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Attorneys for Buckeye Farms, Inc.

RECEIVED

JUL 17 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.

**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 A-1, is a true and correct copy of the Partial Decree for water right 36-15, dated March 6, 1997.
3. Attached hereto, as Exhibit A-2, is a true and correct copy of the Partial Decree for water right 36-18, dated March 6, 1997.
4. Attached hereto, as Exhibit B, is a true and correct copy of a "Communication Documentation," dated June 9, 1994, retrieved from the backfile for water right no. 36-4, on the Idaho Department of Water Resources ("IDWR") website.

5. Attached hereto, as Exhibit C, is a true and correct copy of a memorandum prepared by Jim Stanton and entitled "App. For Transfer, Buckeye Farms," dated October 3, 1996, retrieved from the backfile for water right no. 36-4.

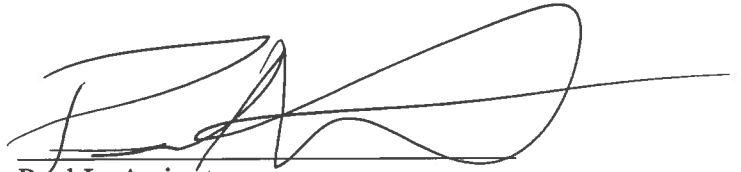
6. Attached hereto, as Exhibit D, is a true and correct copy of a memorandum prepared by Jim Stanton and entitled "App. For Transfer, Buckeye Farms," dated November 13, 1996, retrieved from the backfile for Water right no. 36-4.

7. Attached hereto, as Exhibit E, is a true and correct copy of a memorandum entitled "Conflicts between 36-00004 & 36-00018," dated November 20, 1996, retrieved from the backfile for water right no. 36-4.

8. Attached hereto, as Exhibit F, is a true and correct copy of the Partial Decree for water right 36-4, dated July 22, 1999.

Further your affiant sayth naught.

Dated this 17th day of July, 2013.


Paul L. Arrington

SUBSCRIBED AND SWORN to before me this 17th day of July, 2013.



John A. Rosholt
Notary Public, State of Idaho
Residing at: Twinn Falls
My Commission expires: 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2013, I caused to be served a true and correct copy of the foregoing **AFFIDAVIT OF PAUL L. ARRINGTON** by the method indicated below, and addressed to each of the following:

Verl C. Bell
853 E. 2830 S.
Hagerman, ID 83332

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



John K. Simpson

Exhibit A 1

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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR

Water Right 36-00015

DISTRICT OF IDAHO
TWIN FALLS
FILED

NAME & ADDRESS: BUCKEYE FARMS INC
18335 U S HWY 30
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 6.5 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30

SENESEW

Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
6.5 CFS

PLACE OF USE: IRRIGATION
T07S R13E S23
S26
S35
483.0 ACRES TOTAL

Within GOODING County

NESW 32.0	NWSW 35.0	SWSW 40.0	SESW 34.0
NENW 10.0	NWNW 22.0	SENW 21.0	NESW 19.0
SESW 16.0	NWSE 6.0	SWSE 22.0	SESE 12.0
NENE 8.0	NWNE 9.0	SWNE 38.0	SENE 9.0
NENW 15.0	NWNW 2.0	SENW 37.0	NESW 40.0
NESE 19.0	NWSE 37.0		

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.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NO. 36-00018 IS LIMITED TO A TOTAL
COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1690.5 AF.

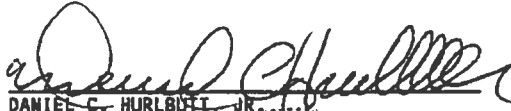
DATED: MAR 6 1997


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED: MAR 6 1997


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

State of Idaho

County of Twin Falls ss.

