order to understand that you have to look at the relative change in the source of water between the well from which the transfer is proposed and the new well. The static water level in the old well, if you want to call it that, is about 320 feet, which is the lower system. Which

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means that that well is predominantly drawing from a lower aquifer as opposed to this perched water system. If you transfer then .18 CFS from that well to the new well, drawing from the upper system which is feeding the spring, then in my opinion you can have a direct quantitative impact on the spring. Now it's difficult to quantify the impact, but the gradient is toward the spring from that well and in my opinion the spring discharge will be impacted by moving the water from the deeper source to the upper source, and also from a point which is not directly down gradient -- or not directly up gradient from the spring to one that is directly up gradient.

Q So is it your understanding that the new well would be directly up gradient from the springs?

A More so than the old well.

Q Now you've spoken about the relationship between the old depth to water in the old water and the depth to water in the new well. Have you considered the historical use of the old well and whether a new use year round would have a different -- or might have a different impact on the spring flows?

A Well, generally in structuring a transfer the objective is to keep the consumptive use before the transfer -- the consumptive use after the transfer less than or equal to what it was before the transfer. Now if you're transferring from the same aquifer and you're drying up a certain number of crop acres you can match that consumptive use to the projected

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consumptive use for the dairy. And I believe the transfer has done that. And but that assumes that prior to the transfer that that well was being used as a full water supply for those crops, in this case 24 acres I believe that have been designated as not being irrigated anymore. If in fact historically the water use on those 24 acres was not a continuous supply, or was not a fully supply, then you've got in increase in consumptive use, or you could have, by using the water in the dairy as opposed to a marginal supply or no supply for the 24 acres that were dried up. So the transfer of the water balance assumes that that well supplied a full irrigation supply to the acres that are dried up.

Q Mr. Brockway, have you sat through the testimony this afternoon? All of the testimony?

A Unfortunately yes.

Q Did you hear Mr. Maxwell's testimony with regard to the power records?

A Yes.

Q Did you also --

MR. BROWN: Well, let me ask if we could find the -- I've lost track of those exhibits that we didn't have copies of. Could we give the witness the Idaho Power records and -- can we also give him the photo of the flowmeter?

BY MR. BROWN:

Q Now, Mr. Brockway, what is the exhibit you are looking at

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now?
A I have Exhibit H which are the -- essentially the meter -- the dates that the meter was read on the as I understand it, the old well and booster pump system.
Q Now if you would look at the demand kilowatts per each period on that exhibit. And I would ask you to take note of Mr. Maxwell's testimony that would be about 62, 63, 68 would be the demand on a 75-horsepower pump to run a pivot. Now from those records is it possible for you to form an opinion as to how often the well, the old well would have been used?
A Well, the demand meter is the best indicator of horsepower connected, he's right. And if you're running a 75-horse motor, .8, that's about right. About 60 or so kilowatts demand. Now that doesn't -- that doesn't tell you the energy used, it just tells you the maximum kilowatt demand. But the differences here between 68 or 70 and a 168 would indicate to me that that we had two pumps in the system.
Q Okay, did you also hear the testimony today from the various ditch riders, water masters, and farmers who have used this ground, and I think it's fair to say that many of them have said that Northside Canal water was primarily used on the pivot over the last few years. Would that testimony, in your opinion, be consistent with the power records you're looking at?
A Well, the power records indicate that the maximum demand

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is not experienced very often, nor hasn't been over the years. Maybe more so in --

MR. SAXTON: The tape, we'll change it.

(Tape Change)

MR. SAXTON: Okay.

THE WITNESS: Probably more so in 1992 than in the other years.

BY MR. BROWN:

Q Okay, from -- if you could look at the photograph that's also in front of you. Which is Exhibit?

A T.

Q T. Assume for the moment that that is a photograph of the flowmeter on the old well. Would that photograph indicate to you how much water has been pumped since the time the flowmeter was installed?

A The integrator on the flowmeter head would tell you how many gallons.

Q Okay, and does that photograph tell you a gallonage?

A Yes, it reads 22,339,500 gallons.

Q Okay, and could you tell us about how much use that would represent? In other words that many gallons pumped would be what quantity of water? Can you -- do you have your calculator?

A I can figure that out.

Q Okay.

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A It's about 68 acre feet.
Q Okay, and can you tell us about how long it would take running a 75-horsepower pump to pump 78 acre feet? 68, excuse me.
A Well, not if you just have the horsepower, it depends on what it's connected to. If it's pumping the water right which is about 2 CFS you could do that in 34 days.
Q Okay, so that would be a total of 32 days use over the entire time the meter has been installed?
A Yes.
Q Now you indicated before that you had to take into consideration how much might have been utilized under the old well right. Is that correct?
A Well, if you're looking to evaluate the impact or change in depletion or pump out from the aquifer you have to know what the old well was doing and how much was being pumped so you can compare that with the projected pump out from the new dairy well. Now if that 68 acre feet is all that's been pumped since 1989 that's not very much.
Q Okay, and how would that -- let's assume that it's been only 68 acre feet has been pumped out over the last -- since 1989. Now would that indicate to you that there would be more water consumed if the new well was pumped at the quantities Mr. Bosma testified he would use them on a 365-day year?
A Well, if you look at the Department of Water Resources

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work sheet for the transfer they estimate that the dairy as configured with 1,400 cows would use about 76 acre feet a year. Which is more than the total number of acre feet as indicated by the meter on the old well.

Q From all the testimony you've heard here today do you have any factual basis for believing that the new right at 76 acre feet a year would be consuming less than what's ever been pumped out of that well over the last five years?

A Well, based on the testimony I heard today, if the canal company has been the primary source then utilization of even part of the right to transfer to the dairy will be an increase in use over what has been historically from the old well. And normally if you got canal water it's cheaper to divert that than it is to pump the well.

Q Okay. Have you heard the testimony today about the utilization of waste water from the lagoon to irrigate pastures?

A Yes.

Q Have you visited the Bosma site and the Butler springs?

A Twice.

Q And do you believe that the Bosma's [sic] concern that irrigation with waste water from the lagoon could contaminate the springs?

A I have a big concern and I shared that with Mr. Butler. And the drainage area that drains into what I think has been

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called the big dam or the wildfowl pool or -- anyway the pond right above the Butler springs. As long as that is, it intercepts all of the surface runoff essentially from -- from all of the land irrigated below the canal, which is probably in the neighborhood of 180 acres or something. And it's steep, and so there will be surface runoff both from natural rainfall and rain on snow events. And there can be runoff from sprinkler application. And looking at the amount of let's say nitrogen, or just nitrate that will be put on some of that area, and I don't think it's been designated where it is, but we're talking, you know, 20,000 pounds of nitrate a year going on the surface from the irrigation system.

The soils in that area are permeable, they're sandy loam soils. They're underlaying by, what some people call basalt gravel or abrechieated [phonetic] basalt, very permeable. And it doesn't have very far to go to the water table. So I'm concerned about both deep percolation of say nitrates and other nutrients by improper hydraulic loading of the soil and also by perhaps overloading the soil in excess of the agronomic rates that crops can take it up.

So there's a groundwater concern and there's also the surface water runoff concern that is going to happen and has happened. And it will collect in the big dam. And the conductivity of the bottom of that big dam is very, very high, and it -- in fact the material exposed in the bottom of that

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dam or was exposed the last time I was out there is the same material that's in the outcropping around the spring. So there's a direct connection, if you will, between the dam and the spring at least material-wise. And I would be really concerned about surface runoff into the big dam and also about adequate management of on-field application of nutrients.

Q You also observed the soil and subsoils up near the dairy barn which is being constructed.

A I did, yes.

Q And could you characterize those for us?

A The soils in the vicinity of the barn are fairly shallow, they vary from maybe 10 inches to 24 or 30 inches max. But the significant thing is they're interspersed with relatively continuous layers of this basalt, permeable basalt material. And also some kaliche [phonetic] layers that are interspersed, which is the same material that's exposed down at the spring and in the bottom of the big dam. So I think there's a ready means of transport, if you will, of any deep percolation that gets into the soil down gradient into the spring.

Q How is that you were able to observe the soils and subsoils near the barn?

A On I think it was the 3rd of September I went out with Mr. Butler and looked at the spring, looked at the pond, and we drove up to the barn area on the road and observed the ditches that were excavated for burying, it looked like part

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of the mainline or distribution line in and around the barn area and from the well. And those soils were exposed and the permeable layers were exposed.

Q Mr. Brockway, do you work with DEQ, health districts, other government agencies who have a responsibility for maintaining quality of water?

A Yes.

Q Is it your understanding that the quality of water which is -- which a DEQ permit for a waste lagoon is designed to address is not necessarily the only concern which the Butlers should have? In other words we've heard that the DEQ will play a role in the design of the lagoon so that it doesn't leak, and they will attempt to be sure that best management practices are followed, at least after contamination occurs. Now if you were the Butlers would you be concerned that that is enough to prevent contamination of their springs or their wildlife pond?

A Well, I don't believe that just meeting the requirements of DEQ for construction for the waste containment system and the drainage plan by itself is enough to assure that there won't be pollution of the spring. And you know we had evidence of that last year. There were some dairies on the north side were apparently designed to meet the 25-year 24-hour storm containment, and actually ended up putting some contaminated water in the canal systems. So that the 25-year

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12-hour storm is what's in the regs, but that's just what it says, it's what you expect once every 25 years. And we're going to get bigger storms than that, you know, in the other years. So meeting DEQ specs on containment doesn't mean that you won't get runoff from the lagoon sometime.

The other thing is and I think Mr. McMasters alluded to it is that they don't regulate or supervise the irrigation application of lagoon affluent. They recommend BMP's, and that's in the CAFFO [phonetic] guidelines. But I've never known them to, at least in my experience, to, you know, shut a guy down because he was not irrigating properly. And they don't have the horses or the people to go police that.

Q You've heard today that this -- the big dam is about 1,000 feet long, I think Mr. Butler said, and that it's 17 feet high from the toe on the downhill on the -- on his property side to the top of the structure. Do you think the Butlers have -- should be concerned about any water which may be held behind that dam if there is a runoff event on the property?

A Well, if there is a runoff event, it means that surface runoff from the irrigated land, which my understanding is will be irrigated partially with lagoon affluent, will collect behind the big dam, it won't go on by. Now the dam is constructed so that when it fills the overflow goes essentially down the south gully. I think the pipe goes down

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the south gully or gulch, whatever you want to call it. But that dam has a large storage area, and so it would take a big runoff event to spill anything. And everything that goes in that dam is going to go in the groundwater except for evaporation. And instead of going on by, so if -- and if that water is contaminated, which it can well be, as surface runoff, then they may experience and probably will the same thing they experienced previously when there was water in the dam.

Q Once water is contaminated how do you decontaminate it if it's in the subsurface? Generally? Let's talk about bacteria and then about maybe nitrates and phosphates. How do you decontaminate the supply so that they would have safe drinking water if it became contaminated?

A Well, if -- it depends on the contamination. If it's bacteria, like if it's coliform bacteria you can chlorinate and meet specifications that way. It's more expensive to do that, but you can chlorinate and get rid of the bacteria. If it's a nitrate problem you can't afford to take the nitrate out. There are some means of doing it but not for home use or -- nor small commercial use. And if the aquifer becomes high in nitrate then there's not a lot you can do except eliminate the source and let the natural throughput from the aquifer clean it up.

Q Is the surface soil which you've observed out there, is

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that the type of soil which would filter, if you will, or cause nitrates or phosphates to precipitate out of the groundwater as it seeps down to the spring water table?

