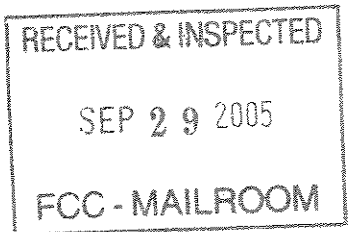


## Petition for Exemption from Closed Captioning Requirements

Allan & Gail Damerow  
Rural Heritage  
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Gainesboro, TN 38562-5039  
(931) 268-0655  
(931-268-5884 (Facsimile))



CSR 6930

### Introduction

Rural Heritage is a bimonthly journal published since 1976 in support of farming and logging with draft-animal power (horses, mules, and oxen). The journal was purchased by Mr. & Mrs. Allan Damerow in 1992, is published from an office on their rural farm, and has a circulation of 7,800. Ancillary to publication of the journal, Rural Heritage also publishes related how-to books and videotapes. As a result of available existing video footage, they inexpensively produce a half-hour television program aired weekly on the non-profit public rural and agricultural network RFD-TV, distributed via satellite dish and cable. The how-to program has informed the public about training and working draft animals since January 2002, and is the only regularly aired program on draft and driving topics. In the interest of continuing to provide this unique programming that addresses the diversity of interests and views of the American public, Rural Heritage hereby petitions for exemption from the closed captioning requirement under Section 79.1(d)(2).

### Nature and cost of the closed captions

Allied Vaughn in Wisconsin duplicates videotapes and DVDs produced by Rural Heritage. Allied Vaughn charges \$730 per 30 minutes for roll-up captioning and \$842 per 30 minutes for pop-up captioning [personal communication, account representative Joanne Edmundson, 20 September 2005]. Transcription for 30 minutes is \$375 additional. A search of the internet turned up a firm in Maryland called Closed Caption Maker, which charges \$10/minute plus \$50 plus \$2/minute for transcript, or a total of \$410 per 30 minutes [<http://www.ccmaker.com>]. Personnel at RFD-TV have located a firm in New York called Elrom that will close caption a 30-minute program for \$250 including transcribing [RFD-TV telephone conference with program providers/producers, 20 September 2005]. RFD-TV will not accept subtitles as a substitute for closed captioning, so subtitles have not been investigated as an option.

### Impact on the operation of the program owner

The total cost of producing programming for the 2004 season was \$4,322. The program is furnished as a public service at the expense of Rural Heritage, free of charge to RFD-TV. Rural Heritage (which pays for editorial and photographic material acquired from contributors) additionally furnishes RFD-TV, free of charge, an informative article for the each of the network's bimonthly schedule magazines.

The primary sources for new subscriptions to Rural Heritage are through an exchange of print advertising with other journals; through the exposure of single-copy sales by TSC farm stores, Southern States Coop farm stores, and a few localized harness shops; and through industry events such as draft horse shows, draft horse and horse farming equipment sales, and the annual Horse Progress Days.

New subscriptions attributable to the program on RFD-TV average 34/month or approximately 408 for 2004, which amounts to 11.5% of total new subscriptions for the year. Assuming all attributable new subscriptions were at the one-year rate of \$28/year (which is not entirely accurate, since many new subscribers opt for the discounted two- or three-year rate), maximum total attributable revenue for 2004 was \$11,424, from which must be deducted the cost of producing and mailing the journal (\$5,165) and office overhead (\$1,291) for a net of \$4,968. Book/video sales account for approximately 8% of the program's response. At an average value of \$30, total income from book/video sales directly attributable to the program is approximately \$1,000 gross, less cost of goods (\$700) less overhead (\$113) yields \$187 net. Total net return of \$5,155 less the \$4,322 for programming yields less than \$800 (representing the Damerows' wages for the above aspects of their business).

Rural Heritage continually monitors the cost of providing the program versus attributable returns to determine the feasibility of continuing the program by ensuring it does not fall below the break even point. At the break-even point the program remains worthwhile in promoting the specialty niche draft industry. One of the programs, for example, features Suffolk Draft Horses and has benefitted the non-profit American Suffolk Horse Association. Several programs each year feature activities from Horse Progress Days, an annual event sponsored by a non-profit coalition of businesses serving the rapidly vanishing minority of small-scale sustainable family farms that choose to use draft power.

Assuming (a) the maximum number of reruns per episode allowed by RFD-TV, (b) no changes by RFD-TV in time or format requiring re-editing of finished and closed captioned episodes, at best the impact of closed captioning at the fee quoted by Elrom, would be to approximately double the cost of producing the program, without reasonable expectation of increasing attributable new subscriptions. Closed captioning thus constitutes a significant expense that places an undue burden on Rural Heritage, which would have no choice but to discontinue the program.

#### **Financial resources of the program owner**

Rural Heritage derives its entire income from the sale of subscriptions and single-copy magazines (52.7%), books (15.8%), videotapes (17.8%), and advertising (13.6%). Schedule C for 2004 is attached hereto and made a part hereof.

The logical place for Rural Heritage to seek sponsorship for its program would appear to be among advertisers in its publication. However, the most expensive ad (full page color) runs only \$2,193 for an annual contract. The majority of advertisers opt for a business card ad for \$138 per year. Most of these advertisers are themselves mom-and-pop enterprises with limited resources.

Rural Heritage therefore sought sponsors beyond its usual sphere. Some eighty potential sponsors were identified, of which 18 made themselves available for discussion. Of those, several expressed interest in and admiration for a program on farming with horse power, but none has agreed to sponsorship. Grants have also been considered, but the vast majority of grant funding is geared toward individuals and organizations that are affiliated with agencies and institutions, which Rural Heritage is not.

### **Type of operations of the program owner**

The primary business of Rural Heritage is to publish a bimonthly journal related to farming and logging with draft animals. The production/sale of books and videotapes is ancillary. The production of programming for RFD-TV is made economically feasible through the use of footage derived from existing videotapes or furnished by Rural Heritage subscribers at no cost to Rural Heritage.

The printing of books, and printing and mailing of the journal is contracted with IPC Print Services in Saint Joseph, Michigan. Reproduction of videotapes and DVDs is contracted with Allied Vaughn of Milwaukee, Wisconsin. The production of videotapes and reformatting footage for the television programming is by Bill Edmunds of Conway, New Hampshire, who like the Damerows works out of his home.

### **Other relevant factors**

The requirement for closed captions has been a long time in the works, but since the primary business of Rural Heritage is not television production, they rely on RFD-TV for notification of pending changes. Rural Heritage first learned about the FCC requirement for closed captioning on 9 September by way of an email message from RFD-TV.

Personnel at RFD-TV have indicated that they are seeking a network sponsor to allay the costs of closed captioning for programmers [RFD-TV telephone conference with program providers/producers, 20 September 2005]. At such time as a sponsor is found, Rural Heritage will of course be delighted to participate. However, the program schedule for January/February 2006 must be submitted to the network on 20 November 2005, by which time if no sponsor has been identified, and barring exemption from the closed captioning requirement, Rural Heritage must notify RFD-TV of its intent to withdraw from the network's programming line-up.

The subjects and content of the program are ultimately derived from the subjects and content of the Rural Heritage bimonthly journal. The journal is available by subscriptions sent through the United States mail, and in many communities through TSC and Southern States Coop farm stores. Exemption from the closed captioning requirement would therefore not deprive the hearing-impaired public of information on farming and logging with draft animals.

### **Conclusion**

While Rural Heritage appreciates the intent of giving greater programming access to the hearing-impaired public, the closed caption requirement will place an undue financial burden on Rural Heritage, making future programming impossible and thus depriving the American public by eliminating a unique and specialized broadcast. Rural Heritage therefore respectfully petitions for an exemption from the closed captioning requirement under Section 79.1(d)(2).

GENERAL AFFIDAVIT

State of Tennessee  
County of Jackson

BEFORE ME, the undersigned Notary,  
Vernon Ragland, on this 23rd  
day of September, 2005, personally appeared Allan Damerow, known to me to be a  
credible person and of lawful age, who being by me first duly sworn, on his oath, attests  
to and affirms the above facts.



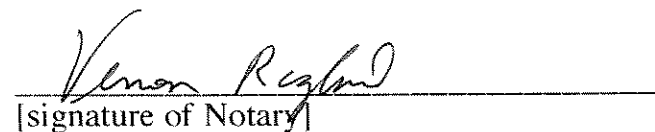
Allan Damerow  
281 Dean Ridge Lane  
Gainesboro, TN 39562

BEFORE ME, the undersigned Notary,  
\_\_\_\_\_, on this \_\_\_\_\_  
day of September, 2005, personally appeared Gail Damerow, known to me to be a  
credible person and of lawful age, who being by me first duly sworn, on her oath, attests  
to and affirms the above facts.



Gail Damerow  
281 Dean Ridge Lane  
Gainesboro, TN 39562

Subscribed and sworn to before me, this 23rd day of September 2005.

  
[signature of Notary]

Vernon Ragland  
[typed name of Notary]

NOTARY PUBLIC

My commission expires: 10-10, 2006.

**SCHEDULE C  
(Form 1040)**

Department of the Treasury  
Internal Revenue Service

**Profit or Loss From Business**  
(Sole Proprietorship)

Partnerships, joint ventures, etc., must file Form 1065 or 1065-B.

Attach to Form 1040 or 1041.

See instructions for Schedule C (Form 1040).

