

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: 36-00015
	)	
	)	
	)	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: WEATHERBY SPRINGS Tributary: BILLINGSLEY CREEK

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 6.5 CFS
TOTAL QUANTITY: 6.5 CFS

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

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

4. The priority date is: 03/08/1902

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:

T07S R14E S30 SENESW

WATER IS DELIVERED THROUGH THE BAR S DITCH, CURREN DITCH,
NORTH PIPELINE AND SOUTH PIPELINE

Required Statement: IDWR and the parties stipulate that this is the correct description of the point of diversion. The claim is not for an instream flow.

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 S23 NESW (32.0 acres), NWSW (35.0 acres), SWSW (40.0 acres), SESW (34.0 acres)

T07S R13E S26 NENW (10 acres), NWNW (22.0 acres), SENW (21.0 acres), NESW (19.0 acres), SESW (16.0 acres), NWSE (6.0 acres), SWSE (22.0 acres), SESE (12.0 acres)

T07S R13E S35 NENE (8.0 acres), NWNE (9.0 acres), SWNE (38.0 acres), SENE (9.0 acres), NENW (15.0 acres), NWNW (2.0 acres), SENW (37.0 acres), NESW (40.0 acres), NESE (19.0 acres), NWSE (37.0 acres)

483.0 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-00018 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 483 ACRES IN A SINGLE IRRIGATION SEASON

Required Statement: IDWR and the parties stipulate that this is the correct description of the place of use. The place of use is located in Gooding County, Idaho.

9. The annual volume of consumptive use is:

USE OF THIS RIGHT WITH RIGHT NO. 36-00018 IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1449 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

John A. Rosholt 8/20/95
Party's Signature Date

Nicholas B. Spencer 9-11-95
Attorney's Signature Date

John A. Rosholt 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. 36-00015
	)	
Case No. 39576	)	
	)	
	)	STIPULATION
	)	

DESCRIPTIVE SUMMARY

This is a stipulation to resolve the objection to water right number 36-00015.

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. 36-00015, 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.

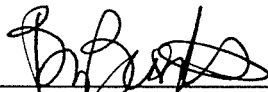
2. The Standard Form 5 and this stipulation have been reached through good faith

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.

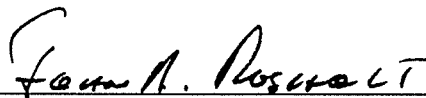
3. All parties agree to bear their own costs and attorney's fees in connection with this matter.

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.

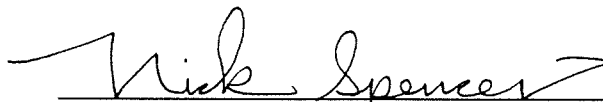


Buckeye Farms, Inc.
Claimant



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
36-00015	BUCKEYE FARMS INC 18335 U S HWY 30 HAGERMAN ID 83332	03/08/1902	IRRIGATION	03-15 11-15	<u>6.5 CFS</u> <u>7122 cfs</u>	DECREED
SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK						
POINT OF DIVERSION:				TOTAL QUANTITY:		
TOTS R14E S30						
TOTR R14E S31						
PLACE OF USE: IRRIGATION						
TOTS R13E S23				NWSW 32.0	SESW 34.0	
				MNSW 73.0	SESW 14.0	
				NNNW 10.0	NESW 19.0	
S26				MNNW 78.0	MESW 38.0	
				NUSE 6.0		
				MNSE 10.0		
				NENE 8.0		
S35				MNE 9.0		
				MNNE 38.0	SENE 9.0	
				MNE 77.0	SEMNE 17.0	
				SENW 37.0	NESE 19.0	
				SEWN 40.0	MENSE 20.0	
					NEWW 15.0	
					MEWW 37.0	
					MNSE 40.0	
					SESW 16.0	
					SESW 20.0	

483.0 ACRES TOTAL
//46610 ACRES TOTAL
REMARKS:
0.66 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
A DIVERSTION RATE OF 1114 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.08 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
WATER IS DELIVERED THROUGH THE BAR S DITCH, CURREN DITCH,
NORTH PIPELINE, AND SOUTH PIPELINE.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 23 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
THE NUMBER OF IRRIGATED ACRES FOR THIS RIGHT WAS DETERMINED
BASED ON A DIVERSTION RATE OF 0.0434 CFS PER ACRE AT THE FIELD
HEADGATE.
USE OF THIS RIGHT WITH RIGHT NO. 36-00018 IS LIMITED TO A
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1449 AF, AND THE
IRRIGATION OF A COMBINED TOTAL OF 483 ACRES IN A SINGLE
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1398 AF, AND THE
IRRIGATION OF A COMBINED TOTAL OF 466 ACRES IN A SINGLE
IRRIGATION SEASON.