

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 80409

This is to certify that: **ANCIE P BELL AND/OR
VERL C BELL
853 E 2830 S
HAGERMAN, ID 83332**

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
36-33E	WR/DECREED	3/8/1902	0.750 cfs	N/A	17.0	49.0	WEATHERBY SPRINGS
36-3A	WR/DECREED	9/10/1884	1.380 cfs	N/A	N/A	13.0	BILLINGSLEY CREEK

Purpose of Transfer (Changes Proposed)

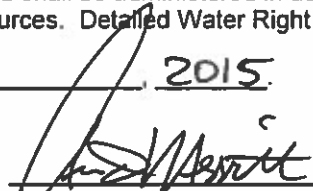
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
36-33E	NO	NO	YES	NO	NO	NO
36-3A	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
36-33E	36-33E	0.750 cfs	N/A	17.0	65.0	N/A	N/A	N/A	N/A	N/A
36-3A	36-3A	1.380 cfs	N/A	13.0	65.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.130 cfs	N/A	30.0	65.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 5th day of November, 2015.


Southern Region Manager

SUPPORT DATA
IN FILE # 36-3A

Transfer No. 80409

WATER RIGHT NO. 36-3A
As Modified by Transfer No. 80409

In accordance with the approval of Transfer No. 80409, Water Right No. 36-3A is now described as follows:

Right Holder: ANCIE P BELL AND/OR
 VERL C BELL
 853 E 2830 S
 HAGERMAN, ID 83332

Priority Date: 9/10/1884

Source: BILLINGSLEY CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	02/15	to 11/30	1.380 cfs
STOCKWATER	01/01	to 12/31	0.020 cfs
			1.380 cfs

LOCATION OF POINT(S) OF DIVERSION

BILLINGSLEY CREEK SESENE Sec 11 Twp 07S Rge 13E GOODING County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	27			40.0	25.0													65.0

Right Acre Limit: 13.0

POU Total Acres: 65.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	27			X														

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 13.0 acres within the authorized place of use in a single irrigation season.
2. Rights 36-3A and 36-33E are limited to the irrigation of a specific 30.0 acres within the 65.0 acre place of use authorized by this right in a single irrigation season. The specific 30.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 30.0 acres to be irrigated within the 65.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

Transfer No. 80409

WATER RIGHT NO. 36-3A
As Modified by Transfer No. 80409

CONDITIONS OF APPROVAL

3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 36A.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. This right does not grant any right-of-way or easement across the land of another.
6. Water is delivered through the Buckeye Ditch.
7. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
8. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
9. The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

WATER RIGHT NO. 36-33E
As Modified by Transfer No. 80409

In accordance with the approval of Transfer No. 80409, Water Right No. 36-33E is now described as follows:

Right Holder: ANCIE P BELL AND/OR
VERL C BELL
853 E 2830 S
HAGERMAN, ID 83332

Priority Date: 3/8/1902

Source: WEATHERBY SPRINGS **Tributary:** BILLINGSLEY CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	02/15	to 11/30	0.750 cfs 0.750 cfs

LOCATION OF POINT(S) OF DIVERSION

WEATHERBY SPRINGS SENESW Sec 30 Twp 07S Rge 14E GOODING County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	27			40.0	25.0													65.0
Right Acre Limit:			17.0																
POU Total Acres:			65.0																

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 17.0 acres within the authorized place of use in a single irrigation season.
2. Rights 36-3A and 36-33E are limited to the irrigation of a specific 30.0 acres within the 65.0 acre place of use authorized by this right in a single irrigation season. The specific 30.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 30.0 acres to be irrigated within the 65.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 36A.