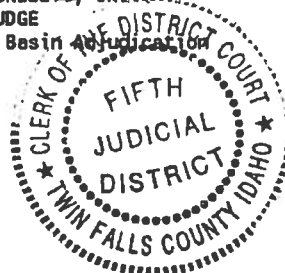
I hereby certify the foregoing to be a full,
true and correct copy of the original on
file in the above entitled action.

ROBERT S. FOUNT

CLERK OF THE DISTRICT COURT

By 
DEPUTY CLERK

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-00015



PAGE 1
FEB-25-1997

Exhibit A 2

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)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-00018

1997 MAR -6 AM 9:54
DISTRICT COURT OF
THE FIFTH JUDICIAL DISTRICT
TWIN FALLS, IDAHO

NAME & ADDRESS: BUCKEYE FARMS INC
18335 U S HWY 30
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 20.00 CFS

PRIORITY DATE: 04/01/1917

POINT OF DIVERSION: T07S R14E S31 NESWNE Within GOODING County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 20.00 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S23 NESW 32.0 NWSW 35.0 SWSW 40.0 SESW 34.0
S26 NENW 10.0 NWNW 22.0 SENW 21.0 NESW 19.0
SESW 16.0 NWSE 6.0 SWSE 22.0 SESE 12.0
S35 NENE 8.0 NWNE 9.0 SWNE 38.0 SENE 9.0
NENW 15.0 NWNW 2.0 SENW 37.0 NESW 40.0
NESE 19.0 NWSE 37.0
483.0 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-00015 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 483 ACRES IN A SINGLE
IRRIGATION SEASON.

CONSUMPTIVE USE:

USE OF THIS RIGHT WITH RIGHT NO. 36-00015 IS LIMITED TO A
TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1690.5 AF.

DATED: MAR 6 1997


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

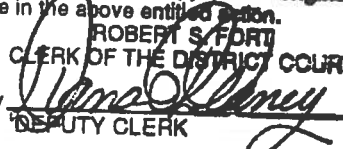
DATED: MAR 3 1997


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

State of Idaho
County of Twin Falls

I hereby certify the foregoing to be a full
true and correct copy of the original as
file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURT

By 
DEPUTY CLERK

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-00018

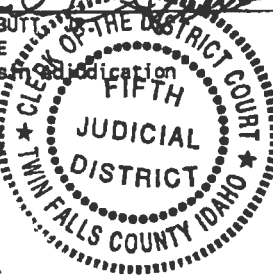


Exhibit B

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00015, -0018

TRANSFER FILE OF SAME

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Steve Clelland

August 31, 1995 9:14am

NAME:

MARCI STERLING

CALLOUT / BACK

RE:

BUCKEYE FARMS TRANSFER

I EXPLAINED THE AJ FINDINGS AND RELATIONSHIP BETWEEN THE BUCKEYE AND SPRING VALLEY RANCHES. A PORTION OF THE LANDS IN SECTION 23 & 26 WERE SOLD TO SPRING VALLEY RANCH (SVR) AND BUCKEYE WITHHELD THE WATER RIGHTS BY DEED IN THE SALE. THEY ARE NOW PROPOSING TO TRANSFER THIS WATER TO LANDS ALREADY ADEQUATELY SUPPLIED WITH WATER (AS RESOLVED BY SETTLEMENT CONFERENCE WITH IDWR). THE QUESTION IS HOW TO DEAL WITH THE PROPOSED TRANSFER?

ISSUES TO CONSIDER:

IF THE TRANS. IS APPROVED HOW TO RATIONALIZE THE ADDITIONAL WATER ON LANDS ALREADY SUPPLIED WITH WATER.

IF THE TRANS. IS APPROVED IN WHOLE, SVR SHOULD NOT BE
IRRIGATING THE LAND THAT WAS DRIED UP TO ALLOW THE TRANS.

IF THE TRANSFER IS DENIED, DOES THE BUCKEYE HAVE FURTHER OPPORTUNITY TO TRANS. THE RIGHTS. DOES SVR CONTINUE TO IRRIGATE THE ORIGINAL PARCEL AND IF SO, BY WHAT RIGHT IS IT DONE?

