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Department of Water Resources

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Attorneys for Idaho Dairymen's Association

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DESIGNATING THE AMERICAN FALLS GROUND WATER MANAGEMENT AREA.	**UNITED DAIRYMEN'S ASSOCIATION'S AMENDED PETITION TO INTERVENE**

The Idaho Dairymen's Association, by and through Scott L. Campbell and Angela D. Schaer of the firm of Moffatt Thomas Barrett Rock & Fields, hereby petition to intervene in the above-captioned proceeding(s). This petition to intervene is filed pursuant to Rules 350 to 354 of Procedure of the Idaho Department of Water Resources, IDAPA 37.01.01.350 to 354.

The Idaho Dairymen's Association is the non-profit organization which represents all dairy farmers in Idaho who sell milk for human consumption. The Association files this petition on behalf of all of its members who conduct their business operations within the

geographic areas which are described for designation as ground water management areas in the Order designating the American Falls Ground Water Management Area ("Designation Order").

A number of dairy operations are located within the geographic boundary described by the Designation Order. All of those dairy operations utilize groundwater withdrawals for their operations. Many of the groundwater rights which allow those withdrawals are junior to the surface water rights held by the petitioners. Consequently, the curtailment of ground water rights within the described geographic area would potentially have a direct and substantial impact upon the water rights and the related economic interests of the dairy operations in continued use of groundwater withdrawals which are necessary to operate.

The Association protests designation of the American Falls Ground Water Management Area because Idaho Code section 42-233b violates the protections set forth in the Idaho Constitution and the United States Constitution, and for such other reasons as may arise during the course of proceeding on this matter.

The Association requests waiver of the requirements of Rule 352 of Procedure of the Department of Water Resources, IDAPA 37.01.01.352 insofar as filing at least fourteen days before a formal hearing or pre-hearing conference, based upon the truncated time periods established in the Director's Order of August 3, 2001 and the need to review this matter with clients which includes a state-wide Board of Directors prior to having authorization to file this petition. In order to satisfy the fourteen day requirement in this case, a petition would have had to be filed on or before August 14, 2001. Since the August 3, 2001 Order was not received via U.S. Mail in many case until August 6 or 7, this provided the Association with only six business days to coordinate with legal counsel, poll the Board of Directors, obtain authorization, and

schedule the necessary work to be done by the Association's attorneys. During this same time frame, numerous meetings have been conducted to address the pending designation of ground water management areas by the Director. In short, the normal fourteen day requirement of Rule 352 is unduly and unreasonably restrictive under the circumstances of this case.

The Association requests that this petition to intervene be granted and that it be allowed to participate as a party in these proceedings to represent the direct and substantial interests of its affected members.

DATED this 31st day of August 2001.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Scott L. Campbell - Of the Firm

By _____
Angela D. Schaer - Of the Firm
Attorneys for Idaho Dairymen's Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of August 2001, I caused a true and correct copy of the foregoing **UNITED DAIRYMEN'S ASSOCIATION'S AMENDED PETITION TO INTERVENE** to be served by the method indicated below, and addressed to the following:

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