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Attorneys for Buckeye Farms, Inc.

RECEIVED

AUG 29 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
TRANSFER, NO. 78283 (fka No. 66354), IN THE
NAME OF BUCKEYE FARMS, INC.

**SECOND AFFIDAVIT OF
PAUL L. ARRINGTON**

STATE OF IDAHO)
) ss.
County of Twin Falls)

I, PAUL L. ARRINGTON, being first duly sworn upon oath, deposes and states:

1. That I am an attorney representing Buckeye Farms, Inc. in the above matter and state the following based upon my own personal knowledge of the facts contained herein.
2. Attached hereto, as Exhibit G, is a true and correct copy of the *Affidavit of George Lemmon*, dated January 28, 1997, retrieved from the backfile for water right no. 36-4, on the Idaho Department of Water Resources ("IDWR") website.
3. Attached hereto, as Exhibit H, is a true and correct copy of a Conversation Memorandum, dated June 18, 1991, retrieved from the backfile for water right no. 36-4.
4. Attached hereto, as Exhibit I, is a true and correct copy of a Conversation Memorandum, dated July 22, 1991, retrieved from the backfile for water right no. 36-4.

5. Attached hereto, as Exhibit J, is a true and correct copy of a memorandum, dated October 28, 1992, entitled "Buckeye Farms/Meeting with IDWR During N.O.E. Process."

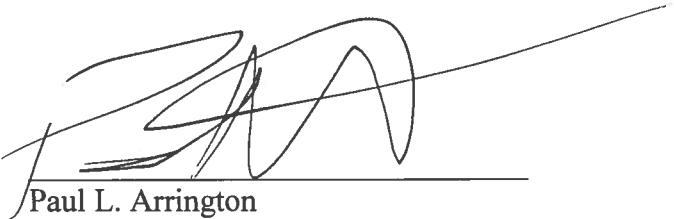
6. Attached hereto, as Exhibit K, is a true and correct copy of a letter dated November 3, 1992, from Steve Clelland.

7. Attached hereto, as Exhibit L, is a true and correct copy of a letter dated October 29, 1998, from Donald McFadden, retrieved from the backfile for water right no. 36-4.

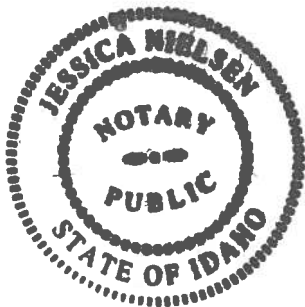
8. Attached hereto, as Exhibit M, is a true and correct copy of Meeting Notes, from a meeting held on February 26, 1997, retrieved from the backfile for water right no. 36-4.

Further your affiant sayth naught.

Dated this 29th day of August, 2013.


Paul L. Arrington

SUBSCRIBED AND SWORN to before me this 29 day of August, 2013.




Notary Public, State of Idaho
Residing at: Twin Falls

Exhibit G

AFFIDAVIT OF GEORGE LEMMON

STATE OF IDAHO)
)ss.
County of Idaho)

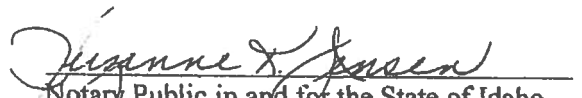
George Lemmon, being first duly sworn, deposes and says:

1. That I am the Watermaster for Water District 36A and have personal knowledge and am competent to testify about the matters stated in this affidavit.
2. I have previously submitted my comments concerning this transfer request by Buckeye Farms, Inc. on water rights 36-0015 and 36-0018.
3. Prior to (and after) Spring Valley Ranch, Inc.'s purchase of the 400 acres from Buckeye Farms, Inc., water right 36-0004 had been delivering water to irrigate the 400 acres. Water right 36-0018 is so junior that actual waterflow to deliver this right has not existed for years in sufficient quantity to deliver the water during the entire irrigation season.
4. Since July 1919, through the North pipeline, Sections 23 and 26 as described on the attached legal description have been irrigated primarily from the September 10, 1884 water right number 36-0004 decreed for 15 cfs in that certain case of New International Mortgage Bank vs. Idaho Power Company Federal District Court of Idaho, Case No. 1602, March 22, 1932.