Transfer No. 80409

WATER RIGHT NO. 36-33E
As Modified by Transfer No. 80409

CONDITIONS OF APPROVAL

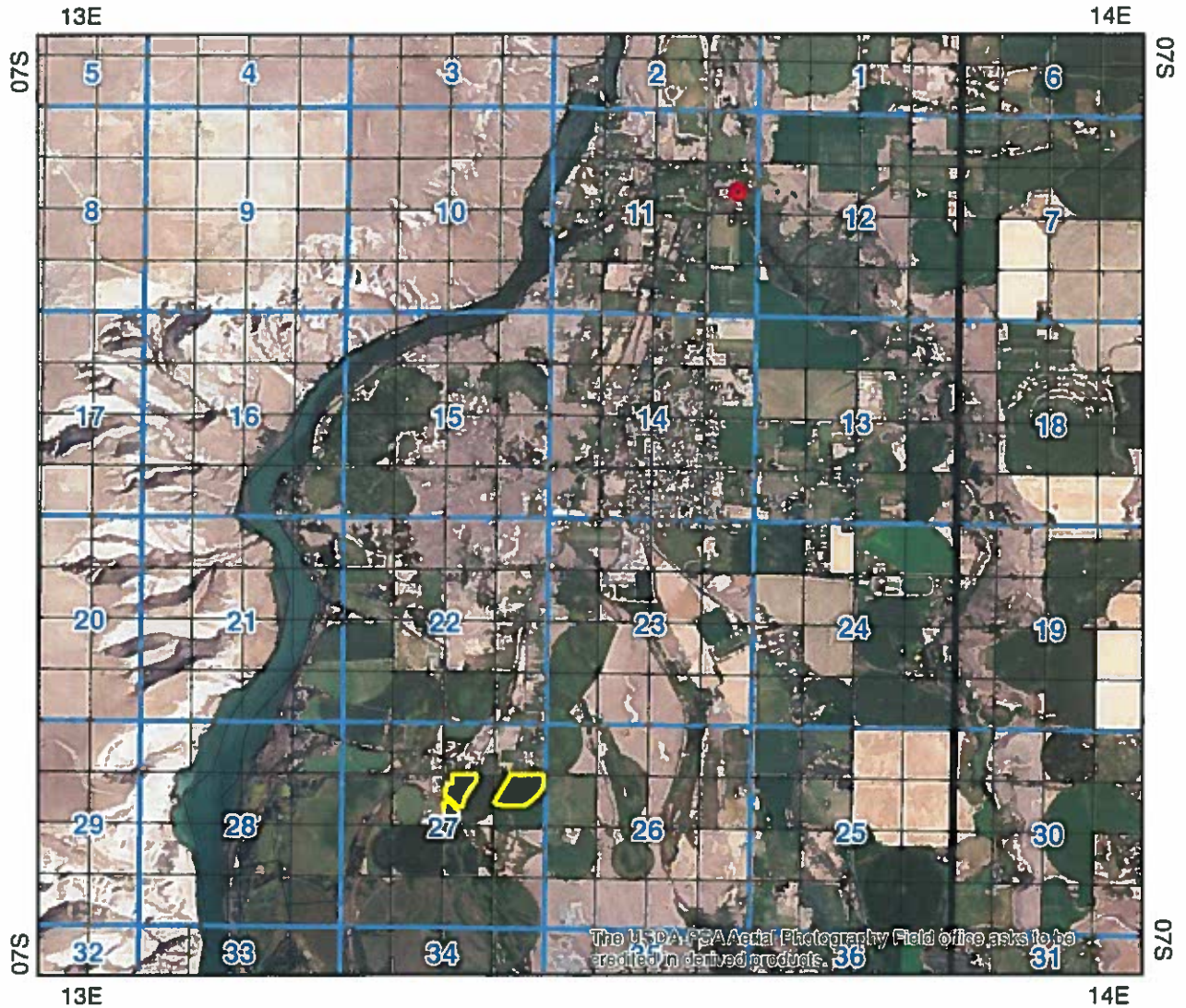
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. Water is delivered through the Bar S Ditch, Curren Ditch, and North Pipeline.
6. This right does not grant any right-of-way or easement across the land of another.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 80409

