

9-13

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	STANDARD FORM 5
	)	
Case No. 39576	)	SUBCASE NO: 36-00001
	)	
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right under state law or one water right acquired under federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law, and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

Instructions For Use

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to an uncontested element shall state "as recommended in the director's report."

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions and law which support the element of the water right (attach additional pages if necessary).

1. The name and address of the claimant is:

BUCKEYE FARMS INC
18335 U S HWY 30
HAGERMAN ID 83332

Required Statement: As recommended in the director's report.

2. The source of water is: RILEY CREEK Tributary: SNAKE RIVER

Required Statement: As recommended in the director's report.

3. The quantity of water used in cubic feet per second (CFS) or the quantity of water stored in acre-feet per year (AFY) is:

IRRIGATION 12.00 CFS
TOTAL QUANTITY: 12.00 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 36-00002 AND 36-00003H IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 28.55 CFS

5.96 CFS OF RIGHT NO. 36-00002 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND RIGHT NO. 36-00002.

Required Statement: IDWR and the parties stipulate that this is the correct description of the quantity of water.

4. The priority date is: 05/01/1883

Required Statement: As recommended in the director's report.

5. The legal description of the point(s) of diversion is; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow:

T08S R13E S01 LOT 6 (SESWNE)

WATER IS DELIVERED THROUGH THE HUNT DITCH

Required Statement: As recommended in the director's report. The claim is not for an instream flow. Where a point of diversion is identified by government lot no., the legal description is the government lot; quarter-quarter-quarter descriptions are also provided in parentheses for the convenience of those who do not have ready access to U.S.

government plat maps.

6. The purpose of use is: **IRRIGATION**

Required Statement: As recommended in the director's report.

7. The period of year when the water is to be used is:

IRRIGATION 03-15 to 11-15

Required Statement: As recommended in the director's report.

8. The legal description of the place of use or of the reservation is:

T07S R13E S27 SWSW (32.0 acres), SESW (40.0 acres), SWSE (40.0 acres), SESE
(40.0 acres)

T07S R13E S28 Lot 8 SWSE (40.0 acres), SESE (35.0 acres)

T07S R13E S33 NENE (40.0 acres), Lot 1 NWNE (36.0 acres), Lot 4 SWNE
(26.0 acres), SENE (10.0 acres), Lot 1 NENW (6.0 acres), SENW
(4.0 acres), NESW (1.0 acre), NESE (6.0 acres), Lot 5 NWSE
(24.0 acres), Lot 8 SWSE (5.0 acres), SESE (29.0 acres)

T07S R13E S34 NENE (40.0 acres), NWNE (38.0 acres), SWNE (40.0 acres),
SENE (38.0 acres), NENW (40.0 acres), NWNW (34.0 acres),
SWNW (31.0 acres), SENW (39.0 acres), Lot 3 NESW (7.0 acres),
Lot 4 NWSW (10.0 acres), Lot 1 NESE (13.0 acres), NWSE
(17.0 acres)

761.0 ACRES TOTAL

**USE OF THIS RIGHT WITH RIGHT NOS. 36-00002 AND 36-00003H IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 761 ACRES IN A SINGLE
IRRIGATION SEASON.**

Required Statement: IDWR and the parties stipulate that this is the correct description of the place of use. Where all or part of the place of use is identified by government lot no., the legal description is the government lot; quarter-quarter descriptions are also provided for the convenience of those who do not have ready access to U.S. government plat maps. The place of use is located in Gooding County, Idaho.

9. The annual volume of consumptive use is:

**USE OF THIS RIGHT WITH RIGHT NOS. 36-00002 AND 36-00003H IS LIMITED
TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 2283 AF**

Required Statement: IDWR and the parties stipulate that this is the correct description of the annual volume of consumptive use.

10. Other matters necessary to define this water right: Not applicable.

These matters are necessary because: Not applicable.

These matters do not fall within the 9 elements listed above because: Not applicable.

The stipulation of the parties is attached hereto and incorporated herein by reference.

Signatures and Addresses of Parties and their Attorney of Record (attach additional page if necessary):

I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

Name: Buckeye Farms, Inc.

Address: 18335 U.S. Hwy 30

City/State/Zip: Hagerman, ID 83332

Attorney of Record: John A. Rosholt

Name: Idaho Dept. of Water Resources

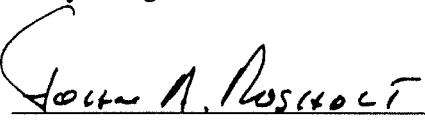
Address: P.O. Box 83720

City/State/Zip: Boise, ID 83720-0098

Attorney of Record: Nicholas B. Spencer/
Brent King

 8/28/95
Party's Signature Date

 9-11-95
Attorney's Signature Date

 8/30/95
Attorney's Signature Date

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on SEPTEMBER 11, 1995, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

John A. Rosholt
Rosholt Robertson Tucker
P.O. Box 1906
Twin Falls, ID 83303-1906



Signature of person or attorney mailing the form

NICHOLAS B. SPENCER
BRENT KING
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208) 327-7900
Fax: (208) 327-5400

Attorneys for IDWR

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Sub-case No. 36-00001
	)	
Case No. 39576	)	
	)	
	)	STIPULATION
_____	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 36-00001.

STIPULATION

To resolve the dispute over the above-captioned water right, the Idaho Department of Water Resources (IDWR) and Buckeye Farms, Inc.(the claimant), stipulate and agree that:

1. The Standard Form 5 for water right no. 36-00001, attached hereto and incorporated by reference herein, sets forth the description of the water right as agreed by IDWR and the parties. All decrees, whether partial or final, should describe the water right as shown in the standard form 5.

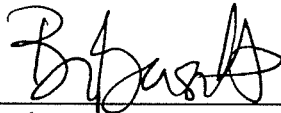
2. The Standard Form 5 and this stipulation have been reached through good faith

negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding, and that this agreement is not and shall not be used as precedent for any other claim to a water right.

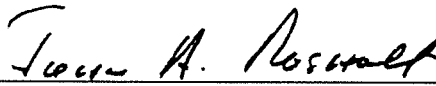
3. All parties agree to bear their own costs and attorney's fees in connection with this matter.

4. The Standard Form 5 and this stipulation were entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence whatsoever.

Dated this ____ day of _____, 1995.

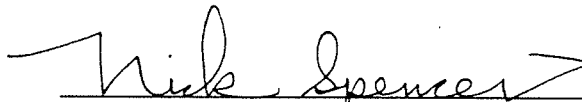


Buckeye Farms, Inc.
Claimant



John A. Rosholt
Attorney

Dated this 11th day of SEPTEMBER, 1995



Nicholas B. Spencer/Brent King
Deputy Attorney General
Idaho Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: AUG-15-1995
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: RILEY CREEK						
TRIBUTARY: SNAKE RIVER						
36-00001	BUCKEY FARM INC 18335 U S HWY 30 HAGERMAN ID 83332	05/01/1883	IRRIGATION	03-15 11-15	12.00 CFS 9177 CFS	DECREED
TOTAL QUANTITY:					12.00 CFS 9177 CFS	

POINT OF DIVERSION:
T08S R13E S01 LOT 6 (SESWNE)
PLACE OF USE: IRRIGATION
T07S R13E S27

S28	Lot 8 (SWSE) 40.0 401/8 (SWSE) 331/0 SESE 35.0	SESW 40.0 SESW 711/0 SESE 35.0	SWSE 40.0 SWSE 231/0	SESE 40.0 SESE 141/0		
S33	Lot 1 (NWNE) 36.0 401/1 (NWNE) 391/0 NESE 1.0	Lot 4 (SWNE) 26.0 401/4 (SWNE) 241/0 NESE 6.0	SENE 10.0	Lot 1 (NENW) 6.0 401/1 (NENW) 31/0 Lot 8 (SWSE) 5.0 401/8 (SWSE) 101/0		
S34	SESE 29.0 SESE 211/0 NENE 40.0 NENE 221/0 NNW 34.0 NNW 141/0 Lot 1 (NESE) 13.0 401/1 (NESE) 31/0	NNNE 38.0 NNNE 131/0 SWNW 31.0 SWNW 171/0 NWSE 17.0	SWNE 40.0 SWNE 201/0 SENW 39.0 SENW 111/0 401/3 (SESW) 111/0	SENE 38.0 SENE 201/0 Lot 3 (NENW) 7.0 401/3 (NENW) 101/0	NENW 40.0 NENW 731/0 Lot 4 (NWSW) 10.0	

761.0 ACRES TOTAL
113611/0 ACRES TOTAL

REMARKS:

WATER IS DELIVERED THROUGH THE HUNT DITCH.

USE OF THIS RIGHT WITH RIGHT NOS. 36-00002 AND 36-00003H IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 28.55 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 2283 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 761 ACRES IN A SINGLE IRRIGATION SEASON.

5.96 CFS OF RIGHT NO. 36-00002 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND RIGHT NO. 36-00002.

1193 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

USE OF THIS RIGHT WITH RIGHT NO. 36-00003H IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 13106 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1083 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 361 ACRES IN A SINGLE IRRIGATION SEASON.

