

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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Department of Water Resources
Southern Region

IN RE: APPLICATION FOR TRANSFER)
NO. 4930 REGARDING WATER RIGHT)
Nos. 36-00015 and 36-00018)
APPLICANT: Buckeye Farms)

NOTICE OF PROTEST

COMES NOW Western Legends LC, by and through its counsel, Hepworth, Lezamiz & Hohnhorst, and files this protest to Application for Transfer No. 4930. The protestant's representative for service in this matter is Patrick D. Brown, Hepworth, Lezamiz & Hohnhorst, P.O. Box 389, Twin Falls, Idaho, 83303-0389, telephone number (208)734-7510. This protest is filed and based upon the provisions of Idaho Code §§ 42-203(A), 42-222, as well as other laws of the State of Idaho. The protest is filed on the following grounds:

- (1) The proposed use would reduce the quantity and quality of water under existing rights, including, but not limited to, the rights of the protestant including water right no. 36-00004;
- (2) The water supply is insufficient for the purposes of use and the proposed places of use;
- (3) The proposed use conflicts with the local public interest in that it directly impacts the protestant, as well as others, in the immediate area by affecting the protestant's and others' water; and it would adversely impact the recreational, aesthetic, and wildlife and agricultural uses in the immediate area;

Rept. # 5019689
1627 hrs.
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- (4) The proposed use is contrary to conservation of water resources within the State of Idaho and would result in both local and regional depletion of spring flows and river flows; and
- (5) The change in use would constitute an enlargement in the use.

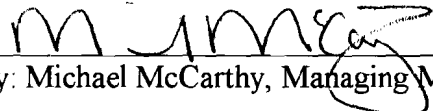
At hearing, the protestant will present evidence regarding the negative impact of the proposed change on existing water rights, the river and spring flows, the conservation of water, and the local public interest. The protest can be resolved only by denial of the transfer application. Consequently, the protestant prays that the application be denied.

By filing this protest, the protestant gives notice to the Department of Water Resources and to the applicant that Western Legends LC intends to appear at all conferences or hearings in this matter and intends to present evidence and cross-examine. In order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the applicant.

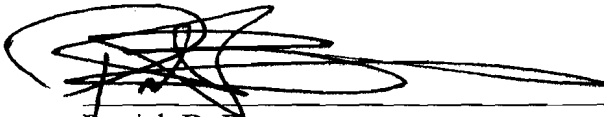
Additionally, the hearing process may be expedited by pre-hearing disclosure and a focusing of the issues. Therefore, the protestant requests a pre-hearing conference pursuant to rule 37.01.01.510.

Respectfully submitted on this 12th day of November, 1996.

PROTESTANT: Western Legends LC


By: Michael McCarthy, Managing Member

**HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED**


Patrick D. Brown
Attorney for Protestant

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

On this 12th day of November, 1996, before me, a notary public in and for said county and state, personally appeared Michael McCarthy, known to me to be the Managing Member of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


NOTARY PUBLIC FOR IDAHO
Residing at: Bullhead Idaho
My Commission Expires: May 1 1998

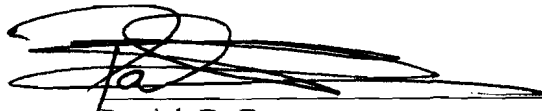
CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone Street North, Post Office Box 389, Twin Falls, Idaho, 83303, and one of the attorneys for the protestant in this matter, certifies that he caused to be served a copy of the above and foregoing NOTICE OF PROTEST on the 12th day of November, 1996, as follows:

By hand delivery to: Idaho Department of Water Resources
222 Shoshone Street East
Twin Falls, ID 83301

By mailing to: Buckeye Farms
Route 1 Box 150
18335 U.S. Hwy 30
Hagerman, ID 83332

By mailing to: John Simpson
Rosholt, Robertson & Tucker, Chtd.
142 3rd Ave. N.
P. O. Box 1906
Twin Falls, ID 83303-1906


Patrick D. Brown

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