A Well, the bulk of the soils out there are -- are the tuten [phonetic] series, they're sandy loam, cobbly loam soils. And if you have a proper depth of soil and you have water that's contaminated with bacteria filtering through it, and it takes about at least 30 centimeters or more, you can -- the soil if it's uniform will pretty much take care of the bacteria, it won't do anything for the nitrates. It will take out most of the phosphorous, because phosphorous has a tendency to absorb to soil particles. So phosphorous wouldn't be a problem but nitrate would. And if the travel time, and depending on the source, if you get ammonia in the groundwater, it will generally dissipate and you'll end up with nitrates. So I think the biggest concern there would be bacteria and nitrates in the groundwater.

Q Do nitrates -- would nitrates be pumped out of the waste lagoon?

A Yes.

Q Is there a way to filter pumpage from the waste lagoon to take out the nitrates before they're applied to the fields?

A No, nitrates are dissolved so you can't filter nitrates out. You can -- you can filter some of the fine particulate matter if you have a fine enough filter, but you can't get the

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nitrate out.

Q Do different crops, which are typically grown in this area, have much variation in the amount of nitrates they will use?

A Yes, they do. Alfalfa you don't put nitrogen on, it makes its own, it fixes it. Corn, grain, you need to put fertilizer on or nitrate.

Q So if you had alfalfa pastures and you pumped irrigation lagoon waste water onto it what would happen to the nitrates?

A Well, alfalfa in a typical rotation actually contributes water -- nitrates to the groundwater. So if you were to put irrigation water on that was high in nitrogen you would actually be exceeding the crop requirement, and that nitrate would just filtrate into the groundwater.

Q Okay, let me just wrap this up. Is it my understanding that it's your opinion that based on the well records, especially this Exhibit M and the depth to water of 60 feet that there could be injury to existing rights from this transfer?

A Yes.

Q Is it also your opinion that based on the evidence you've heard today that there could be an expansion in consumptive use based on the historical use of the old well?

MR. HOLLIFIELD: I'm sorry, I didn't hear that.

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BY MR. BROWN:

Q Based upon the -- based on the consumptive use of the old well and the evidence we've heard today, is it your opinion that running the new well 24 hours a day, 365 days a year could constitute an expansion in use? Or an expansion in consumptive use?

A Expansion in consumptive use if that historical use has been low like as testified.

Q Okay, would the -- in your opinion if the Northside Canal shares apply to the property which Mr. Bosma owns and if those rights are used in conjunction with a transfer of the well right, would there be an expansion in consumptive use?

A Do you mean if the Northside Canal Company has been the primary source or the total source?

Q My understanding is that Mr. Degroot has purchased 168 shares of Northside Canal water, it's also my understanding is that Northside Canal water has been used on the Bosma property. Mr. Bosma also testified that he had other acres which are not -- which haven't been irrigated, which have been pasture and that he may spread water onto those areas. Would that constitute an expansion in the consumptive use when you add the transferred water to the use of Northside Canal shares on ground to its full extent on whatever amount of ground?

A Well, I think -- yeah, I don't know the nature of the Northside Canal Company shares and where they're to be

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applied, but if they're to be a full supply for all the acres they can irrigate and then we've got a transfer out of the supplemental well supply, then I think you can have an expansion.

Q Okay. Is it your opinion that the Butlers could be directly impacted by the change in use of you've heard -- as you've heard it proposed today?

A Yeah, it's my opinion that pumping the dairy well, the one that's already drilled, is pumping from the aquifer that directly supplies the Butler spring. Whereas the old well was pumping from a deeper system that may or may not have been directly supplying the Butler spring.

Q Is there anything I haven't allowed you to adequately explain today? I mean have you presented your opinions and the basis for them to the extent you're comfortable or feel that they need to be explained to this point?

A I think we've covered it.

Q Thank you.

MR. BROWN: I have nothing further.

MR. SAXTON: Mr. Hollifield, cross?

MR. HOLLIFIELD: Thank you. Just a couple please.

CROSS-EXAMINATION

BY MR. HOLLIFIELD:

Q If the well by the dairy was drilled to 300 feet would that be in the same aquifer that feeds the springs?

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A It may be close still, I -- I don't know, it would depend on -- it would depend on two things. It would depend it would depend on the static water level in the well if were deepened and what the casing string that's put in the well is. If you drilled it down to 300 or more and we had a water level at 300 feet, that would indicate to me that you had hit a different source than that higher water that's standing at 60 feet. And then if it was -- certainly if it was -- if that upper water was cased off, then there would be a less of an impact.

Q So if they -- if Mr. Bosma drilled this well down to what, the depth that the old well, hit water, then there would be no impact?

A I would have to wait till he drilled it to see where the static water level really stood and also what the casing string was and where the perforations were.

Q Okay. If a well is located say within 300 feet of the -- or back to the, it would be the northeast of the well that's by the dairy and it's down 300 feet, would that have any impact on the Butler springs?

A Well, if there was another well 300 feet from the dairy well?

Q Yes, to the northeast.

A To the northeast. And it's 300 feet deep?

Q Yes.

A And when the water table stands where?

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Q At 60.
A At 60?
Q Yes.
A Then it would indicate to me it's the same aquifer.
Q Even though it's 300 feet?
A I guess I'm mixed up. We have a hypothetical well or do we have a real well?
Q No, there's a real well.
A Okay. And it's 300 feet from the new dairy well?
Q That's correct. Approximately.
A And the static water level in that hypothetical well or the real well is where?
Q I think I believe it's 60.
A Which is the same as in the dairy well?
Q But that well is 300 feet.
A Well, then that indicates to me that they're pretty much the same aquifer and then that perch system may go down 300 feet.
Q Okay. But could it be another -- could that be perched water and then into the aquifer, like you say, the old well is? Or the new -- excuse me -- the new well?
A Well, if the static water level stands at the same point, it's a pretty good indication that they're sampling the same strata. Now if you were to drill the 300 footer down farther to 500 and the water level went down, the standing water

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level, that would indicate to me that you poked through a perching layer and were down into the deeper system, like I think the old well is.

Q Okay. And if you did that with the dairy well, the same thing, you believe it would be in below the perching system?

A The same thing.

Q Do you know on Exhibit T when that was installed?

A I don't.

Q Does anybody?

A Somebody probably does.

Q No one has testified here today.

A Not that I heard.

Q So it could have been installed in 1994 for all you know?

A For all I know. I don't know when it was installed.

Q Okay, what would you do, now you had the concern about the -- pumping the nitrates on the pasture. What would you do to take care of that concern? What would you recommend? What would you do?

A Well, in order to manage the irrigation of lagoon affluent, you have to mix it with irrigation water and you have to balance the nitrogen that's in the lagoon affluent and that you apply to an acre of crop with the crop uptake, that's what Mr. McMasters was referring to as agronomic application rates. And you also have to manage the water application quantities so that you don't leech -- you don't over irrigate

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and you leech then a lot of that nitrogen down into the groundwater system. So you have to have metering of the water and you have to have periodic tests of the concentration of nitrogens and other nutrients in the affluent so you can balance that with crop uptake.

Q Okay. And do you have any problem with that? If that's done and is properly done?

A That can be done, yeah.

Q Okay. Isn't that what Mr. --

A And then move it -- move that application as far away as you can physically with your distribution system.

Q Okay. And that basically what Mr. McMasters was recommending? Or stating?

A That's part of the BMP's in the CAFFO [phonetic] document.

Q Okay. Now with respect to the contamination of the groundwater at the dike or the big dam, what would you do or what would be your recommendation to prevent that?

A I'd take the dam out.

Q And do what?

A Let -- if there's any runoff, let it go on by. Then it doesn't go into the groundwater system. And there are two natural drains there that will carry the water the way it used to go.

Q Well, isn't the design of the lagoon to put the water

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over into the other drain system?
A Well, my understanding is there's a coffer dam, the retention dam, or the diversion dam that moves runoff from the corrals over into the draw that has the lagoon in it.
Q Okay.
A Okay. I thought you were talking about the big dam. What we would do with it.
Q No, I was talking about the big dam, but you're talking about removing that.
A Well, I'm saying that by retaining all of the surface runoff in the big dam you're assuring that all of that is going to go in the aquifer. And in my opinion if it goes in the aquifer it's going to show up in the spring, so you're going to have a contaminated spring. If we don't have any impoundment of the surface runoff, from the standpoint of the spring it's better. Because in my opinion the surface runoff is going to have bacteria and it's going to have nitrates and debris in it, and it's just -- it's going to go in the aquifer.
Q Can we have the lagoon, the big lagoon without the big dam?
A I think that would be up to DEQ. I'm not sure whether they're planning on the big dam as part of the drainage retention system. My understanding is that that the lagoon and the little diversion dam itself is being designed to

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handle the runoff directly from the dairy but not the irrigated area.

Q Okay. That's my understanding.

A Right. The other option is line the big dam, make sure that nothing goes out the bottom of it. Then it can act as a detention facility, but then it doesn't jeopardize the spring. But that's an awfully big dam.

Q Line it with what?

A You can either use a compacted clay similar to what I think is going to be required on the lagoon or you can use a membrane liner. If you don't line it, everything that goes in it, for the most part, is going to go in the ground.

Q But in your opinion the transfer could impact the Butlers?

A I -- yes.

Q Could impact them?

A It's my opinion that and based on my understanding of what's happened historically and what the new well is doing that it will be taking water from the same aquifer that the Butler spring is fed. So that is an impact.

Q But you don't know what kind of an impact that will have? If any?

A I believe it will have an impact quantitatively on the spring flow, but I can't tell you if it's .1 CFS or .15.

Q Or .0001 CFS?

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A It probably won't be that low.

MR. HOLLIFIELD: That's all I have.

MR. SAXTON: Okay, Mr. Brown, before I allow redirect, Dr. Brockway, I had one question in connection with Protestant's Exhibit T, which is the measuring device. Is there anything here to your knowledge that would indicate that this particular reading had not been turned over four or five times or forty times, like a car speedometer turns back to zero as soon as it gets to 100,000? Is there anything there that would indicate to you that that has not happened?

THE WITNESS: No.

MR. SAXTON: Okay. Thank you. Mr. Brown, redirect?

MR. BROWN: If -- I will be quick but I would like to first -- I have not offered a couple of exhibits.

MR. SAXTON: Yes, we noted there's a couple of them. Go ahead and we'll see if they're the same ones we have.

MR. BROWN: Let me do that before I get rid of my last witness. First I would like to offer for admission Exhibit E, which is the map that shows the surface drainage and the attached well logs.

MR. SAXTON: Okay, we show that's not been admitted. Any objection?

MR. HOLLIFIELD: That's correct. No.

MR. SAXTON: Okay, Protestant's Exhibit E is admitted.

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(Protestant's Exhibit E, Admitted)

MR. BROWN: Okay, it's also my understanding that Exhibit C, the deed has not been admitted.

MR. SAXTON: I think that's right. Mr. Hollifield, Protestant's Exhibit C which consists of a corporate warranty deed, any objection?

MR. HOLLIFIELD: No, no objection.

MR. SAXTON: Okay, Protestant's Exhibit C is also admitted.

(Protestant's Exhibit C, Admitted)

MR. SAXTON: And were there any others? We show Protestant's Exhibit B, for Baker, has not been admitted.

MR. BROWN: That is the P&Z siting permit and I would ask that that be admitted.

MR. SAXTON: Mr. Hollifield, Protestant's Exhibit B?

MR. HOLLIFIELD: That's just a duplication of what's already been admitted, but I don't -- I don't have any objection.

MR. SAXTON: Okay. So I won't have a gap in my record I'll accept it. Protestant's Exhibit B is admitted.

(Protestant's Exhibit B, Admitted)

MR. SAXTON: Is that all of them? Well, while we're looking, go ahead, Mr. Brown, with your redirect? If you have any.