Dated this 28th day of January, 1997.


George Lemmon

Subscribed and sworn to before me this 28th day of January, 1997.


Notary Public in and for the State of Idaho
Residing at Hagerman, Idaho
Comm. Expires 8-4-98

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NOV 05 1997

Department of Water Resources
Southern Region

Exhibit H

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELAND

FILE

A36-00004

RE: SPRING VALLEY RANCH

DATE 6-18-91

NAME OF PARTY

MAC KNIGHT

He came in looking for info on the WR's from Curren Ditch & The Mortimer Curren Tunnel. I printed out POD Query reports in WR side and the AS side and gave them to him. I explained the R-Record as being incomplete and told him they were going to be changed again from what was on the printout.

We discussed the use of water on the hilltop purchased from Buckeye farms. I told him he needed to file a transfer of the water right because it occurred after the commencement.

I told him how I had reviewed his water right on the St. Ranch and how I arrived at a recommendation. I

Explained my confusion of the use of all the 15.0 cfs water right; if it is beneficially used on the 153 acres at the home ranch — How can you use a transfer to the hilltop acres? If you have enough water to irrigate the hilltop — How have you beneficially used that much water at the original Ranch Area? Nothing was resolved.

He agreed to contact his attorney for transfer filing.

MICROFILMED

JAN 20 1993

Exhibit I

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE A36-0004

RE: AJ CLAIM

DATE 7-22-91

NAME OF PARTY

FRANK KNIGHT OF SPRING VALLEY RANCH

He came in to ask what was needed next for their AJ claim suggesting the transfer to the purchased Buckeye lands.

I then explained the Adjudication process we were doing and I showed him how I had reviewed his claim. I explained the pro rata concept and how 15 cfs on 153 acres is not the most beneficial use of water. I recommend that, SUR will have no water to transfer to the hilltop area.

After we discussed this in depth, Mr. Knight told me that Buckeye Farms had always used the 36-0004 right at that place of use & the sale contract recognized the continued use of that water on those lands.

We resolved if that is the case, then the right owned and withheld from sale by Buckeye, 36-00018 would be disallowed by forfeiture & abandonment.

It is obvious the ditch that conveyed water to irrigate the lands but the question seems to be under which water right 36-0004 or 36-00018? Both rights cannot & have not been delivered.

I suggested Mr. Knight hold off on the transfer and consult his attorney. He may want to contact Water master G. Lemmon for additional Records to support the priority dates delivered.

MICROFILMED

(Attached Notes for memory review)

JAN 20 1993
NOT OF USE
SER 7-16-92

Exhibit J

M E M O R A N D U M

TO: FILE

FROM: SHS

DATE: October 28, 1992

RE: BUCKEYE FARMS/MEETING WITH IDWR DURING N.O.E. PROCESS

On October 21, 1992, John Simpson and I met with Steve Clelland at IDWR to review the Buckeye Farms adjudication claims in Basin 36. Following is a summary of our discussions:

First of all, the IDWR has granted the extended irrigation season of 3/15-11/15 to all Hagerman Valley water rights, including those of Buckeye Farms.

36-00001: (Riley Creek via Hunt Ditch) This right was reduced from 12.0 c/f/s claimed, to a total of 9.17 c/f/s recommended (including 1.95 c/f/s for conveyance loss and 7.22 for irrigation). Steve Clelland indicated that the reduction in the amount of water was a direct result of the IDWR's site inspection on 10/3/90, which revealed a total of 361 irrigated acres, as opposed to the 1016 acres claimed. The standard amount of water per acre for sprinkler irrigation was then used (.02 c/f/s or 1" per acre). Steve also indicated that there is an overlap of parcels watered by this right and #36-0003H, which accounts for the restriction in the remarks section that use of the two rights combined is limited to a total combined diversion rate of 13.06 c/f/s and the irrigation of a total of 361 acres in a single irrigation season. We reviewed place of use maps in Steve's file and requested copies of same, which he agreed to furnish.