OMB No. 1545-0074

**2004**  
Attachment  
Sequence No. 09

Name of proprietor

Social security number (SSN)

**GAIL J. DAMEROW**

**A Principal business or profession, including product or service (see page C-2)**  
**PUBLISHING**

**B Enter code from pages C-7, 8, & 9**  
**511000**

**C Business name. If no separate business name, leave blank.**  
**RURAL HERITAGE**

**D Employer ID number (EIN), if any**

**E Business address (including suite or room no.)**  
City, town or post office, state, and ZIP code

**F Accounting method:** (1)  Cash (2)  Accrual (3)  Other (specify)

**G Did you "materially participate" in the operation of this business during 2004? If "No," see page C-3 for limit on losses**  Yes  No

**H If you started or acquired this business during 2004, check here**

**Part I Income**

1	Gross receipts or sales. <b>Caution.</b> If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here <input type="checkbox"/>	1	302,878.
2	Returns and allowances	2	9,733.
3	Subtract line 2 from line 1	3	293,145.
4	Cost of goods sold (from line 42 on page 2)	4	40,452.
5	Gross profit. Subtract line 4 from line 3	5	252,693.
6	Other income, including Federal and state gasoline or fuel tax credit or refund (see page C-3) <b>SEE STATEMENT 7</b>	6	3,715.
7	Gross income. Add lines 5 and 6	7	256,408.

**Part II Expenses.** Enter expenses for business use of your home **only** on line 30.

8	Advertising	8	8,298.	19	Pension and profit-sharing plans	19	
9	Car and truck expenses (see page C-3)	9	884.	20	Rent or lease (see page C-5):		
10	Commissions and fees	10	3,110.	20a	Vehicles, machinery, and equipment	20a	2,564.
11	Contract labor (see page C-4)	11	2,932.	20b	Other business property	20b	6,718.
12	Depletion	12		21	Repairs and maintenance	21	3,243.
13	Depreciation and section 179 expense deduction (not included in Part III) (see page C-4)	13	10,239.	22	Supplies (not included in Part III)	22	528.
14	Employee benefit programs (other than on line 19)	14		23	Taxes and licenses	23	1,896.
15	Insurance (other than health)	15	3,362.	24	Travel, meals, and entertainment:		
16	Interest:			24a	Travel	24a	32.
16a	Mortgage (paid to banks, etc.)	16a		24b	Meals and entertainment		433.
16b	Other	16b	5,675.	24c	Enter nondeductible amount included on line 24b (see page C-5)		217.
17	Legal and professional services	17	885.	24d	Subtract line 24c from line 24b	24d	216.
18	Office expense	18	2,564.	25	Utilities	25	2,353.
19				26	Wages (less employment credits)	26	17,778.
20				27	Other expenses (from line 48 on page 2)	27	167,707.
28	Total expenses before expenses for business use of home. Add lines 8 through 27 in columns	28	240,984.	29		29	15,424.
29	Tentative profit (loss). Subtract line 28 from line 7	29		30		30	3,723.
30	Expenses for business use of your home. Attach Form 8829	30		31		31	11,701.
31	Net profit or (loss). Subtract line 30 from line 29. • If a profit, enter on Form 1040, line 12, and also on Schedule SE, line 2 (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32.						

32a  All investment is at risk.  
32b  Some investment is not at risk.

LHA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule C (Form 1040) 2004

**Part III Cost of Goods Sold** (see page C-6)

33 Method(s) used to value closing inventory: a  Cost b  Lower of cost or market c  Other (attach explanation)

34 Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If "Yes," attach explanation  Yes  No

35 Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35	
36 Purchases less cost of items withdrawn for personal use	36	40,452.
37 Cost of labor. Do not include any amounts paid to yourself	37	
38 Materials and supplies	38	
39 Other costs	39	
40 Add lines 35 through 39	40	40,452.
41 Inventory at end of year	41	
42 Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4	42	40,452.

**Part IV Information on Your Vehicle.** Complete this part **only** if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 on page C-4 to find out if you must file Form 4562.

43 When did you place your vehicle in service for business purposes? (month, day, year) ▶      /      /     

44 Of the total number of miles you drove your vehicle during 2004, enter the number of miles you used your vehicle for:  
 a Business                      b Commuting                      c Other                     

45 Do you (or your spouse) have another vehicle available for personal use?  Yes  No

46 Was your vehicle available for personal use during off-duty hours?  Yes  No

47 a Do you have evidence to support your deduction?  Yes  No  
 b If "Yes," is the evidence written?  Yes  No

**Part V Other Expenses.** List below business expenses not included on lines 8-26 or line 30.

BANK CHARGES	5,650.
COMMUNITY RELATIONS	704.
DUES AND SUBSCRIPTIONS	453.
MAGAZINE PRODUCTION	112,469.
POSTAGE	30,405.
PROGRAMMING <i>RFD</i>	4,322.
TELEPHONE	2,522.
PRINTING	3,295.
HDN PURCHASES	7,015.
AMORTIZATION	872.
48 Total other expenses. Enter here and on page 1, line 27	48 167,707.