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REDIRECT EXAMINATION

BY MR. BROWN:

Q Okay, Mr. Brock -- Dr. Brockway, I've -- on cross-examination you were asked about your certitude with respect to whether there would be injury to the springs, quantitative injury from pumping of a dairy well which to date we know has a depth to water level of about 60 feet. Have you heard any evidence here today which would indicate to you that if that well is used with a 60-foot depth to water measurement it would not impact the spring flows?

A No.

Q Thank you.

MR. BROWN: That's all I have.

MR. SAXTON: Recross?

MR. HOLLIFIELD: No.

MR. SAXTON: Dr. Brockway, thank you.

THE WITNESS: Thank you.

MR. SAXTON: Any additional witnesses?

MR. BROWN: No, thank you.

MR. SAXTON: Okay, our records also show that Applicant's Exhibit Number 4 maybe has not been admitted. Did we talk about that earlier?

MR. BROWN: That would be --

MR. SAXTON: Is it a repeat of one of our other exhibits?

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MR. HOLLIFIELD: It has been, but everyone has been talking about it, I would --

MR. BROWN: Let's admit it.

MR. HOLLIFIELD: -- move that it be admitted.

MR. BROWN: I have no objection.

MR. SAXTON: Okay, Applicant's Exhibit Number 4 is admitted.

(Applicant's Exhibit No. 4, Admitted)

MR. SAXTON: I believe that concludes all direct testimony. Okay, as I indicated about eight hours ago I would take official notice -- seven hours ago -- I would take official notice of certain information in Department files. At this point I would like to do that.

I will officially notice the application for transfer file which is a part of the Department's records. That would include the application, the advertisement, the protests and related correspondence which is available, and has been available should anybody have chosen to review it.

I will also officially notice all water right records in Department files including those of the protestants, the Butlers.

I will notice past decisions and orders of the Department as they could apply to this particular matter at hand.

I will notice reports and water measurement records

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such as the GS makes available to the Department and to anyone else.

I will notice well driller reports that are a part of Department records.

Is there anything further before I conclude this hearing? Mr. Hollifield?

MR. HOLLIFIELD: I have nothing further.

MR. SAXTON: Mr. Brown?

MR. BROWN: I would ask that you also take judicial notice of the filings in the recorder's office in Gooding County with respect to ownership of the property.

MR. SAXTON: I am not sure I want to do that. I guess that -- would that mean I need to go look up those ownership records? Because I do not intend to do that. If they're not presented as part of this hearing, it's not part of my record.

MR. BROWN: My understanding is that is that when there's a transfer of water rights the recorder has a duty to provide the Department with notice.

MR. SAXTON: Now if you want to make a motion to present some additional -- a late exhibit to me and there's no objection by the applicant, I will consider that kind of motion, but this hearing officer does not plan to go research the county courthouse records.

MR. BROWN: Okay, that's fine. I have -- I'll drop

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my request.

MR. SAXTON: Okay. Anything further then? Mr. Brown, that concludes it then?

MR. BROWN: That's correct.

MR. SAXTON: Okay. The Department will review the matter at hand and we will issue a recommended order to the parties.

That will conclude this hearing and this record is closed. Thank you for coming.

PROCEEDINGS CONCLUDED

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CERTIFICATION

I (WE) CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

NORTHWEST TRANSCRIPTS, INC.
P.O. BOX 890
NAMPA, IDAHO 83653
(208) 466-2743

Gayle M. Lutz
FEDERALLY CERTIFIED MANAGER/OWNER

KAROL MESNA
TRANSCRIBER

6/26/95
DATE

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Protestants
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4/10/97 AM

ORDINANCE NO. 62

AN ORDINANCE DEFINING AND ESTABLISHING CONFINED ANIMAL FEEDING OPERATIONS; PROVIDING FOR TITLE, INTERPRETATION AND ENACTMENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXISTING CONFINED ANIMAL FEEDING OPERATIONS; PROVIDING FOR ZONES IN WHICH CAFO'S ARE ALLOWED; PROVIDING FOR SITING PERMITS, AND THE CONTENTS OF APPLICATIONS THEREFORE; PROVIDING FOR NOTICE AND HEARING ON SITING PERMITS; SETTING FORTH THE CRITERIA FOR APPROVAL FOR SITING PERMITS; PROVIDING FOR THE GRANT OR DENIAL OF SITING PERMITS; PROVIDING FOR OCCUPANCY CERTIFICATES, AND THE CONTENTS OF APPLICATIONS THEREFORE; SETTING THE PROCESS FOR OCCUPANCY CERTIFICATES; PROVIDING FOR GRANT OR DENIAL OF OCCUPANCY CERTIFICATES; PROVIDING FOR APPEAL; PROVIDING FOR ENFORCEMENT; PROVIDING FOR EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GOODING COUNTY, IDAHO, AS FOLLOWS:

I. TITLE, INTERPRETATION AND ENACTMENT:

A. This Ordinance is adopted pursuant to authority granted by title 67, chapter 65 of the Idaho Code, and Article 12, Section 2 of the Idaho Constitution, as amended or subsequently codified.

B. Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the

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validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

C. All ordinances or parts of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

D. The Board of County Commissioners of Gooding County specifically find that this ordinance conforms with and is in compliance with the division and dictates of the Gooding County Comprehensive Plan.

II. DEFINITIONS:

A. ADMINISTRATOR: An official, having knowledge in the principles and practices of zoning, who is appointed by the Board to administer Gooding County's zoning ordinance.

B. AFFECTED PERSON: A person or legal entity owning property or residing within one-half mile of the CAFO, or a resident or real property owner of Gooding County which will be materially affected in their health, safety or property rights by the CAFO; and the Administrator.

C. ANIMAL UNITS: Multiply the number of animals by the animal equivalency factor to determine animal units:

ANIMAL TYPES		ANIMAL EQUIVALENCY FACTOR
DAIRY CATTLE		
	Milking and dry cows	1.0
	Heifers (2 years and older)	.75
	Heifers (1 to 2 years old)	.70

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	Calves (3 months to 1 year) (under three months)	 .40 .25
BEEF CATTLE		
	Bull (each)	1.0
	Steers/Cows (over 1000 lbs)	.75
	Steers/Cows (600-1000 lbs)	0.6
	Calves (under 600)	0.4
SWINE		
	Pigs (55 lbs-market)	0.4
	Pigs (up to 55 lbs)	0.1
	Sows (each)	0.4
	Boars (each)	0.5
SHEEP	(each)	0.15
HORSES	(each)	1.0
FISH	(500 lbs)	1.0
CHICKENS		
	Layers (each)	0.01
	Broilers (each)	0.005
FOR SPECIES NOT SPECIFICALLY IDENTIFIED	(350 POUNDS)	1.0

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D. APPLICANT: A person or legal entity seeking approvals or permits pursuant to this ordinance which has an ownership interest in real property of a nature sufficient to require the use to which the real property will be put as proposed in the applications for approvals or permits.

E. BOARD: The Board of County Commissioners.

F. CAFO: A contiguous area or parcel of land or the use of a contiguous area or parcel of land, with said land being under one ownership, upon which there are confined livestock, fish or birds in enclosures or ponds for six (6) months of the year, defined as follows:

1. Any combination of animal units which total 100 animal units or any facility with a milk shipping permit; or,
2. A waste treatment system.

Areas or parcels of land are deemed contiguous when separated by county roads. Areas or parcels of land also are deemed contiguous if they are not adjacent, but are owned by the CAFO operator and a pipeline exists which is capable of conveying liquid waste to the non-adjacent land.

G. COMMISSION: The Zoning, Planning and Zoning, Joint Zoning, or Joint Planning and Zoning Commission appointed by the Board.

H. MCL: Maximum Contaminant Level in the Idaho Department of Health and Welfare's Water Quality Standards and Wastewater Treatment Requirements.

I. WASTE: Waste is the presence of:

1. Liquid Waste: Waste water and other waste material in liquid form which is generated as a by-product of a CAFO.
2. Solid Waste: Waste material in solid form which is generated as a by-product of a CAFO.

J. WASTE TREATMENT SYSTEM: The process, area, or mechanism employed for the retention, storage, treatment, distribution and application of waste.

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III. EXISTING CAFO'S:

A. The Administrator shall mail a survey sheet explaining registration procedures to all owners and operators of existing CAFO's. The owners and operators will have thirty (30) days from the date of the mailing to respond with the numbers of livestock in each category and the numbers of acres and such other information that the Administrator may deem appropriate. In the case of dairy CAFO's the approximate number of milking animals will be verified with the Department of Agriculture.

B. Within six (6) months from the effective date of this ordinance, any person or entity ("Registrant") operating a CAFO existing as of said effective date, shall file a registration notice with the Administrator. The registration notice shall provide the following:

1. Name, address, and telephone number of registrant.
2. Legal description of the CAFO.
3. Existing use.
4. Zoning district.
5. A site plan showing the following:
   a. Dimensions, size and location of existing improvements on the CAFO.
   b. Property lines and set backs.
   c. Feed storage areas.
   d. Confinement areas.
   e. Waste storage areas.
   f. Wells.
6. A written description of the waste treatment system.
7. Water right permit or license from the State of Idaho.

The Administrator shall review each registration notice and determine if it is complete and if the information provided is accurate.

C. If the Administrator determines the registration notice is complete and the information provided is accurate, the Administrator shall provide the registrant with written notification that the registration notice has been accepted and recorded with the Administrator.

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D. If the Administrator determines that the registration notice is not complete or the information provided is not accurate, the Administrator shall, within twenty (20) days of the determination, provide the registrant with written notification of the incomplete items or the inaccurate information.

E. The registrant shall provide the incomplete items or the correct information to the Administrator if the registration is to be accepted. If such action occurs, the Administrator shall deem the registration notice accepted and shall record it as such in the official records of the office. The Administrator also shall provide the registrant with written notification of such action within twenty (20) days of the determination.

F. Registration notices which have been accepted and recorded by the Administrator shall allow the continued operation of an existing CAFO and shall be deemed transferable in the same manner as a siting permit as long as the CAFO remains in operation.

G. Any CAFO existing as of the effective date of this ordinance, which has been sent a survey sheet by the Administrator, which does not file a registration notice with the Administrator within the time limits of section III. B., shall not be recognized as an existing CAFO and any grandfather rights for continued operation will not be transferable to a subsequent owner or operator, for purposes of this ordinance.

H. Any non-conforming CAFO existing as of the effective date of this ordinance which is not in operation or ceases operation for the time periods set out herein shall lose its siting permit and any grandfather rights to exist as a non-conforming CAFO. A non-conforming CAFO located in agricultural zones which ceases operation for one year or more shall lose its siting permit and non-conforming grandfather rights. However, a non-conforming CAFO may receive two (2) yearly extensions, for a maximum of three (3) years of non-operation, by the CAFO, by making yearly applications to the Administrator. In no event shall a CAFO be out of operation for longer than three (3) years and keep its siting permit and grandfather rights. A non-conforming CAFO located in all other zoned areas shall lose its siting permits and grandfather rights if operations cease for thirty (30) days. Any non-conforming CAFO which is destroyed by

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more then fifty percent (50%) of its value shall not be allowed to be rebuilt as a non-conforming CAFO. Non-conforming CAFO's shall not increase in size or capacity without first conforming to the requirements of this ordinance and obtaining a new siting.

J. Conforming CAFO's constructed after the effective date of this ordinance; siting permits shall be transferable. The Administrator shall be given notice of the transfer of the siting permits. The notice shall provide such information as the administrator deems appropriate.

IV. ZONES IN WHICH CAFO'S ARE ALLOWED: New CAFO'S will only be allowed in the agricultural zoned areas.

V. SITING PERMIT REQUIRED: Prior to commencing construction of improvements to operate a new CAFO, increasing the animal units above the number authorized under an existing CAFO siting permit or registration notice, or commencing construction of improvements to expand the animal unit capacity of the CAFO, an applicant shall obtain a siting permit pursuant to this ordinance. New construction, construction of improvements to expand the animal unit capacity of the CAFO, and construction on waste treatment system to change location or capacity will be required to meet the siting permit requirements. Repairs to existing improvements which do not result in a change to the location or capacity will not require a siting permit.