We asked how conveyance losses are determined. IDWR measures the width of the ditch and determines conveyance loss using the "Worstell Method". Bob Worstell is an IDWR employee who was formerly with the Kimberly Research Center, where he published a report containing a formula for measuring conveyance losses. The same method is used to measure conveyance loss on each delivery ditch, although not at each given POD.

36-00002: (Riley Creek via Hunt Ditch) This claim was disallowed, as it is from the same source as #36-00001 above. In order to reinstate any portion of this right, we would need to prove beneficial use of additional use up to 12 c/f/s under #36-00001 above. Otherwise, any additional water proved from this source would be under the earlier right and this one would remain disallowed until the full decreed amount was reached under 36-00001.

36-0003H: (Billingsley Creek via Buckeye Ditch) This right was reduced from 12.0 c/f/s claimed, to a total of 8.37 c/f/s recommended (including 3.89 c/f/s for conveyance loss and 4.48 for irrigation). Steve Clelland indicated that the reduction in the amount of water was a result of the IDWR's site inspection, which revealed a total of 224 irrigated acres, as opposed to the 455 acres claimed. The standard amount of water per acre for sprinkler irrigation was then used (.02 c/f/s or 1" per acre). Steve also indicated that there is an overlap of parcels watered by this right and #36-0000†, which accounts for the restriction in the remarks section that use of the two rights combined is limited to a total combined diversion rate of 13.06 c/f/s and the irrigation of a total of 361 acres in a single irrigation season. We reviewed place of use maps in Steve's file and requested copies of same, which he agreed to furnish.

36-00015: (Weatherby Springs via Bar S Ditch) This is the water right which is subject to a stipulation limiting total diversion to all water users on the Bar S Ditch to 6.5 c/f/s, and Buckeye had filed on all 6.5 c/f/s, since the stipulation did not allocate amounts per user. The amount of water was determined by using the ASCS model for flood irrigation, as published in the Hubbel Engineering Report. This amount was determined to be 0.0454 per acre. The total amount of water used by other water users on the ditch, without conveyance loss, was 5.27 c/f/s. That left only 1.23 c/f/s available to Buckeye. Conveyance loss was determined to be .08 c/f/s. They then determined the amount of acreage that could be irrigated at 0.0454 per acre to equal the amount remaining, which resulted in the 25-acre limitation set forth in the remarks section; i.e., this right is appurtenant to a 466-acre parcel, but only 25 acres can physically be irrigated within that parcel, given the amount of water available.

36-00016 and 36-00017: (Weatherby Springs via Bar S Ditch) These claims were disallowed, as they are from the same source as #36-00015 above. Based upon the stipulation entered into among water users on the Bar S Ditch, it would be impossible to reach the decreed amount of 6.5 under #36-00015 above; therefore, these two claims cannot be reinstated.

36-00018: (Billingsley Creek via Curren Ditch) This acreage was reduced from 870 acres claimed as place of use, to a total of 466 acres recommended, although the amount of water (20 c/f/s) was not changed. The same amount per acre as #36-00015 above (0.0454/acre) was determined to be the beneficial use amount, per the flood irrigation method of measurement mentioned above. Steve Clelland indicated that the reduction in the irrigated acres was a result of the IDWR's site inspection. This right is limited to the irrigation of 441 acres within the 466 place of use described, and is also subject to a limitation in combination with #36-00015 above to the irrigation of a total of 466 acres in a single irrigation season.

Finally, as a matter of information, Steve Clelland cautioned us that there has never been a transfer in IDWR records of the water rights appurtenant to the property sold by Buckeye to Spring Valley Ranch in 1989. These water rights were excepted from the deed conveying the property to Spring Valley, but nothing has been done with them since that time; therefore, in the IDWR's view, they will be forfeited after 5 years from the time they were excepted from the sale of property. (i.e., time runs out 2/9/94, 5 years from the recording date of the corporation warranty deed to Spring Valley from Buckeye which excepted out the water rights.)

A review of our file indicates that Buckeye executed a Transfer Deed conveying the water rights to itself, for use on its other property. However, no transfer or change in nature of use, etc., was done via the IDWR's process. The water rights cited in the sale agreement as being excepted from the 365+ acres sold to Spring Valley are #36-0003, 36-00015, 36-00016 and 36-00017. (The agreement erroneously refers to #36-0003 as a right for 20 c/f/s, when the decreed amount was actually 12, and has been recommended for 8.37 as reported above.)

Additionally, two of the permits Buckeye had filed for use of the same water on a year-round basis (#36-07740 and 36-07742) were also excepted from the sale to Spring Valley.

The sale agreement between Buckeye and Spring Valley indicates that Spring Valley has a decreed right, #36-00004, for 15 c/f/s for use on other lands owned by it, although water from that right has been used by Buckeye and its predecessors on the parcel being conveyed when it was not otherwise being used by Spring Valley. This was apparently why Spring Valley agreed to buying the Buckeye property without water. (Incidentally, the Basin 36 Director's Report recommends Spring Valley's claim under #36-00004 for a total of 4.51 c/f/s.)

cc: JAR
JKS

Exhibit K



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

NOVEMBER 3, 1992

R. KEITH HIGGINSON
Director

BUCKEYE FARMS INC
C/O JOHN A ROSHOLT
PO BOX 1906
TWIN FALLS ID 83303-1906

RE: NOTICE OF ERROR IN THE SRBA FOR 36-00001, 36-00002, 36-00003H,
36-00015, 36-00016, 36-00017 & 36-00018

DEAR MR. ROSHOLT,

THIS LETTER IS TO CONFIRM THE RESULTS OF THE NOTICE OF ERROR MEETING I HAD WITH SHARON STRICKLAND AND JOHN SIMPSON ON OCTOBER 21, 1992 AT OUR SOUTHERN REGIONAL OFFICE. THE ISSUES RAISED BY YOUR NOE FILINGS WERE ADDRESSED AT THAT MEETING AND THIS LETTER WILL RECAP SOME OF THE RESPONSES FROM THAT MEETING.

COPIES OF THE MAPS FROM EACH FILE WERE REQUESTED BY SHARON STRICKLAND AT THE MEETING AND THOSE COPIES ARE ENCLOSED WITH THIS LETTER.

THE SEASON OF USE FOR IRRIGATION USES WITHIN THE SNAKE RIVER CANYON, BELOW THE RIM, AND HAGERMAN VALLEY HAS BEEN EXTENDED BY THE DIRECTOR AND THIS ANNOUNCEMENT WAS MADE THE DAY AFTER OUR MEETING. THE NEW SEASON IS 3/15 TO 11/15.

YOUR NOE QUESTIONS THE BASIS FOR RECOMMENDATION OF AN AMOUNT THAT IS LESS THAN THE AMOUNT SHOWN IN A PREVIOUS DECREE AND DISALLOWAL OF A CLAIM TO A PREVIOUSLY DECREED WATER RIGHT.

UNDER IDAHO LAW, A WATER RIGHT IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR THE PURPOSES FOR WHICH THE WATER RIGHT WAS ESTABLISHED. THE AMOUNT OF WATER BENEFICIALLY USED IS LIMITED TO THE AMOUNT THAT IS ACTUALLY USED AND IS REASONABLY REQUIRED. FOR IRRIGATION PURPOSES, A REASONABLE AMOUNT IS THE AMOUNT REQUIRED USING IRRIGATION METHODS THAT ARE REASONABLY EFFICIENT UNDER CURRENT CIRCUMSTANCES. IF THE AMOUNT OF A WATER RIGHT SHOWN IN A DECREE IS GREATER THAN THE AMOUNT THAT IS BENEFICIALLY USED, THEN THE PORTION THAT IS NOT BENEFICIALLY USED IS FORFEITED. IN THE CASE OF 36-00002, 36-00016 & 36-00017, IF THE WATER RIGHT SHOWN IN A DECREE IS NO LONGER BENEFICIALLY USED, THE WATER RIGHT IS FORFEITED.

THE AMOUNT PROPOSED TO BE RECOMMENDED FOR YOUR CLAIMS IS BASED ON THE AMOUNT OF WATER DETERMINED TO BE BENEFICIALLY USED FOR THE RECOMMENDED ACRES ACTUALLY BEING IRRIGATED, BASED ON AVAILABLE DATA AND CURRENT METHODS OF ANALYSIS.

IF YOU STILL DISAGREE WITH IDWR'S RECOMMENDATIONS, YOU WILL HAVE AN OPPORTUNITY TO FILE AN OBJECTION TO THE DIRECTOR'S REPORT WITH THE COURT.

SINCERELY,

A handwritten signature in black ink, appearing to read "Steve Clelland", with a long horizontal line extending from the end of the signature.

STEVE CLELLAND
SENIOR WATER AGENT

SCC
ENCL:

Exhibit L



BILLINGSLEY CREEK RANCH

RECEIVED

OCT 30 1998

Department of Water Resources
Southern Region

2726 South 1050 East
Hagerman, Idaho 83332

Phone 208-837-6174
Fax 208-837-6563

October 29, 1998

Steve Oelland
Idaho Department of Water Resources
1341 Fillmore Street Suite 200
Twin Falls, Idaho 83301

Dear Mr. Oelland:

I have recently been made aware that the Department of Water Resources is considering changing the original recommendation in the Director's Report for the Spring Valley Ranch (now owned by a group called Western Legends). I have also been told that Western Legends is attempting to produce evidence to show that the "04 right" originally adjudicated to their property was used to irrigate portions of the Bar S Ranch. Furthermore, I understand that they are also attempting to convince IDWR that this water traditionally flowed year around and was used for wildlife habitat, recreation, etc. As you most likely know, I owned the Bar S Ranch from 1976 until 1988 at which time I put together the hunting club (Buckeye Farms) that currently operates the property. I was involved in the sale of the north portion of the Bar S property to Spring Valley Ranch. This

sale specifically did not include the transfer of any water rights. Spring Valley Ranch was aware that they stood to lose a substantial amount of their 1932 bonded rights due to non-use and put some vague language in the sales agreement in hope that they could claim beneficial use on the new ground that they were purchasing from the Bar S (Buckeye Farms). In the twelve years that I owned and operated the Bar S Ranch, I was in an excellent position to observe the irrigation practices of not only our property but also the neighboring Spring Valley Ranch. At no time during my twelve year tenure was any "04 water" used on any portion of the Bar S Ranch. We obviously had our own water rights in the same (Curtain) ditch! Although Spring Valley had the older water right, when they finished diverting all that they could put to beneficial use to sprinkle approximately 160-170 acres of farm ground the next water diverted from the Curtain ditch was most definitely not the Spring Valley "04 right". It was the Bar S water right and it was delivered through the two Bar S pipelines. I might add that I thought the Director's Report was very generous in recommending the 4 point something cfs to Spring Valley during the irrigation season. There was no way they ever used that amount to sprinkle irrigate their farm ground.

As far as winter use of the "04 right" is concerned, there was no winter use, period! The only water

page three

reaching the Spring Valley Ranch in the winter through the Curtan Ditch was seep water coming into the ditch north of the north Bar S pipeline plus any water that leaked through the boards at the diversion leaf. Then, of course, you have the water arriving by pipeline from George Lemmon's illegal consumptive fish pond diversion out of Big Springs but that is another matter and the Department has hopefully curtailed that winter usage. Back to the Bar S and winter water use. The water that was in the Curtan Ditch in the non irrigation season and actually was diverted down the North Bar S pipeline was three to four cfs to mainly keep the pipeline's temperature fairly constant so that expansion or contraction would not cause damage. This water was Weatherby Springs water and was delivered as stock water to water right holders such as Hoskewer, Covinger and others. There was no "off water" in the ditch. Some of this winter water in the north Bar S pipeline occasionally would run back down towards the Big Bend ditch and accumulate in what is now referred to as the "watermelon pond". First of all, please remember that this winter water was from Weatherby Springs and not from the Curtan tunnel. Second, there was never any effort made to establish or maintain wildlife habitat or a wetlands. This area was just a low point that would accumulate irrigation run off or

page four

snow melt. We did not want a marsh as it reduced our grazing capacity and tried to keep it to a minimum. Any diversion to that area or overflow from that area was put in place recently. The water currently sustaining the "watermelon pond" was never adjudicated to the property. No application or transfer was ever filed with DWR. The entire claim is bogus.

Although I have not seen the evidence presented by Western Legends in their attempt to change the origin recommendation in the Director's Report, I will clearly state under oath that, from 1975 until 1988, no "O' water" was ever used at any time of the year on any portion of the Bar S Ranch. Who would know better than me, the owner. Furthermore, that from 1975 to 1988, there was no winter use of the "O' water" anywhere on the Spring Valley or Bar S properties because there was no "O' water" in the Cusum Ditch. The wildlife habitat claim is absurd. It was never established, maintained or permitted. The illegal diversion is simply a recent attempt to recreate a claim. I strongly urge the department to disallow this action and permit the water to go to those who have historically and legally put it to beneficial use.

Sincerely:
Dennis McFadden

Exhibit M

RECEIVED

NOV 05 1998

Department of Water Resources
Southern Region

MEETING NOTES

**IDAHO DEPARTMENT OF WATER RESOURCES
AND
WESTERN LEGEND LC.
FEBRUARY 26, 1997**

A meeting between IDWR and Western Legends LC was held on February 26, 1997. Present at the meeting were Nick Spencer, Atty. for IDWR, Charles Honsinger, Atty. for IDWR, Steve Clelland, IDWR, John Simpson, Atty. for Buckeye Farms, Inc., Dr. Chuck Brockway on behalf of Western Legends LC, the owners of Western Legends LC - Bill Lehman, Mike McCarthy, Frank Knight and Mac Knight, and the Development Coordinator for Western Legends Pam Wascher taking notes on the meeting.

These minutes will be in the form of verbatim notes indicated by the individuals stating the comments.

Chuck A general question, what is the general criteria for the nature of water on land - must there be an interest or ownership - or a window of ownership? Would a lease to use water show the interest if there was not ownership where the water was owned but used on property that was not owned by the party using the water. Spring Valley Ranch being adjacent to land the water was used on.

Nick That is a real gray area

Chuck Are there opportunities for transfer to adjacent land. I have discussed this use with the Watermaster in Hagerman. This is not an atypical situation for use of water in the Hagerman Valley.

We are talking about three rights here 0004, 0015 and 0018 through the Current Ditch and then the North and South Pipeline.

The 15 right coming from the Bar S to the Current to the North Pipeline, they become part of the "system".

The 15, 18 and 04 right have been distributed through the Current Ditch and used on the "400" acres as well as the South portion (Bar S) and by a Gentleman's Agreement the 04 right has been distributed throughout the lands. The '32 decree has not addressed the use on "actual places of use or decreed places of use and it is a dilemma as to how to firm up the 04 right of Spring Valley Ranch.. Again, this is not atypical in the Hagerman Valley. The interest in the property and substantiating use of the water right pending an answer to that question.

One concern is relative to the 15 and 18 water rights - the approval of those rights as laid out in Amended form 5 - jeopardizes the approval of the 0004 right because it includes property (400 acres) which was part of the Bar S and the 0004 right has been used on the Bar S.