36-3A

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.5 1 2 Miles

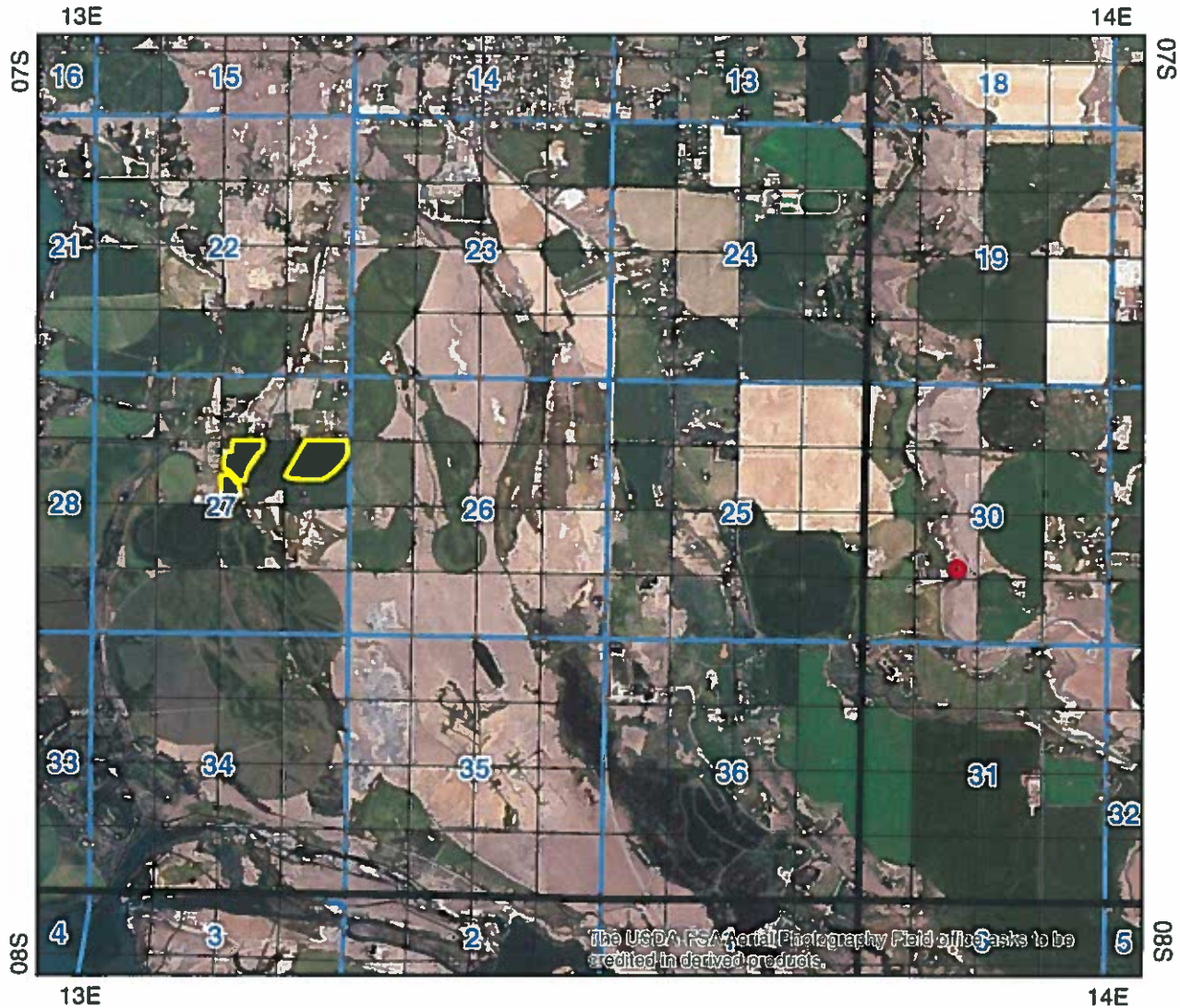


State of Idaho
Department of Water Resources

Attachment to Transfer No. 80409

36-33E

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 5, 2015

VERL C BELL
ANCIE P BELL
853 E 2830 S
HAGERMAN ID 83332

Re: Transfer No: 80409
Water Right No(s): 36-3A , 36-33E

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt". The signature is stylized with a large, sweeping initial "A" and a cursive "Merritt".