VI. CONTENTS OF APPLICATION FOR SITING PERMIT: Each application for a siting permit shall contain the following:

A. Name, address, and telephone number of applicant.
B. Legal description of CAFO.
C. Existing use.
D. Proposed use.
E. Zoning district.
F. A vicinity map of a radius of one mile from the CAFO, at a one-half (½) mile to the inch scale, showing the following:
    1. Land use.
    2. Surface water courses.
    3. Wells.

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G. A site plan, at a one-sixteen (1/16) scale, showing the following:
   1. Topography at intervals of five (5) feet.
   2. Dimensions, size and location of existing improvements on the CAFO, if any.
   3. Dimensions, size and location of proposed improvements.
   4. Feed storage areas.
   5. Confinement areas.
   6. Waste storage areas.
   7. Wells.
   8. Surface water courses.
   9. Traffic access.
   10. Public thoroughfares.

H. A written description of the waste treatment system, including a site criteria for land where the waste water will be stored or applied.

I. Water right permit or license from the State of Idaho.

J. A list of property owners and residents within one-half (½) mile of the CAFO, including their last address on record with the County Recorder's office.

K. A fee shall be submitted with the application in an amount based upon the following formula:
   1. New Permits: $200 and .25 cents per animal unit.
   2. All Other Siting Permits: $50 and .25 cents per additional animal unit.

The application fees shall be reviewed annually and will be set by resolution of the Commissioners.

VII. PROCESS OF NOTICE AND APPLICATION HEARING: The Administrator shall review the application for completeness. Upon determining that the same is complete, the Administrator shall submit the same to the Commission for one public hearing. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the CAFO proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction. Fifteen (15) days prior notice shall also be provided by first class mail to property owners or residents within one-half (½) mile of the CAFO and any affected person that has made written request to the Administrator for notice.

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VIII. CRITERIA FOR APPROVAL: Prior to approval of a siting permit for a CAFO, the Commission must find that the new CAFO meets the following requirements:

A. General requirements:
   1. The CAFO must comply with and not be in violation of any federal, state or local law.
   2. The operator must not have begun construction of new improvements for a CAFO upon land to be used as a CAFO.

B. Waste management:
   1. The waste treatment system shall not be located or operated closer than 1100 feet from a residence belonging to someone other than the applicant, or areas accessible to the public, or be located or operated closer than 300 feet from property lines. No new residence shall be built within 1100 feet of a waste treatment system.
   2. No waste treatment system shall be located or operated closer than 500 feet from a domestic well.
   3. The waste treatment system shall have a 50 foot setback from the public right of way.
   4. For the purpose of distribution or application of liquid or solid waste the setbacks contained herein shall not apply to the application of liquid or solid waste except that the liquid and solid waste shall remain on the real property of the CAFO.
   5. That a dairy CAFO site shall have an environmental compliance certification from the Idaho Department of Agriculture, all other CAFO sites shall have an environmental compliance certification from the appropriate state agency.
   6. That the CAFO site has adequate area for its waste treatment system.
   7. That considering the Site Limitations Rating Criteria for Land-Applied Wastewater as set forth in Exhibit A, there shall be no rating of very severe or severe in any of the factors unless applicant can reasonably show that the potential site will not create any significant environmental impact.
   8. Aquaculture CAFO's are exempt for the waste treatment setbacks except for the storage of solid waste on land.

C. Water quality:
   1. Operation of the CAFO will not cause, either alone or in conjunction with other causes, contamination of ground water and

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drinking water beyond MCL's.

2. There will be no discharge of pollutants into surface or ground water except as permitted by the appropriate state and federal agency with jurisdiction.
3. That the CAFO operation enjoys adequate potable water to operate, which must be evidenced by a permit or license from the Idaho Department of Water Resources.

D. Property rights:

1. Corrals shall be located at least five hundred (500) feet away from any residence not belonging to the owner of the CAFO. Residences shall be constructed at least five hundred (500) feet away from existing corrals not belonging to the owner constructing the residence. Corrals shall have a fifty (50) foot setback from a public right-of-way.
2. Silage, haylage, potatoes or any other feed product resulting from the ensilage process which is stored in the open air shall be located at least seven hundred (700) feet from any existing residence not belonging to the owner of the feed. Residences shall be constructed at least seven hundred (700) feet from any existing feed storage area of this type not belonging to the owner constructing the residence.
3. All feed storage areas shall have a fifty (50) foot setback from a public right-of-way and an existing residence.
4. Lights from CAFO's shall be placed and shielded to prevent the light source from becoming a nuisance or hazard outside the property lines of the CAFO.
5. The maximum density of animals shall not exceed seven (7) Animal Units per acre on the contiguous real property on which the CAFO is operated.
6. No CAFO shall be located within two thousand six hundred forty (2,640) feet of a parcel of property in a residential zone or an existing platted subdivision with improvements constructed as of the effective date of this ordinance. Residential subdivisions proposed after the effective date of this ordinance shall be located no closer than two thousand six hundred forty (2,640) feet to any existing CAFO with improvements.
7. No CAFO shall be located within two thousand six hundred forty (2,640) feet of the rims of the Snake River Canyon and the Malad River Canyon and Zone "A" flood planes as set out on the Federal Emergency Management Agency's 1985 Flood Insurance Rate Map

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for Gooding County.

8. That the CAFO will not be a nuisance as defined by Section 52-101, Idaho Code.

IX. GRANT OR DENIAL OF SITING PERMIT: If the Commission finds that the applicant has conclusively shown that the proposed CAFO meets the criteria set forth herein, the Commission shall grant the siting permit requested. If the Commission does not find that the applicant has conclusively shown that the proposed CAFO meets the criteria set forth herein, the Commission shall not grant the siting permit.

X. OCCUPANCY CERTIFICATE REQUIRED: Prior to use of the expanded facilities of an existing CAFO or occupation of a new CAFO by livestock, fish, or birds, an Occupancy Certificate is required.

XI. PROCESS FOR OCCUPANCY CERTIFICATE:

A. After grant of the siting permit ("permit"), but prior to commencing construction of improvements, the permit owner shall notify the Administrator of the commencement of the construction. Additionally, if construction of a liquid waste storage lagoon commences after the initial commencement of construction notice, the permit owner shall provide the Administrator with separate notice of the lagoon construction commencement. If the permit owner desires to make changes to the proposed facilities authorized under the permit, the permit owner shall present a written change request to the Administrator. The change request will be on a form provided by the Administrator and will contain such information as the Administrator deems appropriate. The request must clearly specify the change(s) and provide an explanation or justification for the changes(s). If the change causes relocation of improvements, or waste treatement system, or increase in capacity, notice of the change shall be givento those affected persons who have requested notice of changes. The Administrator shall act on each change request and notify the permit owner within five (5) business days of the delivery of the change request to the Administrator. Within five (5) business days of delivery of the change request, the Administrator shall provide the permit owner with a copy of the change request, marked: "GRANTED" or "DENIED," the date of administrative action, and the signature of the Administrator.

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B. If the change request is denied, the permit owner may appeal the denial to the Commission and, then to the Board if the Commission denies the appeal. The appeals shall be governed and processed in accordance with the provisions of the Gooding County Zoning Ordinance.

C. If the Administrator receives a signed written complaint of alleged non-compliance with the terms of a siting permit, the Administrator shall determine the validity of the written complaint within five (5) business days of receipt. If the Administrator determines the written complaint is valid, a copy of the complaint shall be provided to the permit owner with the written determination of the Administrator. The permit owner shall be required to correct the non-compliance or appeal the Administrator's determination within twenty (20) days. If no appeal is filed, the correction must be completed within thirty (30) days of delivery of the Administrator's written determination, unless a written extension has been granted by the Administrator.

D. Inspection of the construction progress of the facilities authorized by the permit shall occur at regular intervals, and at the request of the permit owner. The inspections shall be performed by the Building Inspector or the Administrator, as appropriate under the circumstances.

E. The building Inspector or the Administrator shall have the authority to issue and post on the premises of the CAFO a "STOP WORK" order if an inspection reveals a material violation of the terms of the permit. All work must STOP after posting the order. The permit owner may appeal such an order to the Commission or the Board, as necessary, in accordance with the provisions of the Gooding County Zoning Ordinance.

F. After completion of the construction of the facilities authorized by the permit, or any approved change requests or non-compliance corrections, the Administrator shall issue an occupancy certificate to the permit owner. The certificate shall certify that all facilities have been inspected and conform with the terms of the permit, with approved changes, and the permit owner is fully authorized to occupy and operate the CAFO facilities.

G. If the Administrator denies issuance of an occupancy certificate, such denial may be appealed to the Commission or the Board, as necessary, in accordance with the provisions of the Gooding County Zoning Ordinance.

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XII. APPEAL:

A. All decisions of the Administrator, hearings, notices, and records thereof shall be conducted and maintained in accordance with the provisions of current Gooding County Zoning Ordinance. All decisions rendered by the Commission pursuant to this Ordinance shall be in writing, composed of findings of fact and conclusions of law, and shall be forthwith transmitted to all persons involved in the action by first class mail.

B. Any applicant or affected person aggrieved by a decision of the Commission shall have a right to appeal to the Board. Appeals shall be governed and processed in accordance with the provisions of the Gooding County Zoning Ordinance.

XIII. ENFORCEMENT:

A. Violations of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor as defined by section 18-113, Idaho Code, and is punishable by up to six (6) months in jail and up to a $300.00 fine, or both. Each day such violation continues shall be considered a separate offense.

B. In the event any affected person alleges that the CAFO no longer meets the criteria set forth herein and in the occupancy certificate, the affected person may initiate a contested case before the Board as governed by chapter 52, title 6, Idaho Code, Idaho's Administrative Procedure Act. The Board shall conduct a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code. Following the hearing, the Board may:
   1. Find in favor of the CAFO; or,
   2. Find in favor of the complainant, and
      a. revoke the occupancy certificate;
      b. suspend the occupancy certificate for a definite period;
      c. modify the occupancy certificate; or,
      d. Provide conditions upon the occupancy certificate.

C. Further, the Board may at any time take immediate action to protect the public in accordance with the process set forth in Idaho's Administrative Procedure Act, specifically section 67-5247, Idaho Code.

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This ordinance shall be in full force and effect upon publication following passage and approval.

Regularly passed and approved by the Board of County Commissioners of Gooding County, Idaho, on this 10 day of February, 1997.

APPROVED

Win Henslee

Win Henslee, Commissioner

Michael Arkoosh

Mitch Arkoosh, Commissioner

Tom Faulkner

Tom Faulkner, Commissioner

ATTEST:

Denise M Hill, Deputy Clerk

Helen Edwards, Clerk

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Publication

A summary of the Ordinance is published in the Gooding County Leader within one (1) month after adoption and implementation on the 10 day of February, 1997.

BOARD OF COUNTY COMMISSIONERS OF GOODING COUNTY

Win Henslee

Win Henslee, Commissioner

Michael Arkoosh

Mitch Arkoosh, Commissioner

Tom Faulk

Tom Faulkner, Commissioner

ATTEST:

Norine M. Hill, Deputy Clerk

Helen Edwards, Clerk

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EXHIBIT A
Site Limitations

Rating Criteria for Land-Applied Wastewater

Site Characteristics	VERY SEVERE	SEVERE	MODERATE	SLIGHT
AWC in /60 in. (available water capacity)	< 1"	1-3"	3"-6"	> 6"
Bedrock Characteristics if >5' depth		Highly fractured columnar	Fractures 1 - 2" apart	Fractures > 2' apart
Cation Exchange Capacity (Surface 10")	<5 meq/100gr	5 - 10 meq/100gr	5 - 10 meq/100gr	>20 meq/100gr
Coarse Fragment (>3")(0 - 40 depth)	>60%	35 - 60%	15 - 35%	<15 %
Depth of Bedrock	<2'	2 - 3'	3 - 5'	>5'
Drainage Class	Very poorly	Poorly Somewhat Poorly	Moderately Well Excessive	Well Somewhat Excessive
Erodibility (Water) K Factor X Slope	>6	4 - 6	2 - 4	>2
Flooding Potential	More than 1x per year	1 - 2 years	2 - 5 years	> 5 years
Frost free season (32F)	< 60 days	60 -90 days	90 - 120 days	> 120 days
Limiting Layer Depth (duripan) (fragipan)	< 3'	3 - 4'	4 - 5'	>5'
Organic Matter (0 - 10" depth)	<. 5%	. 5-1%	1 - 3%	>3%
Oxides Sesquixides Carponates		All uncoated sand grains no Ca accumulation or Fe Exchange sets	Partially coated sand grains (Ca or Fe)	Sand grain coated with Fe or Carbonates, allophone layers, Ca horizons present

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Permeability (Slowest layer within 5' depth)	> 20" per/hr < 0.06" per/hr	10-20" per/hr 0.06 - 0.2" per/hr	6 - 10" per/hr 0.2 - 0.6" per/hr	0.6 -" per/hr
pH 0 - 40" depth	<4 >9	4.0 - 4.5 8.5 - 9.0	4.5 - 5.6 7.9 - 8.5	5.6 - 7.9
Salinity 0 - 40" depth	Salt on Surface	> 8 MMHos/cm	4 - 8 MMHos/cm	< 4 MMHos/cm
SAR (Sadium Adsorption Ratio)	>12	8 - 12	4 - 3	<4
Slopes	>12	6-12	2 - 6	<2
Soil Texture Surface	Clays >50% Extremely Gravelly Textures, Stony Soils, Very & Extremely Cobbly	Clays, Silty Clays Cobbly Soils, Very Gravelly Textures	Silty Clay Loams, Clay Loams, Gravelly Testrues, Sandy Clay Loam, Sands	Sandy Loams Silt Loams Loams Sandy Loams
Soil Temperature Regime			Cryic	Frigid or warmer
Soil Moisture Regime		Aquic	Aquic Intergrade	Xeric Udic Aridic
Subsurface Structrure 3-24" depth		Massive Platy Columnar	Weak Granular Weak Prismatic	Mod & Strong Blocky Mod & Strong Prismatic
Surface Structure 0 - 10 " Depth Cultivated 0 - 3" depth, native		Cloddy Massive Platy	Weak Granular Weak Blocky	Mod & Strong Granualar, Mod & Strong Blocky
Water Table Depth	<2'	2 - 3'	3 - 5'	>5'
Wind Erodibility Group (SCS)		6, 7, 8,	1, 2	3, 4, 4, <5

1 Land that is established in forests can be acceptable in the very severe range
2 Summer application can be considered if classified very severe

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May 6, 1993

Resources
Exhibit H
Date Admitted 4/10/97

Arkoosh & Zidan, Inc.
Arkoosh Produce, Inc.
c/o Tom Arkoosh
802 W. Bannock
Boise, ID 83702

Re: Water Rights
Our File: 2930-5

Gentlemen:

This letter is intended to memorialize our further agreements regarding certain water rights associated with the real property being surrendered to Idaho State Bank ("ISB") by Arkoosh & Zidan, Inc. and the real property being retained by Arkoosh & Zidan, Inc. and/or its successor Arkoosh Produce, Inc. (hereinafter collectively referred to as "Arkoosh").

Idaho Department of Water Resources ("IDWR") records reflect that Bonnie and Michael Arkoosh have claimed a water right identified as A37-04404 (hereinafter referred to as the "Wastewater Right") in the Snake River Basin Adjudication. The source of this water right is claimed to be wastewater tributary to the Big Wood River. The claim for Wastewater Right is for use on the following described lands:

NE1/4NE1/4 (40 acres), SE1/4NE1/4 (40 acres), NE1/4SE1/4 (40 acres) Section 10; NE1/4SW1/4 (30 acres), NW1/4SE1/4 (30 acres) Section 11, T5S, R15E B.M, Gooding County Idaho, amounting to 180 acres.

Of the above 180 acres described as the place of use for such wastewater, 56 acres, or 31 percent, are acres that are to be retained by Arkoosh (hereinafter the "Arkoosh Property"). ISB and Arkoosh have agreed that a portion of the Wastewater Right is to be apportioned to the Arkoosh Property in the same proportion as the 56 acres is to 180 acres, which results in 31 percent of the Wastewater Right remaining appurtenant to the Arkoosh Property. ISB shall have the right to the use of 69 percent of the wastewater available under the Wastewater Right as appurtenant to the 124 acres of land conveyed to ISB (hereinafter the "ISB Property"). Although the Wastewater Right is included in the warranty deed from Arkoosh to ISB, the parties acknowledge that the intent is to convey to ISB only the portion of the Wastewater Right appurtenant to the ISB Property (69 percent) and ISB agrees to quitclaim fee

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ownership of the portion of the Wastewater Right appurtenant to the Arkoosh Property.

To the extent that the wastewater claimed under the Wastewater Right derives from the use of water under other water rights appurtenant to the ISB Property, ISB has agreed that it will not unilaterally change historical irrigation practices so as to materially decrease the accumulation of wastewater in the drains or ditches historically used by Arkoosh to irrigate the Arkoosh Property with such wastewater.

To the extent that the wastewater claimed under the Wastewater Right derives from the use of water rights not owned by ISB or from land other than the ISB Property, ISB expressly disavows any responsibility for, or ability to control, the amount, timing or quality of any such wastewater runoff. ISB does agree, however, not to impede or divert any such wastewater except to the extent of the 69 percent of the actual flow as provided by this Agreement.

Nothing herein is to be construed as an agreement by ISB to be responsible for delivering water to Arkoosh, or for maintaining any waste ditches or drains, or for generating a minimum quantity of wastewater for use by Arkoosh. If the quantity, period of use, point of diversion, place of use, priority or any other element of the water rights used by ISB on the ISB Property are eliminated or modified by any government agency order, or by any court decree not caused by or agreed to by ISB absent prior written consent by Arkoosh not to be unreasonably withheld, then ISB and Arkoosh will share proportionally in any resulting reduction in the availability of wastewater that may necessarily result from ISB's compliance with any such order or decree.

ISB and Arkoosh also have agreed that Arkoosh will be entitled to seek a transfer of water right no. 37-00600B and the associated American Falls supplemental water, if any, as shown on the copy of the Water District 37 Big Wood River Decree Book Below Magic Reservoir as of 2/3/93 attached hereto as Exhibit B (hereinafter collectively the "600B Right") from its current designated place of use at SW1/4NE1/4, SE1/4NW1/4 Section 14, T5S,R15E, B.M. to the real property consisting of approximately 80 acres, described on Exhibit A attached hereto and owned by Bonnie Arkoosh (hereinafter the "Bonnie Arkoosh Property"). Although the 600B Right is included in the warranty deed from Arkoosh to ISB, ISB agrees to quitclaim to Arkoosh the 600B Right to effect the transfer referenced herein. Arkoosh will be responsible for filing any transfer application with the IDWR, and with establishing whatever elements of proof are required by the IDWR to obtain the transfer. Arkoosh

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bears the risk that the IDWR may not approve the application, or that IDWR may reduce the amount permitted to be transferred to the new place of use on the basis of injury, forfeiture, abandonment, or otherwise, in which case ISB shall have no liability for any such inability to transfer and ISB shall not be obligated to provide any substitute or makeup water. ISB will not protest the transfer application, and will cooperate and take such acts as reasonably necessary to effect the transfer of the 600B Right to Arkoosh.

This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

Please indicate your Agreement with the foregoing by executing the enclosed copy of this letter and returning it to our office.

Sincerely,

IDAHO STATE BANK

By: Dan Noble, Vice Pres

ACCEPTED AND AGREED TO THIS
5TH DAY OF MAY, 1993
ARKOOSH PRODUCE, INC.,
an Idaho corporation

By:
Its:

ARKOOSH & ZIDAN, INC.,
an Idaho corporation

By:
Its:

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EXHIBIT A

Part of the South One-half of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho, described as follows:

BEGINNING at the Northwest corner of the Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southwest Quarter of the Southeast Quarter, 150.00 feet;
Thence South parallel with the East boundary of the said Southwest Quarter of the Southeast Quarter, 350.00 feet;
Thence East parallel with the North boundary of the said South One-half of the Southeast Quarter, 400.00 feet;
Thence North parallel with the West boundary of said Southeast Quarter of the Southeast Quarter, 350.00 feet to the North boundary of said Southeast Quarter of the Southeast Quarter;
Thence West along said North boundary 250.00 feet to THE POINT OF BEGINNING.

AND

Part of the South One-half of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho, described as follows:

BEGINNING at the Northwest corner of the Southeast Quarter of the Southeast Quarter;
Thence West along the North boundary of said Southwest Quarter of the Southeast Quarter, 150.00 feet;
Thence South parallel with the East boundary of said Southwest Quarter of the Southeast Quarter, 350.00 feet to the TRUE POINT OF BEGINNING;
Thence South parallel with the East boundary of said Southwest Quarter of the Southeast Quarter, 600.00 feet;
Thence East parallel with the North boundary of said South One-half of the Southeast Quarter, 400.00 feet;
Thence North parallel with the West boundary of said Southeast Quarter of the Southeast Quarter, 600.00 feet;
Thence West 400.00 feet to THE TRUE POINT OF BEGINNING.

AND

The North 600.0 feet of the Southeast Quarter of the Southeast Quarter of Section 10, Township 5 South, Range 15 East of the Boise Meridian, Gooding County, Idaho, EXCEPT the West 250.0 feet.

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West One Bank, Idaho
Post Office Box 8247
Boise, Idaho 83733
208 383-7000

WEST ONE BANK

July 26, 1995

North Valley Milk, Inc.
ATT: Mr. Andrew Fitzgerald
c/o Ray Sabala
340 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301

Dear Mr. Fitzgerald:

Please be advised that I am counsel for West One Bank, Idaho, and in that capacity received a letter from Arkoosh Produce, Inc., a photocopy of which I enclose.

You will recall that the sale of real property from West One Bank, Idaho to North Valley Milk, Inc., included certain water rights obligations, including those based upon a letter agreement between Idaho State Bank (the predecessor of West One Bank, Idaho) and Arkoosh and Zidan, Inc. and Arkoosh Produce, Inc. (a photocopy of that letter agreement is enclosed). Arkoosh Produce, Inc. has complained that the conditions of that letter agreement are not being met.

Obviously, the Bank does not know the circumstances concerning this complaint and whether it is correct. However, since you are the assignee of the Bank with respect to these obligations, I would appreciate your reviewing these claims to determine if anything must be done to comply with your agreements.

Yours very truly,

Conrad J. Aiken
Counsel

CJA:pm
(c:\wpwin\cja\northval.let)

enc

cc: Tom Arkoosh, Esq.
P.O. Box 93
Gooding, Idaho 83330

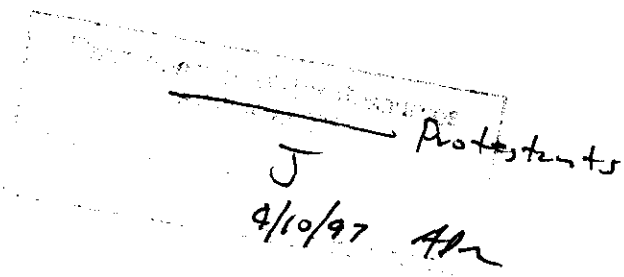
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4/10/97

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SEP 12 2000

ARKOOSH PRODUCE, INC.
P.O. BOX 93, 1913 WOODRIVER RD.
GOODING, ID 83330
(208) 934-8464
FAX: (208) 934-4517

July 20, 1995

Conrad Aiken
West One Bank
P.O. Box 8247
Boise, ID 83733



RE: Re: Arkoosh Produce, Inc.