15 cfs has been decreed to the lands identified as the Home Place (not the 400 acres) or Buckeye. We believe that based on the historical use of the 0004 right on the 360 acres that we can show use in excess of the 15 cfs.

The duty of water aspect in the Hagerman Valley of 1 inch per acre is not accurate. If the excess flow analysis is used on the home place or Buckeye you would come up with a diversion rate of 2-1/2 to 3 inches per acre - higher or lower depending the land, but in review of the Amended Form 5 the IDWR agreed to 2.74 inches per acre.

What is the basis for that and is it applicable to acreage in the vicinity? There was engineering done by Buckeye - but they have not done the excess flow analysis for Spring Valley Ranch (that is where they are coming out)

My question for the department is would that base could be applicable for Spring Valley Ranch?

Chas. Can the decreed place of use be larger than the decreed acreage based on historical use and duties of water apply to 15 & 18?

Chuck Both are applicable. The first question is historical use.

Nick The Buckeye objected to their rights and hired engineers to spend time on the ground calculating the number of acres, the place of use, duty of water per acre. The number of acres fluctuated year to year and we have negotiated it out.

We will treat everyone the same.

Get your engineer out on the ground, and do the Hubble measurement and work over the period of time.

The decreed diversion rate is decreed rate and the place of use is still up in the air.

This has complicated things, the comingled use over the land, and I don't know the law with that regard.

Chuck The partial forfeiture If it has a water right for 10 cfs and it has gotten it in the past - and has requested it but it was not delivered?

Nick That is an excused forfeiture - the 5 year clock does not tick. If there was not water

to deliver then they are going to take that into consideration.

Chuck If water is not asked for then it is considered abandoned?

Nick Intention - abandonment is so extreme - forfeiture is statutory abandonment.

Chuck I am still struggling with the duty of water.

John I told Chuck that the Buckeye has gone through complicated negotiations. They did not go through the Hubbell process - they worked with Marcie Sterling and Dave Shaw - they did research and used infrared photos along with engineers to study the use of the water.

Nick I did not have personal knowledge of the duty of water equal to the number of acres.

Chuck Number, length of run, etc.

Nick We call it the Hubbell ala mode.

Chuck Simplified version - we can do an analysis of the lands to which the water has been decreed. I believe we will come out with the similar results.

Steve Not part of the Standard Form 5 - they got far enough to meet the decreed amount. They established what was decreed.

John On 15 and 18 Marcie said you have to use the 15-16-17 right and prove up to the amount claimed. Chuck was not involved when Buckeye did their claims.

Nick Jeff Peppersack worked with Marcie. Get the background on the Hubbell analysis - give consideration duty of water 1 miners inch per acres - establish higher rate necessary - the area will need more than 1 include per acre- the Hagerman waterusers could not afford engineers and used the department calculations that show an expected diversion rate of "X". This method determines the rate the IDWR will do the calculations the make recommendations to the SRBA in the adjudication - if more then we need to prove it up. If the people are dissatisfied with the IDWR - then there may be a need for a higher rate. They need to get an engineering report for the place of use. By the time the quantity was recommended by the IDWR they came up with a higher diversion rate, then we can transfer.

Chuck The Standard Form 5 - how does that effect the limit of what we can do on the 0004 right?

A combo possibility if Amended Standard Form 5 for 15 and 18 part of the application is for use on the 400 acres. If informally 0004 indicated partial use on the 400 acres. The three rights are stacked if the 15 and 18 rights are transferred and they the land must be dried up. So those three rights historically linked legally depending on the 0004 right determination the timing and how long it worked.

Chas. What if 0004 was used on part of the 15 and 18 and the 15 and 18 are transferred, that will effect the 0004 use on those. There needs to be resolution of the place of use of 0004. If any one is transferred off, they all have to be transferred off. There is a conflict if there are two owners one with 2 right and one with one. They all must be left there.

Steve Otherwise that is an enlargement of acreage.