Allen Merritt
Southern Regional Manager

Enclosure

cc:

BROCKWAY ENGINEERING PLLC
C/O HATTIE ZOBOTT
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

FRANK ERWIN WATERMASTER
WATER DISTRICT 36A
711 EAST AVE N
HAGERMAN ID 83332

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 80409
Water Right No(s): 36-3A , 36-33E

VERL C BELL
ANCIE P BELL
853 E 2830 S
HAGERMAN ID 83332

BROCKWAY ENGINEERING PLLC
C/O HATTIE ZOBOTT
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

FRANK ERWIN WATERMASTER
WATER DISTRICT 36A
711 EAST AVE N
HAGERMAN ID 83332

A handwritten signature in black ink, reading "Denise Maline", is written over a horizontal line.

Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Transfer # 80409 File

FROM: Corey Skinner

DATE: November 5, 2015

SUBJECT: Telephone Conversation(s)

On October 30th, I telephoned Almer (Bud) Huntley in response to his October 26, 2015 letter to IDWR on behalf of the Big Bend Irrigation & Mining Co regarding transfer # 80409, filed in the name of Verl &/or Ancie Bell. Mt. Huntley and I discussed items he raised in his letter, in particular the option of the Big Bend Irrigation & Mining Co modifying their service area to so that it would include the lands described by the proposed permissible place of use in transfer # 80409. I emphasized to Mr. Huntley that it was the Big Bend Irrigation & Mining Company's decision and that their decreed acre limit of 361 acres would not change if the company modified their service area. I also indicated that transfer # 80409 would not modify the Big Bend Irrigation & Mining Company's service area and that it would take a separate application filed by the company to modify their service area. Mr. Huntley indicated that he would be discussing the possibility of the Big Bend Irrigation & Mining Co changing their service area at their next director's meeting.

I also emphasized to Mr. Huntley that without the company changing their service area, the only water that could be applied to the land west of the Buckeye Ditch within the permissible place of use proposed by transfer # 80409 are the Bell's private water rights listed in transfer # 80409. Jim Bitzenburg and I had also discussed this issue with Hattie Zobott, the consultant who prepared the transfer # 80409 application, in a previous telephone conversation. Hattie indicated that her and her clients were aware of this issue and that they understood that without the Big Bend Irrigation & Mining Co changing their service area the company's water could not be used west of the Buckeye Ditch on the Bell property.

Skinner, Corey

From: Hattie Zobott [hattie.zobott@brockwayeng.com]
Sent: Monday, November 02, 2015 1:26 PM
To: Skinner, Corey
Subject: Verl Bell Transfer

Dear Corey,

We spoke earlier on the phone about Verl Bell's transfer and the stockwater Place of Use. I just confirmed with Mr. Bell that the Place of Use for the stockwater portion will not change in this transfer. Thank you for following up with me on this issue.

Sincerely,

Hattie Zobott, EIT

Brockway Engineering, PLLC
2016 Washington St. North, Suite 4
Twin Falls, ID 83301
(208) 736-8543
hattie.zobott@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

Big Bend Irrigation & Mining Co., Ltd.

**PO Box 334
Hagerman ID 83332**

RECEIVED

October 26, 2015

NOV 02 2015

**DEPT OF WATER RESOURCES
SOUTHERN REGION**

Board of Directors:

**Bud Huntley, President
Todd Crist, Vice-President
Phil Gossi, Treasurer
Wayne Roth
Roger Hansen**

**State of Idaho, Department of Water Resources
650 Addison Ave West, Suite 500
Twin Falls, ID 83301-5858**

RE: Transfer # 80409; Water Right No. 36-3A; Verl and Ancie Bell

Big Bend Irrigation and Mining Co., Ltd. have no objection to the co-mingling of water from the Big Bend Ditch with water from water rights 36-3A and 36-33A for irrigation purposes on the present Verl and Ancie Bell property.

However, Big Bend has questions about some other items in this request that may affect future owners of the Bell Property or create long term problems for the Big Bend water rights.

