

RECEIVED
MAY 13 2005
Department of Water Resources

Attorneys for Idaho Dairymen's Association

Scott L. Campbell, ISB No. 2251
Angela Schaer Kaufmann, ISB No. 5436
Andrew J. Waldera, ISB No. 6608
MOFFATT, THOMAS, BARRETT, ROCK &
 FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
18-936.17

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF
WATER TO VARIOUS WATER RIGHTS
HELD BY OR FOR THE BENEFIT OF
A&B IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT,
MINIDOKA IRRIGATION DISTRICT,
NORTH SIDE CANAL COMPANY, AND
TWIN FALLS CANAL COMPANY

**ANSWER OF THE IDAHO DAIRYMEN'S
ASSOCIATION TO PETITION FOR WATER
ADMINISTRATION AND DESIGNATION OF
THE EASTERN SNAKE PLAIN AQUIFER AS A
GROUND WATER MANAGEMENT AREA**

COMES NOW Intervenor Idaho Dairymen's Association ("IDA"), by and
through undersigned counsel of record, and pursuant to Rule 270 of the Department's Rules of
Procedure and hereby answers the Petitioners' Petition (the "Petition") as follows:

1. The IDA denies each and every allegation contained within the Petition except those allegations specifically admitted hereinafter.

2. Regarding Paragraphs 1 through 15 of the Petition, IDA lacks sufficient knowledge to either admit or deny the allegations contained in said paragraphs, therefore, IDA denies the same.

3. Regarding Paragraph 16 of the Petition, IDA asserts that the documents referenced in said paragraph speak for themselves. To the extent that any allegations contained within Paragraph 16 of the Petition misrepresent any of the information contained within the documents referenced, IDA denies those allegations.

4. IDA denies the allegations contained within Paragraph 18 of the Petition.

5. IDA denies the allegations contained within Paragraph 19 of the Petition.

6. Regarding the allegations contained within Paragraph 20 of the Petition, IDA lacks sufficient information to either admit or deny said allegations, therefore, IDA denies the same.

7. Regarding the allegations contained within Paragraph 21 of the Petition, IDA admits that the Eastern Snake Plain Aquifer (“ESPA”) is an area of common ground water supply. IDA, however, denies the remaining allegations contained within Paragraph 21 of the Petition.

8. Regarding the allegations contained within Paragraph 22 of the Petition, IDA admits that the ESPA is an area of common water supply. IDA further asserts that the Director’s August 29, 2003 Order Modifying the Boundaries of the American Falls Ground Water Management Area speaks for itself. To the extent that the remaining allegations contained within Paragraph 22 of the Petition misrepresent information contained within the documents

referenced in said paragraph, IDA denies those allegations. IDA denies the remaining allegations contained within Paragraph 22 of the Petition.

9. Regarding the allegations contained within Paragraph 23 of the Petition, IDA admits that Petitioners filed a water right delivery call for administration of water rights in District No. 120. IDA, however, denies the remaining allegations contained within Paragraph 23 of the Petition.

**I.
DEFENSES**

FIRST DEFENSE

10. IDA denies each and every allegation of the Petition not specifically admitted herein.

SECOND DEFENSE

11. The Petition fails to state a claim upon which relief may be granted.

**THIRD DEFENSE
Lack of Ripeness**

12. The Petition is not ripe for a decision. No order granting Petitioners' request for relief may be issued except following a hearing before the Idaho Department of Water Resources.

**FOURTH DEFENSE
Contrary to Law and Public Policy**

13. The remedy Petitioners seek violates the legal and public policy of the state of Idaho regarding maximum development of water resources, as well as the full economic development of ground water resources.

FIFTH DEFENSE
Futile Call

14. Curtailment of IDA member water rights for stockwater and commercial purposes would not make water available at a time, place, or in quantities as to be beneficially used by Petitioners within a reasonable time frame.

II.
PRAYER FOR RELIEF

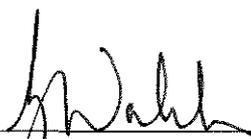
IDA respectfully requests the following relief:

1. That the Director deny the Petition's requested relief;
2. That an order be rendered in favor of the IDA; and
3. For such other relief as the Director deems proper and appropriate.

DATED this 13th day of May, 2005.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Scott L. Campbell – Of the Firm

By 
Andrew J. Waldera – Of the Firm
Attorneys for Idaho Dairymen's
Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 2005, I caused a true and correct copy of the foregoing **ANSWER OF THE IDAHO DAIRYMEN'S ASSOCIATION TO PETITION FOR WATER ADMINISTRATION AND DESIGNATION OF THE EASTERN SNAKE PLAIN AQUIFER AS A GROUND WATER MANAGEMENT AREA** to be served by the method indicated below, and addressed to the following:

John K. Simpson
Barker Rosholt & Simpson
205 N. 10th Street, Suite 520
P.O. Box 2139
Boise, ID 83701
Fax: 344-6034

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Roger D. Ling
Ling Robinson & Walker
P.O. Box 396
Rupert, ID 83350-0396
Fax: (208) 436-6804

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

C. Thomas Arkoosh
Arkoosh Law Office, Chartered
301 Main Street
P.O. Box 32
Gooding, ID 83330-0032
Fax: (208) 934-8873

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

W. Kent Fletcher
Fletcher Law Office
1200 Overland Avenue
P.O. Box 248
Burley, ID 83318-0248
Fax: (208) 878-2548

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Jeffrey C. Fereday
Givens Pursley LLP
601 W. Bannock Street
P.O. Box 2720
Boise, ID 83701-2720
Fax: 388-1300

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Kathleen M. Carr
U.S. Department of the Interior
Office of the Solicitor Pacific Northwest Region
Boise Field Office
550 West Fort Street, MSC 020
Boise, ID 83724-0020
Fax: 334-1919

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

E. Gail McGarry
PN-3100
Bureau of Reclamation
1150 N. Curtis Road, Suite 100
Boise, ID 83706-1234
Fax: 378-5019

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

John A. Rosholt
Barker Rosholt & Simpson
113 Main Avenue, Suite 303
Twin Falls, ID 83301-6167
Fax: (208) 735-2444

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718
Fax: (208) 528-7177

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Idaho Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380
Fax: (208) 736-3037

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

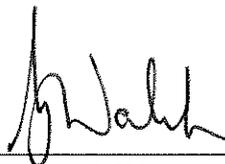
Courtesy Copies

Josephine P. Beeman
Beeman & Associates P.C.
409 W. Jefferson Street
Boise, ID 83702
Fax: 331-0954

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile

Michael Gilmore
Office of the Attorney General
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010
Fax: 334-2830

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile



Andrew J. Waldera