Dear Mr. Aiken:

Enclosed with this letter please find the letter agreement between Arkoosh Produce, Inc., and your predecessor, Idaho State Bank, concerning the rights of the respective parties to, in relevant part, waste water used to irrigate ground north of Gooding, Idaho. Your predecessor, Idaho State Bank, agreed to three things with us.

1. Not to change the farming practices on the ground.

2. To deliver the historical amount of waste water from rights appurtenant to ground purchased by Idaho State Bank.

3. Not to interfere with waste water from other rights.

As things now are, the ground is not being husbanded and farmed at all; no waste water is being delivered; and, the waste water from the neighboring ground is being intercepted and diverted. Demand is hereby made upon West One, its successors and assigns, to abide by the agreement; to engage in historical farming practices on the subject property; to deliver the consequent waste water; and, to cease interference with the waste water delivery from adjacent ground. Would you please look into this matter and rectify it right away. The summer weather is becoming hot, and we cannot irrigate a portion of our ground because of this breach of agreement.

Thank you.

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SEP 1 2 2000

Sincerely yours,

C. Tom Arkoosh

CTA/hs

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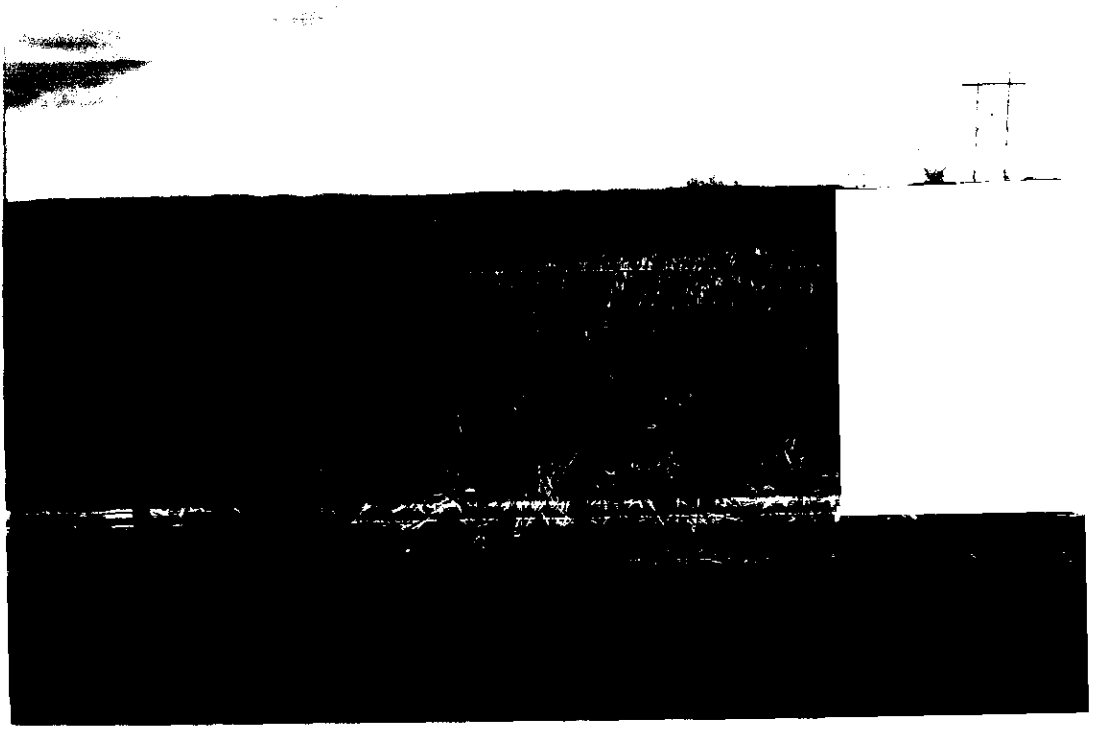




