RECEIVED
JUL 0 8 2005
DEPARTMENT OF
WATER RESOURCES

Attorneys for Idaho Dairymen's Association

Scott L. Campbell, ISB No. 2251
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
18-936.20

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-02356A, 36-07210, AND 36-07427.	**IDAHO DAIRYMEN'S ASSOCIATION'S PETITION TO INTERVENE**

The Idaho Dairymen's Association (the "Association") is an Idaho non-profit cooperative association, duly organized and existing under the provisions of Chapter 3, Title 30, Idaho Code. In addition to other purposes which are not relevant to this action, the Association was formed to promote the dairy interests of and in the state of Idaho, and to take such action as the Association deems necessary or advisable to stabilize and protect the dairy industry of Idaho. The regular members of the Association consists of every person, firm, corporation, or association current in their payment of the Idaho State Tax on the production of milk. This group includes every dairy owner/operator located in Bingham, Blaine, Bonneville, Gooding,

Jefferson, Jerome, Lincoln, and Minidoka counties, and virtually all dairy owners/operators in Idaho, who sell milk to dairy processors for ultimate human consumption.

Pursuant to IDAPA 37.01.01.2 Rules 200, 230, 300, 301, 350, and 352, this petition to intervene is filed by the Association on behalf of all of the named members of the Association, as set forth in Exhibit A hereto. The grounds for the petition are as follows:

1. Members of the Association own, use, and rely upon water rights for ground water subject to potential curtailment within the geographic areas (Water District 130) identified in Blue Lakes Trout Farm, Inc.'s ("Blue Lakes") March 22, 2005 Delivery Call and the Director's subsequent May 19, 2005 Order.

2. Idaho Code section 67-5240 requires a hearing before the Director may order curtailment of water rights.

3. Idaho Code section 42-237c requires a hearing when any person owning a water right for surface water use believes that the use of such right is being adversely affected by one or more users of ground water rights of later priority.

4. The due process requirements of the Idaho and United States Constitutions require a hearing before a neutral decision maker before property rights are diminished or taken and the ground water rights of the Association's members fall within this category of property rights.

5. The exercise of water rights by the members of the Association who would be impacted by the Director's May 19, 2005 Curtailment Order, due to Blue Lakes' March 22, 2005 Delivery Call, does not constitute a measurable impact upon the water resource which could affect the water rights of Blue Lakes. Therefore, the May 19, 2005 Curtailment

Order issued in this matter affecting Association member water use would unjustifiably discriminate against the holders of those water rights for dairy operations.

6. The Association represents the interests of dairy operators who have vested water rights which will be impacted by the May 19, 2005 Curtailment Order in this proceeding. Therefore, the Association has standing to assert and protect the real property interests of the members of the Association in this proceeding. Intervention into this proceeding is, therefore, appropriate under the Idaho Department of Water Resources' Rules of Practice and Procedure, particularly Rules 350 and 353. The Association only became aware of the impact of this proceeding upon its members after the issuance of the May 19, 2005 Curtailment Order.

7. The Director of the Idaho Department of Water Resources, by virtue of the consequences of enforcement of any curtailment order impacting dairy operations in this matter, will cause the termination of water delivery to upwards of 217,441 dairy animals. Termination of water use on dairies will cause the suffering and rapid death of these animals. Consequently, the Director will become an accomplice, accessory, or the de-facto violator of Chapter 35 of Title 25, concerning cruelty to animals.

8. The Association files this Petition at least fourteen (14) days before the date set for formal hearing and no pre-hearing conference has been scheduled. This petition to intervene is timely under the standards of IDAPA 37.01.01.352.

RELIEF REQUESTED

The Association requests that this petition be granted and that the Association be accorded full intervenor status.

DATED this 8th day of July, 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 8th day of July, 2005, I caused a true and correct copy of the foregoing **IDAHO DAIRYMEN'S ASSOCIATION'S PETITION TO INTERVENE** to be served by the method indicated below, and addressed to the following:

Director Idaho Department of Water Resources 322 E. Front Street, 6th Floor P.O. Box 83720 Boise, ID 83720 Fax: 287-6700	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Daniel V. Steenson Ringert Clark Chtd. 455 S. Third Street PO Box 2773 Boise, ID 83701-2773 Fax: 342-4657	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Blue Lakes Trout Farm, Inc. P.O. Box 1327 Twin Falls, ID 83303-1237 Fax: 208-733-0325	(X) 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 8 3701-2720 Fax: 388-1300	(X) 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	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Lawrence G. Wasden Attorney General Statehouse, Room 210 Boise, ID 83720 Fax: 334-2830	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile

James C. Tucker Legal Department Idaho Power Company 1221 W. Idaho Street P.O. Box 70 Boise, ID 83707-0070 Fax: 388-6935	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
James Lochhead Brownstein Hyatt & Farber 410 17th Street, 22nd Floor Denver, CO 80202 Fax: 303-223-1111	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Watermaster – Water District 36 2628 South 975 East Hagerman, ID 83332	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
North Snake Ground Water District 152 East Main Street Jerome, ID 83338	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
Magic Valley Ground Water District 1099 North 400 West Rupert, ID 83350	(X) 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	(X) 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	(X) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile

Andrew J. Waldera