1. Big Bend's Service Area is about 1500 acres. The service area map in our possession indicates that the western boundary of our service area in the locus under consideration is the Buckeye Ditch. The proposal presented shows the western service area boundary to be expanded to the 850 Road extended south from the 850 Road/ 2830 Road intersection to where the Buckeye Ditch crosses the 850 Road extension, and easterly from the 850/2830 Road intersection to where the Buckeye Ditch crosses the 2830 Road. This proposal will increase our service area by approximately 10 acres. This expansion is needed by the applicant to use Big Bend water west of the Buckeye Ditch. Will there be any future repercussions to any Big Bend water rights by expanding this service area?
2. Big Bend's water rights (36-133 and 36-192) allow 361 acres to be irrigated in our service area with 35 cfs of water from Tucker Upper and Lower Springs. By adding an additional 10 acres of irrigated land to one land owner, this could possibly affect other land owner's irrigation rights in the Big Bend service area. Or will IDWR increase our 361 acres by the proposed 10 acres, so that we can irrigate 371 acres? This is a concern of Big Bend. Big Bend has restricted some land owners from increasing their irrigated acreage because of this limitation. This acreage expansion to one land owner could result in repercussions.
3. It appears that if some calamity occurs to the Buckeye Ditch and/or the Weatherby Springs supply, that Big Bend water would have to provide the missing water to carry out the irrigation supply needed. **Big Bend cannot supply that missing water.** Because of the absorption losses and flat gradient in the over 5 miles of ditch before reaching the Bell property, it is difficult to provide the Bell property with its 48 shares and provide the 60 shares to the Gustafsen property south of the Bell property.
4. By the co-mingling of the waters, how will flows from the various sources be measured to insure the proper allocations are being followed? Big Bend does not want to have its water flowing into the Buckeye Ditch.

Big Bend Irrigation & Mining Co., Ltd.
PO Box 334
Hagerman ID 83332

Please contact us if any hearings are to be held in this application at our mailing address and by telephone at 208-421-1287, or email at plspe@hotmail.com

Thank you for your attention to these concerns.

Sincerely,


Almer Huntley, President

Cc: Verl and Ancie Bell

Hattie Zobot, Brockway Engineering
Frank Erwin, Water Master, District 36A

Big Bend Irrigation & Mining Co., Ltd.

**PO Box 334
Hagerman ID 83332**

October 26, 2015

Board of Directors:

Bud Huntley, President
Todd Crist, Vice-President
Phil Gossi, Treasurer
Wayne Roth
Roger Hansen

VIA E-MAIL
RECEIVED
OCT 28 2015
DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho, Department of Water Resources
650 Addison Ave West, Suite 500
Twin Falls, ID 83301-5858

RE: Transfer # 80409; Water Right No. 36-3A; Verl and Ancie Bell

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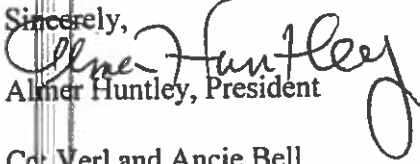
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4. By the co-mingling of the waters, how will flows from the various sources be measured to insure the proper allocations are being followed? Big Bend does not want to have its water flowing into the Buckeye Ditch.

Big Bend Irrigation & Mining Co., Ltd.
PO Box 334
Hagerman ID 83332

Please contact us if any hearings are to be held in this application at our mailing address and by telephone at 208-421-1287, or email at plspe@hotmail.com

Thank you for your attention to these concerns.

Sincerely,


Almer Huntley, President

Cc: Verl and Ancie Bell
Hattie Zobot, Brockway Engineering
Frank Erwin, Water Master, District 36A

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RECEIVED

OCT 26 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 80409

Water Right No(s): 36-3A, 36-33E

Transfer Applicant's Name: VERL & ANCIE BELL
853 E 2830 S
HAGERMAN, ID 83332

Recommendation:

- a) ✓ I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 22 day of October, 2015

Water District No. 36-A

Frank Erwin

Watermaster's Signature

Frank Erwin

Printed Name