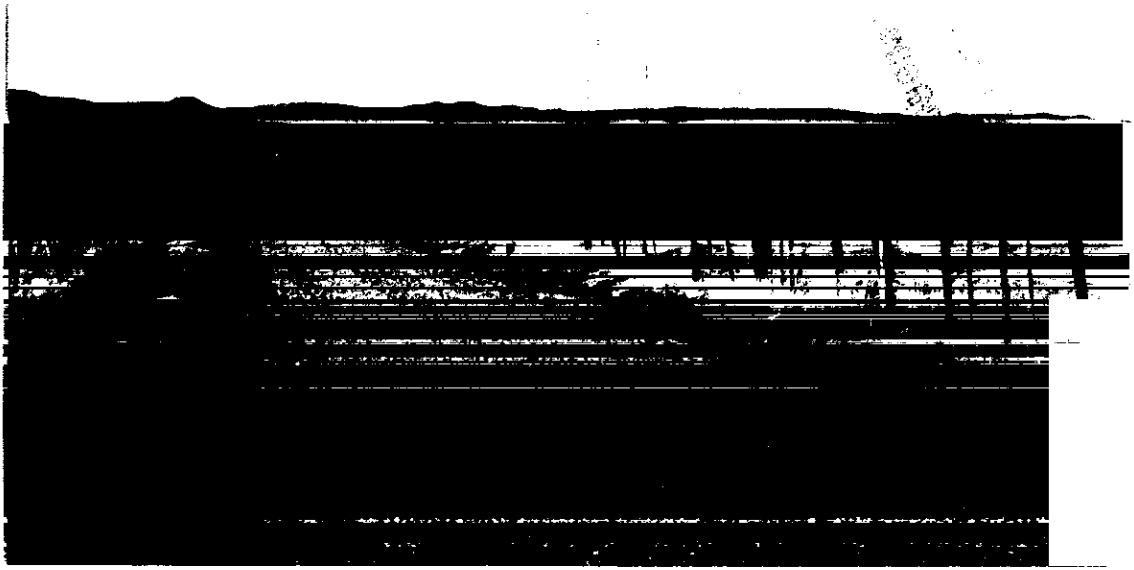


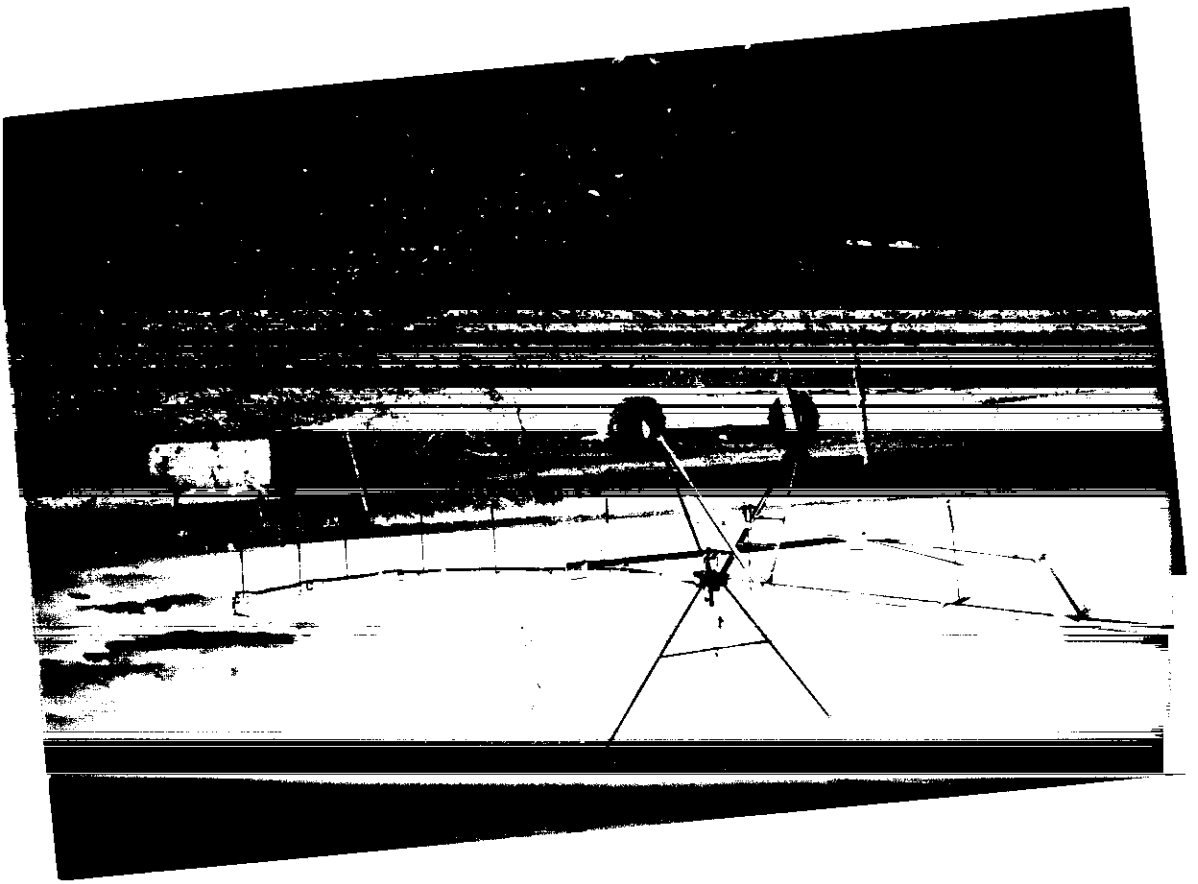


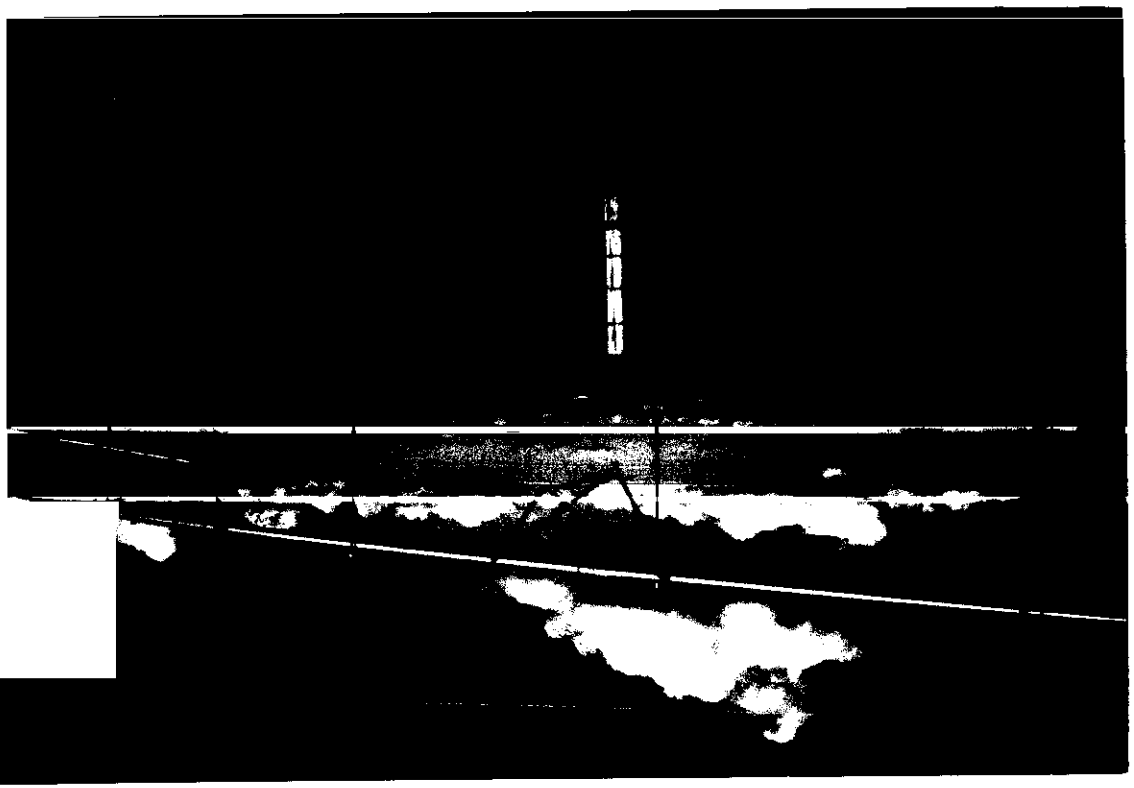




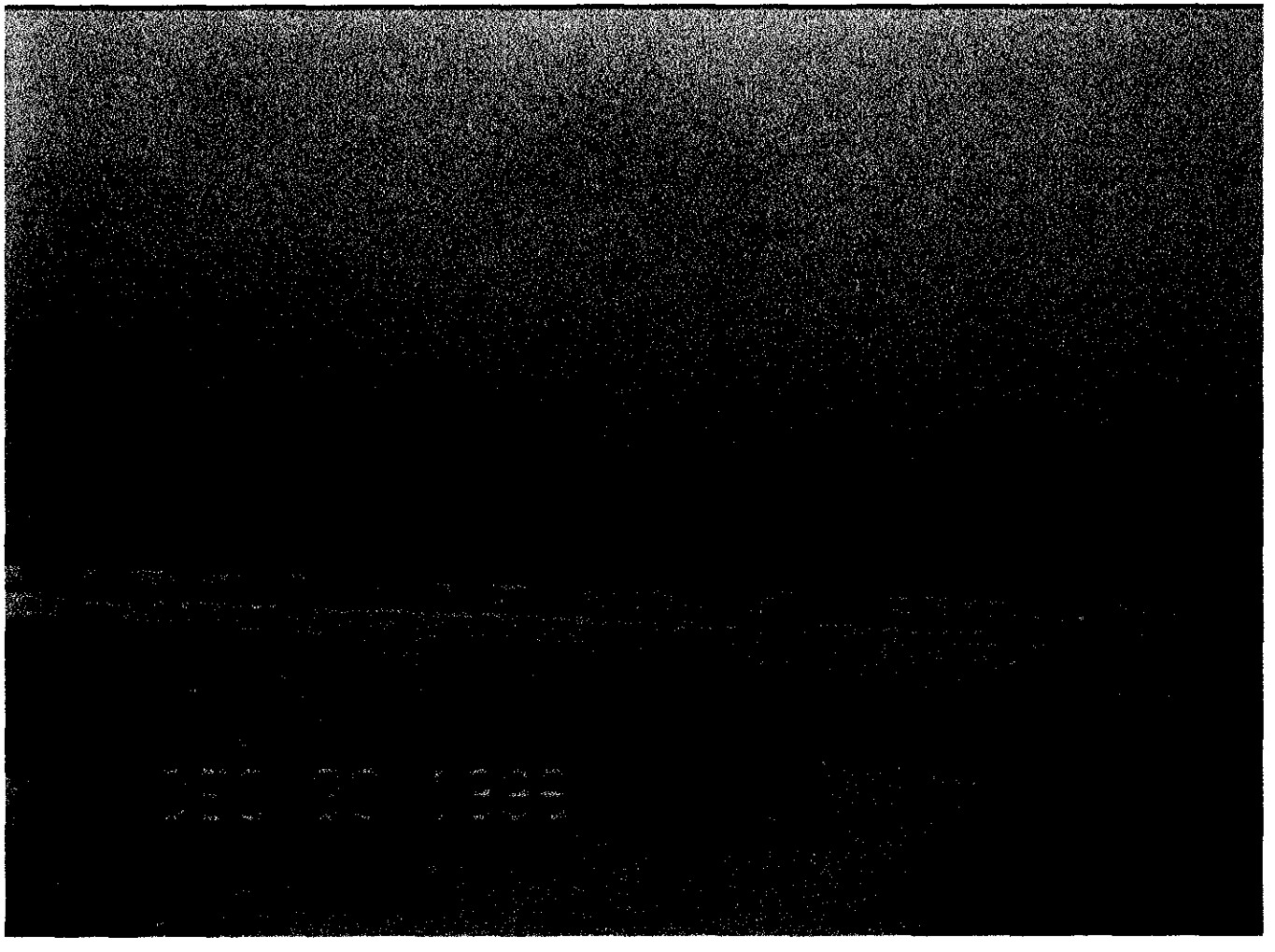







GOAL

Department of Water Resources
PROTESTANT'S
Exhibit U-1
Date Admitted 4/30/97



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SEP 12 2000

Exhibit U-2
Date Admitted 4/20/92 ADK

U-3
4/30/97 ADM

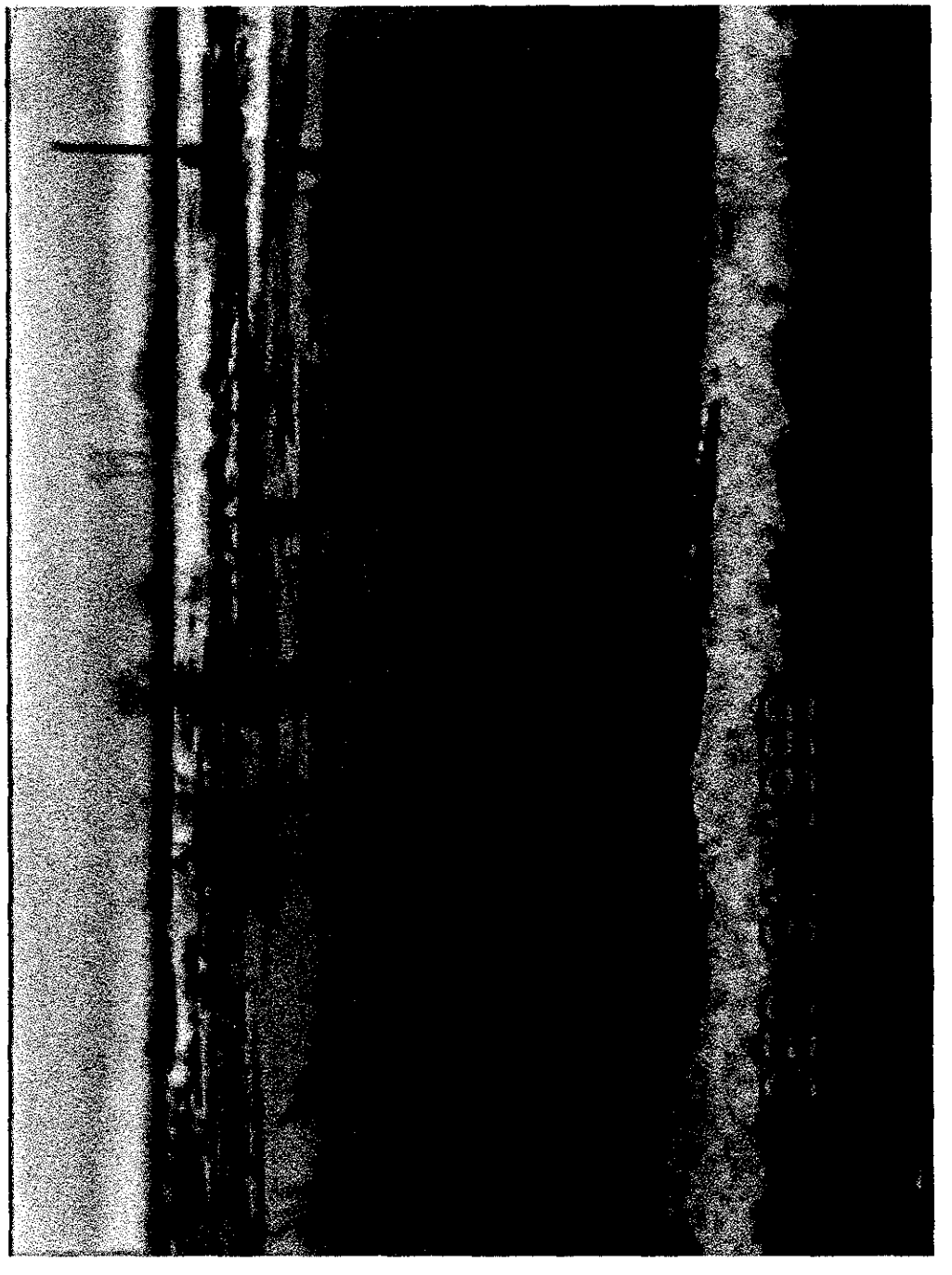


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SEP 12 2000

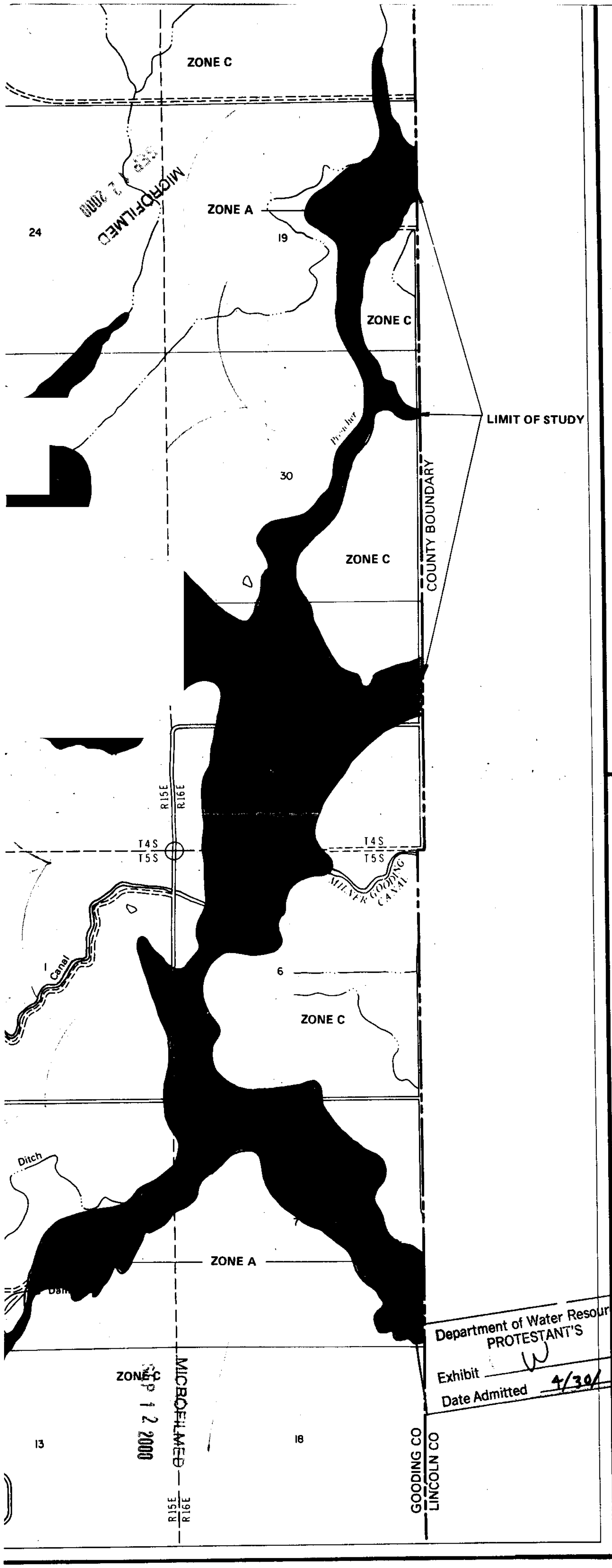
Department of Water Resources
PROTESTANTS
Exhibit U-4
Date Admitted 9/29/92

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SEP 12 2000

4-5
8/3/07



MICROFILMED
SEP 12 2008



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PROTESTANT'S
Exhibit W
Date Admitted 4/30/97

all planimetric features outside special flood hazard areas.