Chuck There is currently an agreement to share because 0015 and 0018 have been mostly dry Approval of the Standard Form 5 might impact whatever Spring Valley could justify as the place of use on the 400 acres with 0004 right.

Frank I have no beef with Buckeye. I'm scared that if we let it go through that the process of rotation of the water right

Steve Can't decree a comingling of water. The decreed right is each actual right. There is already signed 20 cfs there. Establish all water on all acres. Establish the full 15 on the Home Place. Don't show water as being one water right even department is willing to admit that 4.5 l number could be in error.

Nick Lets see if there is a way to establish the full quantity on the full place of use to avoid the stacking problem on the 400 acres. If you can show full 15 cfs on the Home Place then transfer it to the 400 acres to establish the legal right and then do an agreement to continue sharing. The establishment on the home place can be done on Tuesday, and on Wednesday transferred to the 400 acres. The purpose is to have all the water anyway.

Chuck Global? Calls on water could be less if users in Hagerman Valley are sharing water.

Steve Proving water on the home place - establish 15 cfs - show we have excess - come back and explain where the water is being used.

Chuck Prove up 150 - 250 acres - can only move 100 acres if dried up. But if we have 3 inches per acre we can move 3 inches per acre.

(Note sharing)

Historical use used on the home place as necessary. Substantially more use because it has been used on other than the home place in the sharing of water

Chas Is the home place only those acres described or is there more than what Steve recommended?

Nick Did the practice of shared water occur when? the 42-1426 - enlargement - can it be brought in We will have to research that.

Chuck Still a cloud on 1426.

Nick In terms of priority date.

Chuck Not only on decreed area.

John Historical use prior to the '32 decree expanded other purposes rather than places of use. don't go back that far - acknowledging sharing of when 15 and 18 were there. Pushed out of the North and South Pipe, pasturing agreements, water one pasture then shift to another pasture.

Chuck It worked well until the adjudication.

Nick In 1932 the attorneys probably sat around a table in Gooding probably and divided water. But there was so much water that it wasn't a problem then.

I would suggest that you Chuck, get with Jeff and Marcie to get the diversion rater per acre.

Chuck What if 0004- 0015 and 0018 all had designated places of use covering the same area? This would give them the flexibility of sharing - contribution of pasture areas with in water frame work to share it?

What if all covered the same place of use 0004-0015-0018 with two separate owners and they had permissive use - take in owners of one by another? Buckeye and Spring Valley Ranch entered into agreements for distribution and use.

Mac Like a ditch district?

Nick John, what do you think?

John It would reflect historical use in the Hagerman Valley - it is a very unique situation - probably only one to do so. The adjudication is to adjudicate rights as they were used. Buckeye would have been forced to make a call if they had not been able to mitigate and use the 0004 water because the 0015 and 0018 water was not there most of the time.

Nick I can't state the official posture of the IDWR but their attitude and perceptions -- I would look favorably upon it. Niagara Springs dispute did an agreement on use and it has been stayed since 1993. The department historically is appreciative of resolving water messes outside of the court.

The Reynolds decree dissolved a dispute in Basin 57, it went to court and basically went to court and they couldn't decree a square peg into the water hole. The department, however, is receptive to creative solutions.

Steve I might mention something. What about a ditch company between the two largest users? Just a thought - and put the water into it and administer the water through the company.

Frank Good idea - we get an agreement.

Chuck The Hagerman Redneck Syndrome

Mike Can We?

John For a formal ditch company in order to get small users water - they need Buckeye and Spring Spring Valley Ranch or Brailsford - it would be a way to get everyone their water.

Frank Otherwise they would have no conveyance system to get their water.

Mac Put headgates in and lock them.

Chuck Winter water - stock water of 1.5 for the home place. Now the winter water has to be in the pipe for the winter of that pipe will be destroyed.

Chas. We have attempted to measure the temperatures, water flows, pursuant to another water right.

Nick Our engineers are working on it. Thank you, the department is always please when we can sit down and try to work out a resolution, and I think we can here.