SHOULD CEASE AND DESIST BE ISSUED TO SVR? WHEN?

AFTER CONSULTING WITH ALLEN MERRITT, WE AGREED THE ATTORNEYS FOR IDWR SHOULD BE CONSULTED BEFORE PROCEEDING WITH THIS MATTER.

CC: MARCI STERLING & TRANSFER FILE

T#4936

Exhibit C

TO: File

DATE: October 3, 1996

FROM: Jim Stanton

SUBJECT: App. for Transfer, Buckeye Farms

This application was filed in 1994, but has been held pending resolution of the applicant's objection to the SRBA findings. Form 5 has now been signed, so I am proceeding with processing the application based on the signed agreement. Steve Clelland told me that the SF5 is in error, however, as it assigns the full capacity of the Bar S Ditch to Buckeye Farms. Other people also use this ditch, but could not have their rights conveyed thru it under this agreement. This situation needs to be resolved before the transfer is approved, if indeed it is. The owner of the original p/u is apparently still irrigating some of that land, so I would expect him to protest this transfer. Hopefully the deed of sale will clarify who owns these water rights.

The original application called for a new place of use of 485 acres, 2 acres more than allowed in the SF5. Today I was contacted by Dave Shaw as a representative of the applicant. Dave told me which 2 acres to take off of the application so that it agreed with the SF5. I told him that we needed a copy of the deed of sale for the land that is to be dried up under this transfer, and he agreed to provide the deed.

T # 4930

Exhibit D

TO: File

DATE: November 13, 1996

FROM: Jim Stanton

SUBJECT: App. for Transfer, Buckeye Farms

Today I was contacted by Glen Saxton concerning this transfer. Jo Beeman had contacted him regarding the question of lienholder approval of the change, as this item was not completed on the application. Glen talked to Phil Rassier to find out if we could advertise the application without this item being filled in. They concurred that this is not a prerequisite to advertising, but that the item needs to be completed before the application is sent to Boise for final action. So we need to contact the applicant to get this question answered before a protest conference is set, according to Glen.

It is possible that the water rights in question are still being used on the original p/u that Buckeye Farms sold a couple years ago. So I think that the deed of sale needs to be in the file to support the right of Buckeye Farms to make this transfer in the first place. If the deed is silent on water rights, then the applicant may not own these rights. I will try to obtain this deed from the county courthouse.

Exhibit E

From: DWR60::SCLELLAN "STEVE @ SOUTHERN" 20-NOV 1996 10:25:36.38
To: DWR03::CHONSING, DWR60::AMERRITT
CC: SCLELLAN
Subj: CONFLICTS BETWEEN 36-00004 & 36-00018

Gentlemen,

Please note the summary of the appointment from earlier this morning.

ALLEN... Keep this in mind as protests are resolved for the transfer.

CHARLIE... What is needed to meet their request for settlement?

Thanks for your help here, let me know whats next on each direction.
... Steve

November 20, 1996 10:03am

NAME: PAM WASACHER & MIKE MCCARTHY APPT. RE: 36-00004 & 36-00018 USES

WE MET AS SCHEDULED FOR THE APPT. AND DISCUSSED THE WATER USED TO IRRIGATED THE HILLTOP AREA PURCHASED BY SPRING VALLEY RANCH (SVR). I EXPLAINED THERE IS ONLY SO MUCH LAND AND WATER IN USE REGARDLESS OF THE NUMBER OF RIGHTS INVOLVED, THE QUESTION APPEARS TO BE WHICH RIGHT AND OWNER ACTUALLY WAS USED ON THE HILLTOP.

