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Department of Water Resources

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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:

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Courtesy Copies

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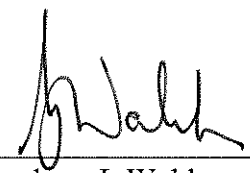

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