

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 78283 OF WATER RIGHTS) **SCHEDULING ORDER**
36-15 AND 36-18 IN THE NAME OF)
BUCKEYE FARMS)
_____)

On January 25, 1994, the Department of Water Resources (Department) received Application for Transfer No. 78283 (application) in the name of Buckeye Farms (applicant) to change the place of use of rights 36-15 and 36-18. (Note that the application was initially numbered 4930 then renumbered 66354 and recently renumbered 78283.)

The application was advertised state wide in October of 1996. The application was protested by Verl C. Bell, Michael Branchflower, Aqua Life Inc. and Western Legends LC. (individual protestants). Protestants Michael Branchflower, Aqua Life Inc. and Western Legends LC. have withdrawn their protests to this application. Verl C. Bell is the sole remaining protestant.

On May 22, 2013 the Department conducted a pre-hearing conference with Verl C. Bell and Buckeye Farms, represented by attorney, John Simpson. The parties proposed and agreed to a schedule for filing a brief by the applicant, a response by the protestant, and reply by the applicant, if needed, that would create a full record that would allow the Department to issue a Preliminary Order approving or denying the application. They agreed to a 45 day briefing period, a 30 day response period and a 15 day reply period.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that the following schedule is ADOPTED.

On or before JULY 17, 2013, Buckeye Farms through their attorney, John Simpson, shall mail to Verl C. Bell and to the Department the applicant's brief with relevant exhibits which demonstrate that approval of the transfer would not injure other water rights (specifically right 36-33E and others delivered from Weatherby Springs through the Bar S Ditch, Curren Ditch and North Pipeline); would not constitute enlargement of use of rights 36-15 and 36-18 (specifically how unstacking of these rights from right 36-4 or it's children rights is not an enlargement), would be consistent with the conservation of water resources within the state of Idaho (demonstrate how more than 0.02 cfs per acre is needed), and would be in the public interest as defined by 42-202B, IDAHO CODE. Additionally the applicant shall correct the application if needed to properly describe the proposed place of use within the lands owned by Buckeye Farms

and submit supporting deeds and corresponding map.

On or before AUGUST 16, 2013, Verl C. Bell shall mail to Buckeye Farms' attorney, John Simpson, and to the Department, a reply to the applicant's brief if needed or a letter of withdrawal of protest.

On or before SEPTEMBER 2, 2013, Buckeye Farms through their attorney, John Simpson, shall mail to Verl C. Bell and to the Department any reply they deem necessary.

After SEPTEMBER 2, 2013, the Department will consider the application for approval or denial without formal hearing but may request further response or clarification of the applicant if needed prior to issuance of any Preliminary Order.

Dated this 23 day of May, 2013.

A handwritten signature in black ink, appearing to read "Allen Merritt", written over a horizontal line.

Allen Merritt

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2013, I mailed a true and correct copy, *certified mail*, postage prepaid, of the foregoing **SCHEDULING ORDER** to the person(s) listed below:

BUCKEYE FARMS INC
PO BOX 269
HAGERMAN, ID 83332

BARKER ROSHOLT & SIMPSON LLP
ATTN JOHN K SIMPSON
1010 W JEFFERSON STE 102
PO BOX 2139
BOISE, ID 83701-2139

BARKER ROSHOLT & SIMPSON LLP
ATTN PAUL ARRINGTON
195 RIVER VISTA PL STE 204
TWIN FALLS, ID 83301

VERL C BELL
853 E 2830 S
HAGERMAN, ID 83332

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in black ink and is positioned above a horizontal line.

Denise Maline
Administrative Assistant