

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

SUPPORT DATA

IN FILE # 36-16245

IN THE MATTER OF TRANSFER NO. 75603)
IN THE NAME OF 4 BROS. DAIRY INC.)
_____)

**PRELIMINARY ORDER
CORRECTING TRANSFER
APPROVAL**

This matter having come before the Department of Water Resources (Department) as a result of an application for transfer of water rights, the Department finds, concludes and orders:

FINDINGS OF FACT

1. On July 15, 2011, the Department approved Application for Transfer No. 75603 (transfer) changing multiple elements of water rights 36-16245, 36-16246, 36-16247, 36-16248, 36-16249, 36-16250, 36-16254, 36-16286, 36-16288, 36-16292, 36-16294, 36-16296, 36-16298, 37-8813, 37-8814, 37-8911, 37-10442, 37-10444, 37-10446, 37-20613, 37-20614, 37-22326, and a portion of 37-2647 for use in a dairy. The transfer approval divided water right 37-2647 into rights 37-22574 and 37-22575.
2. Prior to the transfer, the Snake River Basin Adjudication (SRBA) court issued a partial decree confirming the elements of water right 37-2647. The decreed annual diversion volume for right 37-2647 was 560.0 acre-feet per year (afy) for use on 140.0 irrigated acres. The decreed volume amounts to 4.0 acre-feet per acre (af/acre) for the place of use.
3. The division of water right 37-2647 through the transfer changed 9.0 acres of irrigation use and the associated volume to use in a dairy as described on the transfer approval under water right 37-22575.
4. The unchanged remainder of water right 37-2647, described on the transfer approval under right 37-22574, incorrectly listed 529.4 afy for the remaining 131.0 irrigated acres instead of 524.0 afy, consistent with the decreed volume of 4.0 af/acre.

CONCLUSIONS OF LAW

1. The transfer approval should accurately describe each water right as changed by the transfer pursuant to Section 42-222, Idaho Code.
2. The transfer approval incorrectly listed the volume associated with the remaining unchanged irrigation use authorized under water right 37-22574 as 529.4 afy.
3. The Department should correct water right 37-22574 to the 4.0 afy set in the SRBA partial decree.

ORDER

IT IS THEREFORE HEREBY ORDERED that Transfer Approval No. 75603 is **CORRECTED** by changing the volume listed for water right 37-22574 to 524.0 afy.

Dated this 18th day of November, 2011.



PAMELA S. SKAGGS
Water Rights Supervisor