

1 [X] Hearing is set:  
2 Date: Friday, April 2, 2010  
3 Time: 1:30 p.m.  
4 Judge: to be determined  
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8 **FRANKLIN COUNTY SUPERIOR COURT**  
9 **IN AND FOR THE STATE OF WASHINGTON**

10 FIVE CORNERS FAMILY FARMERS,  
11 SCOTT COLLIN, THE CENTER FOR  
12 ENVIRONMENTAL LAW AND POLICY  
13 AND SIERRA CLUB,

14 Plaintiffs,

15 v.

16 STATE OF WASHINGTON,  
17 WASHINGTON DEPARTMENT OF  
18 ECOLOGY, and EASTERDAY RANCHES,  
19 INC.,

20 Defendants.

21 and

22 WASHINGTON CATTLEMEN'S  
23 ASSOCIATION, COLUMBIA SNAKE  
24 RIVER IRRIGATORS ASSOCIATION,  
25 WASHINGTON STATE DAIRY  
26 FEDERATION, NORTHWEST DAIRY  
ASSOCIATION, WASHINGTON  
CATTLE FEEDERS ASSOCIATION,  
CATTLE PRODUCERS OF  
WASHINGTON, WASHINGTON STATE  
SHEEP PRODUCERS and WASHINGTON  
FARM BUREAU,

Intervenor-Defendants.

No. 09-2-51185-6

AGRICULTURAL ASSOCIATION  
INTERVENORS' CROSS-MOTION  
FOR SUMMARY JUDGMENT

1 **I. MOTION**

2 COMES NOW Intervenors, Washington State Dairy Federation; Northwest Dairy  
3 Association, Washington Cattle Feeders Association, Cattle Producers of Washington,  
4 Washington State Sheep Producers and Washington Farm Bureau (hereinafter referred as the  
5 “Agricultural Associations”), pursuant to CR 56 and the Order Re Summary Judgment Briefing  
6 Schedule and Service by Electronic Mail entered in this case, move for summary judgment as  
7 follows:

8 (1) There is no genuine issue of material fact and, as a matter of law, RCW 90.44.050  
9 authorizes the withdrawal of any quantity of water for stock-watering purposes without a permit;  
10 and

11 (2) There is no genuine issue of material fact and, as a matter of law, the Plaintiffs are  
12 not entitled to an injunction enjoining the State of Washington, which would require the State to  
13 interpret RCW 9.44.050 as limited to withdrawals of less than 5,000 gpd or to “small”  
14 withdrawals.

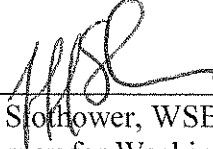
15 **II. EVIDENCE RELIED UPON**

16 The Agricultural Associations’ Motion for Summary Judgment is supported by the  
17 following:

- 18 a. the pleadings in this case to date;
- 19 b. the Declaration of Jeff Slothower;
- 20 c. the Declaration of Steven Rowe, dated September 24, 2009;
- 21 d. the Declaration of Ed Field, dated September 22, 2009;
- 22 e. the Declaration of Patrick Batts, dated September 23, 2009;
- 23 f. the Declaration of Jay Gordon, dated September 22, 2009;
- 24 g. the Declaration of Chris Cheney;
- 25 h. the Declaration of Gloria Edwards;
- 26 i. the Declaration of Don Floren;

- 1 j. the Second Declaration of Jay Gordon;  
2 k. the Declaration of Art Groeneweg;  
3 l. the Declaration of Gene Jenkins;  
4 m. The Declaration of Ron Mael;  
5 n. the Declaration of Art Swannack;  
6 o. the Declaration of Jim Werkhoven; and  
7 p. the Memorandum of Law filed concurrently herewith.

8  
9 DATED this 13 day of February, 2010.

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13 Jeff Slothower, WSBA #14526  
14 Attorney for Washington State Dairy Federation,  
15 Northwest Dairy Association, Washington Cattle  
16 Feeders Association, Cattle Producers of  
17 Washington, Washington State Sheep Producers,  
18 Washington Farm Bureau, together the "Agricultural  
19 Associations"

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