For adjoining map panels, see separately printed Index To Map Panels.

INITIAL IDENTIFICATION:
MAY 8, 1979

FLOOD HAZARD BOUNDARY MAP REVISIONS:

FLOOD INSURANCE RATE MAP EFFECTIVE:
JUNE 19, 1985

FLOOD INSURANCE RATE MAP REVISIONS:

Refer to the FLOOD INSURANCE RATE MAP EFFECTIVE date shown on this map to determine when actuarial rates apply to structures in the zones where elevations or depths have been established.

To determine if flood insurance is available in this community, contact your insurance agent, or call the National Flood Insurance Program, at (800) 638-6620.

N

APPROXIMATE SCALE
2000 0 2000 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

GOODING COUNTY, IDAHO
(UNINCORPORATED AREAS)

PANEL 150 OF 325
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
160227 0150 B

EFFECTIVE DATE:
JUNE 19, 1985

Federal Emergency Management Agency

MICROFILMED
SEP 1 2 2000

ZONE C

ZONE A

22

23

24

19

ZONE A

TURKEY LAKE

Creek

27

26

30

Turkey Creek

ZONE A

34

35

ZONE C

R15E
R16E

T4S
T5S

Gooding

3

2
Main

1
Canal

6

ZONE C

Ditch

10

11

Robertson

Union

Ditch

ZONE A

Dam

ZONE A

Dam

ZONE C

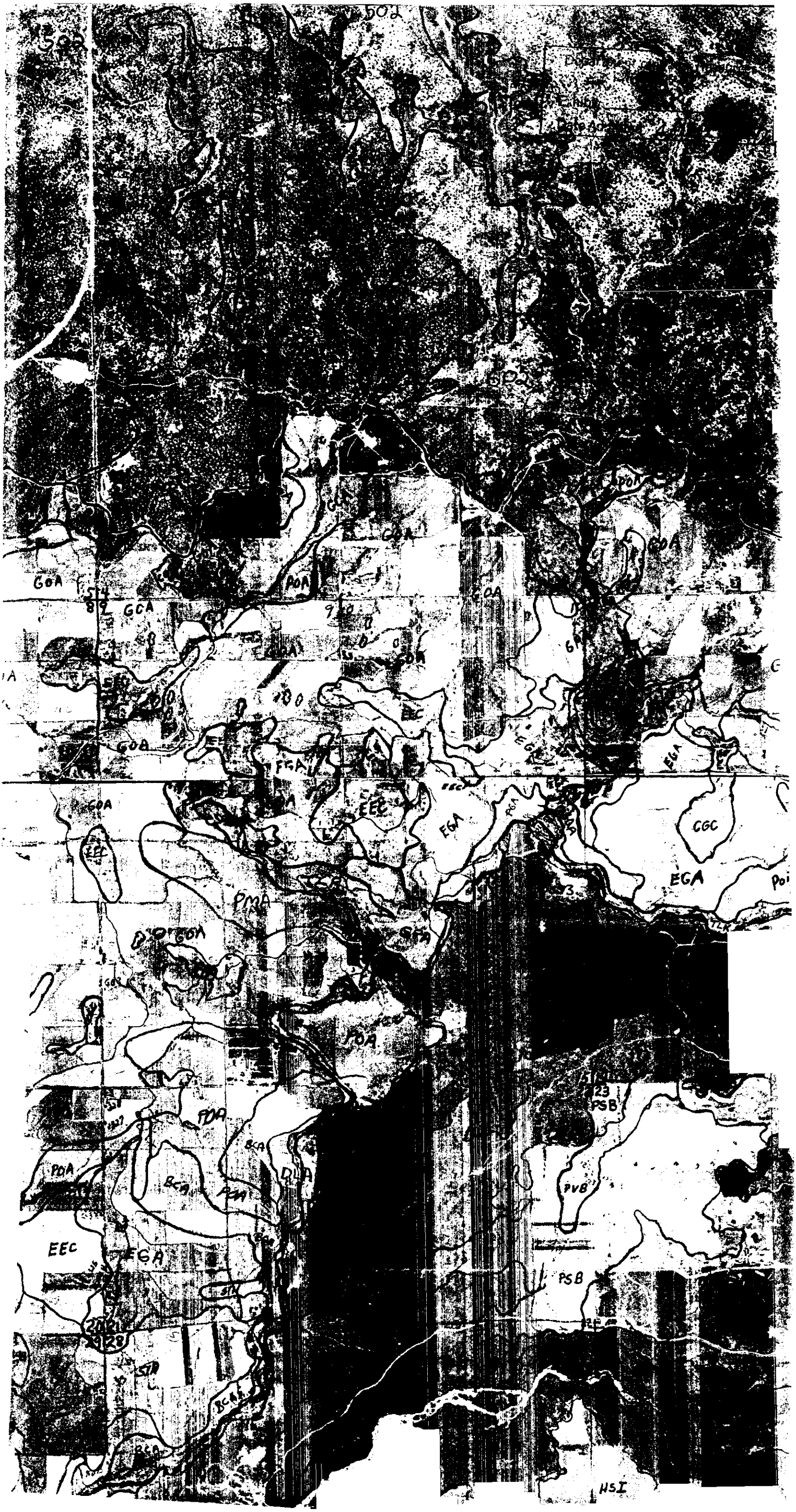
Ditch

15

13

18

R15E
R16E


GOA
PON
EGA
EEC
CGC
PMA
PDA
BCA
PVB
PSB
HSI

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

THORN CREEK SW QUADRANGLE
IDAHO–GOODING CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)

Department of Water Resources
PROTESTANT'S
Exhibit
Date Admitted 4/10/97

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SEP 1 2 2003

Produced by the United States Geological Survey

Control by USGS and NOS/NOAA

Compiled from aerial photographs taken 1969. Information shown in purple has been updated from aerial photographs taken 1987 and field checked. Map edited 1992. Conflicts may exist between some updated features and previously mapped contours

North American Datum of 1927 (NAD 27). Projection and 10,000-foot grid ticks: Idaho Coordinate System, central zone (Transverse Mercator). 1,000-meter Universal Transverse Mercator grid ticks, zone 11, shown in blue

The difference between NAD 27 and North American Datum of 1983 (NAD 83) for 7.5 minute intersections is given in USGS Bulletin 1875. The NAD 83 is shown by dashed corner ticks

UTM GRID AND 1992 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

SCALE 1:24 000

CONTOUR INTERVAL 10 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

COMPLIES WITH U.S. GEOLOGICAL SURVEY STANDARDS FOR SPATIAL ACCURACY-CLASS 2

FOR SALE BY U.S. GEOLOGICAL SURVEY
DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

ROAD CLASSIFICATION

Primary highway, hard surface — Light-duty road, hard or improved surface

Secondary highway, hard surface — Unimproved road

Interstate Route | U. S. Route | State Route

GOODING, IDAHO
42114-H8-TF-024

1971
REVISED 1992
DMJ 3069 I NW-SERIES V893

~~GOA~~ Gooding silt loam, 0 to 3 percent slopes

COMPOSITION

Gooding soil - 95 percent
Inclusions - 5 percent

SETTING

Elevation: 3500 to 4200 feet

Climatic data: (average annual)
* precipitation - about 9 inches
* air temperature - about 50 degrees F.
* frost free season - about 115 days

GOODING SOIL

Position on landscape: in smooth concave positions on - basalt plains

Typical profile:
0 to 8 inches - brown silt loam
8 to 10 inches - light gray silt loam
10 to 17 inches - yellowish brown silty clay
17 to 23 inches - light yellowish brown silty clay
23 to 27 inches - light yellowish brown silty clay loam
27 to 45 inches - yellowish brown silty clay loam
45 to 54 inches - yellowish brown sandy loam
54 to 59 inches - yellow loam
59 inches - basalt bedrock

Depth class: deep (40 to 60 inches to a duripan)

Drainage class: well drained

Permeability: very slow

Available water capacity: moderate; 6 to 9 inches

Potential rooting depth : 40 to 60 inches

Restriction to rooting depth: duripan at a depth of 54 inches

Runoff: very slow to slow

Hazard of erosion: by water - none to slight
by wind - slight

INCLUDED AREAS

Contrasting inclusions:
Elijah silt loams on cut ridges
Power silt loams in bottoms
Mcpan silt loams on smooth side slopes and convex tops

INTERPRETATIVE GROUPS

Department of Water Resources
PROTESTANT'S
Exhibit Y
Date Admitted 9/10/97 AD

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Capability classification:
IIIs irrigated, VIe nonirrigated

Abbreviated version-subject to change.

Department of Water Resources
PROTESTANT'S
Exhibit 2
Date Admitted 4/10/97

GPA Gooding - Power silt loams complex, 0 to 2 percent slopes

COMPOSITION

Gooding soil - 65 percent
Power soil - 20 percent
Inclusions - 15 percent

SETTING

Elevation: 3500 to 4200 feet

Climatic data: (average annual)

* precipitation - about 9 inches
* air temperature - about 50 degrees F.
* frost free season - about 115 days

GOODING SOIL

Position on landscape: in smooth concave positions and intermounds on basalt plains

Typical profile:
0 to 8 inches - brown silt loam
8 to 10 inches - light gray silt loam
10 to 17 inches - yellowish brown silty clay
17 to 23 inches - light yellowish brown silty clay
23 to 27 inches - light yellowish brown silty clay loam
27 to 45 inches - yellowish brown silty clay loam
45 to 59 inches - yellow cemented duripan
59 inches - basalt bedrock

Depth class: deep (40 to 60 inches to a duripan)

Drainage class: well drained

Permeability: very slow

Available water capacity: moderate; 6 to 9 inches

Potential rooting depth : 40 to 60 inches

Restriction to rooting depth: duripan at a depth of 54 inches

Runoff: very slow to slow

Hazard of erosion: by water - none to slight
by wind - slight

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SEP 12 2000

POWER SOIL

Positions on landscape: concave positions and mounds on basalt plains

Typical profile:
0 to 6 inches - brown silt loam
6 to 10 inches - yellowish brown silt loam
10 to 23 inches - yellowish brown silt loam
23 to 29 inches - pale brown silt loam
29 to 40 inches - very pale brown silt loam
40 to 47 inches - very pale brown very fine sandy loam
47 to 64 inches - very pale brown very fine sandy loam

Depth class: very deep (60 inches or more)

Drainage class: well drained

Permeability: moderately slow

Available water capacity: high; 9 to 12 inches

Potential rooting depth: 60 inches or more

Runoff: very slow to slow

Hazard of erosion:
by water - slight
by wind - slight

INCLUDED AREAS

Contrasting inclusions:
10 percent Catchell silt loams on intermounds
5 percent Antelope Springs silt loams on slickspots in intermounds

INTERPRETATIVE GROUPS

Capability classification:
IVs irrigated, VIs nonirrigated

Abbreviated version-subject to change.

1. Concerned about our domestic well
2. Concerned about the devaluation of our property
3. Concerned about the quality of our air and life
4. Concerned about the change in the enviroment.

We are bombarded every day by T.V. about the enviroment. The Newspapers and Radio. From the Vice President on down they are worried about Clean air, Clean water, polluting the land & desert. There are regulations upon regulations governing this.

Yet a 2000 cow dairy can move in a neighborhood and destroy our quality of life.

We have lived here 50 years and We want some assurance in writing that those above concerns are met.

MICROFILMED
SEP 12 2000

Department of Water Resources
PROTESTANTS
Exhibit AA
Date Admitted 4/30/97