THIS INVOLVES THE CURRENT TRANSFER BY BUCKEYE FARMS ON 36-00015 & 36-00018 AND THE FINAL DECREE FOR RIGHT 36-00004. BEST RESOLUTION APPEARS TO BE BUILDING IN CONJUNCTION WITH THE TRANSFER PROTEST SETTLEMENT.

I WILL NOTIFY ALLEN MERRITT OF THE SITUATION DEVELOPING FROM MY DIRECTION. I WILL ALSO NOTIFY THE IDWR ATTORNEY'S IN BOISE THAT THE PARTIES FOR 36-00004 WOULD LIKE TO BEGIN SOME TYPE OF SETTLEMENT NEGOTIATIONS TO RESOLVE THIS ISSUE AS QUICKLY AS POSSIBLE.

I CONFIRMED THE NOTICE OF CHANGE IN OWNERSHIP FROM SVR TO WESTERN LEGENDS HAS BEEN RECEIVED AND IS BEING PROCESSED HERE AT OUR OFFICE.

CLAIMS: A36-00004, A36-00015, A36-00018

CC: ALLEN MERRITT, REGIONAL MANAGER
CHARLIE HONSINGER, IDWR ATTORNEY

Exhibit F

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)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-00004

1999 JUL 22 PM 12:16

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

NAME AND ADDRESS: WESTERN LEGENDS LC
PO BOX 737
HAGERMAN, ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 15.00 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.
USE OF THIS RIGHT WITH RIGHT 36-15534 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 15.0 CFS.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R14E S31 NESWNE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	15.00 CFS
	Stockwater	01-01 TO 12-31	0.21 CFS

PLACE OF USE:	Irrigation		Within Gooding County
	T07S R13E S23	NWNE 4.9	SWNE 29.0
		SENE 8.0	NENW 3.5
		SENE 5.0	NESW 5.6
		NWSW 32.0	SWSW 34.0
		SESW 27.0	NESE 37.0
		NWSE 20.3	SWSE 3.7
		SESE 24.0	
	S24	NWSW 5.0	SWSW 25.0
	S26	SWNE 6.0	NENW 20.0
		NWNW 39.0	SENE 38.0
		NESW 39.0	NWSE 10.0
	416.0 Acres Total		

Stockwater		Within Gooding County
T07S R13E S23	NESE	NWSE
S24	NWSW	SWSW

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 360.0 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT 36-15534 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 416.0 ACRES IN A SINGLE
IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE OPERATION AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO
SUBJECT TO THE TERMS AND CONDITIONS OF THE FOLLOWING CONTRACTUAL
AGREEMENT: THE WATER RIGHT AGREEMENT ENTERED INTO ON
SEPTEMBER 16, 1998, BETWEEN WESTERN LEGENDS LC AND THE MAGIC
VALLEY GROUND WATER DISTRICT, NORTH SNAKE GROUND WATER DISTRICT,
AMERICAN FALLS-ABERDEEN GROUND WATER DISTRICT, BINGHAM GROUND
WATER DISTRICT, THE IDAHO GROUND WATER APPROPRIATORS, INC., AND
CRANNEY BROS., FILED OF RECORD IN THE OFFICE OF THE GOODING
COUNTY CLERK AND RECORDED ON SEPTEMBER 28, 1998, AS INSTRUMENT

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

NO. 177310; THE PROVISIONS OF SUCH AGREEMENT (INCLUDING, WITHOUT LIMITATION, PARAGRAPHS 4.A - 4.F, 5, AND 7 THEREOF) TO APPLY FULLY TO THIS WATER RIGHT NOTWITHSTANDING THE FACT THAT THE AGREEMENT MAY CONTAIN REFERENCES TO SOURCE OF WATER FOR THIS RIGHT, ACRES, PRIORITY DATES, OR OTHER MATTERS THAT DIFFER FROM THOSE SPECIFIED HEREIN.

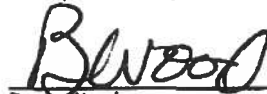
1999 JUL 22 PM 12:16

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication