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APR 27 2009

DEPARTMENT OF
WATER RESOURCES

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Attorneys for Protestant Bruneau
Buckaroo Cooperative Ditch Company

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

_____	)	
IN THE MATTER OF APPLICATION FOR	)	
TRANSFER NO. 70887 IN THE NAME OF	)	
BRACKETT RANCHES, LTD. AND	)	INFORMATION EXCHANGE
APPLICATION FOR TRANSFER NO.	)	SUBMITTED BY PROTESTANT
70890 IN THE NAMES OF BERT AND	)	BRUNEAU BUCKAROO COOPERATIVE
PAULA BRACKETT	)	DITCH COMPANY
_____	)	

COMES NOW, the Protestant, Bruneau Buckaroo Cooperative Ditch Company
(hereinafter BBCDC) by and through its counsel Ringert Law, Chartered and, in compliance with
the Order Scheduling Exchange of Information issued by the hearing officer on April 9, 2009,
hereby transmits the names of witnesses that it may call at hearing, and copies of exhibits that it
may introduce at hearing.

WITNESSES

Bruneau Buckaroo Cooperative Ditch Company may call any of the following to testify at
the hearing of this matter:

Frank Bachman
P.O. Box 186
Bruneau, ID 83604

John Westra
Western Regional Manager
Idaho Department of Water Resources
2735 Airport Way, Boise, ID 83705-5082

Aaron Marshal
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Bert Brackett
Flat Creek Ranch
Rogerson, ID 83302

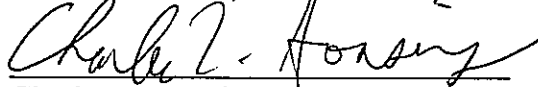
EXHIBITS

Bruneau Buckaroo Cooperative Ditch Company may attempt to introduce any of the following documents into evidence at the hearing of this matter (copies attached):

Exhibit No. 200	Draft Approval of Transfer No. 70887
Exhibit No. 201	Draft Approval of Transfer No. 70890
Exhibit No. 202	Approval of Transfer No. 70694 in the Names of Paula and Bert Brackett

Dated this 27th day of April, 2009.

RINGERT LAW, CHARTERED



Charles L. Honsinger
Attorney for Bruneau Buckaroo Cooperative
Ditch Company

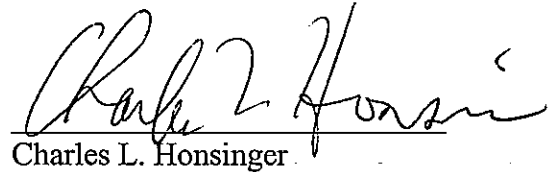
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on April 27, 2009, he caused a true and correct copy of the within and foregoing document to be transmitted by U.S. mail to the following

Craig A Pridgen, Attorney
P.O. Box 5488
Tahoe City, CA 96145

W. Alan Schroeder
Schroeder & Lezamiz Law Offices, LLP
P.O. Box 267
Boise, ID 83701-0267

Bert and Paula Brackett
Flat Creek Ranch
Rogerson, ID 83302


Charles L. Honsinger

Prior Transfer

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 70694

This is to certify that: PAULA BRACKETT And
BERT BRACKETT
FLAT CREEK RANCH
ROGERSON ID 83302
(208)857-2217

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
51-96	WR/Decreed	04/15/1906	1.60 cfs	N/A	130.0	301.7	BIG FLAT CREEK
51-7085	WR/Decreed	03/08/1974	1.60 cfs	240 af	80.0	301.7	BIG FLAT CREEK
51-7267	WR/License	08/14/1983	1.60 cfs	322 af	92.0	301.7	BIG FLAT CREEK

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
51-96	NO	NO	YES	NO	NO	NO
51-7085	NO	NO	YES	NO	NO	NO
51-7267	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
51-96	51-96	1.60 cfs	467.8 af	130.0	301.4		N/A	N/A	N/A	N/A
51-7085	51-7085	1.60 cfs	240.0 af	80.0	301.4		N/A	N/A	N/A	N/A
51-7267	51-7267	1.60 cfs	322.0 af	92.0	301.4		N/A	N/A	N/A	N/A
COMBINED TOTALS		4.80 cfs	1029.8 af	301.4	301.4		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 11th day of June, 20 07

Gary Spackman
Administrator, Water Management Division

SUPPORT DATA

EXHIBIT

FILE # 51-00096

WATER RIGHT NO. 51-7085
As Modified by Transfer No. 70694

In accordance with the approval of Transfer No. 70694, Water Right No. 51-7085 is now described as follows.

Right Holder: BERT BRACKETT And
 PAULA BRACKETT
 FLAT CREEK RANCH
 ROGERSON ID 83302

Priority Date: March 08, 1974

Source: BIG FLAT CREEK

Tributary: CLOVER CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to	10/31	1.60 CFS	240.0 AF
			1.60 CFS	240.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BIG FLAT CREEK SENE Sec. 14 Twp 15S Rge 10E Owyhee County

BIG FLAT CREEK NWNW Sec. 24 Twp 15S Rge 10E Owyhee County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S 10E 13		1.9	39.0				13.0	33.6	39.9	6.5	11.2	38.8		39.9	36.8		260.6
15S 10E 14				17.0									10.0			2.9	29.9
15S 10E 24		4.9			6.0												10.9

Total Acres: 301.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 80.0 acres within the place of use described above in a single irrigation season.
2. Rights 51-96, 51-7085 and 51-7267 when combined shall not exceed a total diversion rate of 4.80 cfs, a total annual maximum diversion volume of 1029.8 af at the field headgate, and the irrigation of 301.4 acres.
3. Rights 51-96, 51-7085, 51-7267 and 51-10184 when combined shall not exceed a total annual maximum diversion volume of 1060.0 af at the field headgate and the irrigation of 301.4 acres.
4. At the time of this approval, this water right is within State Water District No. 51A. In the future use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within the water district or any subsequent water district that may supercede 51A.

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WATER RIGHT NO. 51-7085
As Modified by Transfer No. 70694

CONDITIONS OF APPROVAL

- X 5. Upon reactivation or creation of a new water district (I.C. 42-604) or a water management district (I.C. 42-706), and after specific notification by the Department, right holders shall install a suitable measuring device and shall annually report the information to the Department.
- X 6. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
- X 7. When actively regulated by a Water District, a lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
8. The diversion and use of water described in Transfer 70694 may be subject to additional limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
9. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
11. Rights 51-96, 51-7085, and 51-7267 are also diverted through the points of diversion described above. Right 51-10184 is also diverted through the point of diversion located in the NWNW, S24, T15S, R10E.
12. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 11th day of June, 20 07


Administrator, Water Management Division

WATER RIGHT NO. 51-96
As Modified by Transfer No. 70694

In accordance with the approval of Transfer No. 70694, Water Right No. 51-96 is now described as follows.

Right Holder: BERT BRACKETT And
 PAULA BRACKETT
 FLAT CREEK RANCH
 ROGERSON ID 83302

Priority Date: April 15, 1906

Source: BIG FLAT CREEK

Tributary: CLOVER CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to	10/31	1.60 CFS	455.0 AF
STOCKWATER	01/01 to	12/31	0.20 CFS	12.8 AF
			1.60 CFS	467.8 AF

LOCATION OF POINT(S) OF DIVERSION:

BIG FLAT CREEK SENE Sec. 14 Twp 15S Rge 10E OWYHEE County

BIG FLAT CREEK NWNW Sec. 24 Twp 15S Rge 10E OWYHEE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S 10E 13		1.9	39.0				13.0	33.6	39.9	6.5	11.2	38.8			39.9	36.8	260.6
15S 10E 14				17.0									10.0			2.9	29.9
15S 10E 24		4.9			6.0												10.9

Total Acres: 301.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 130.0 acres within the place of use described above in a single irrigation season.
2. Each year prior to the irrigation season the right holder or their successors or assigns shall advise the Department of Water Resources and the Bruneau Buckaroo Cooperative Ditch Company as to the location of the 130.0 acres (within the 301.4 acre permissible place of use) authorized to be irrigated in a single irrigation season pursuant to water right no. 51-96.
3. Rights 51-96, 51-7085 and 51-7267 when combined shall not exceed a total diversion rate of 4.80 cfs, a total annual maximum diversion volume of 1029.8 af at the field headgate, and the irrigation of 301.4 acres.
4. Rights 51-96, 51-7085, 51-7267 and 51-10184 when combined shall not exceed a total annual maximum diversion volume of 1060.0 af at the field headgate, and the irrigation of 301.4 acres.

WATER RIGHT NO. 51-96
As Modified by Transfer No. 70694

CONDITIONS OF APPROVAL

5. At the time of this approval, this water right is within State Water District No. 51A. In the future use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within the water district or any subsequent water district that may supercede 51A.
6. Upon reactivation or creation of a new water district (I.C. 42-604) or a water management district (I.C. 42-706), and after specific notification by the Department, right holders shall install a suitable measuring device and shall annually report the information to the Department.
7. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
8. When actively regulated by a Water District, a lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
9. The diversion and use of water described in Transfer 70694 may be subject to additional limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
10. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
12. Rights 51-96, 51-7085, and 51-7267 are also diverted through the points of diversion described above. Right 51-10184 is also diverted through the point of diversion located in the NWNW, S24, T15S, R10E.
13. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
15. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 11th day of June, 20 07


Administrator, Water Management Division

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WATER RIGHT NO. 51-7267
As Modified by Transfer No. 70694

In accordance with the approval of Transfer No. 70694, Water Right No. 51-7267 is now described as follows.

Right Holder: PAULA BRACKETT And
 BERT BRACKETT
 FLAT CREEK RANCH
 ROGERSON ID 83302

Priority Date: August 14, 1983

Source: BIG FLAT CREEK

Tributary: CLOVER CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to	10/31	1.60 CFS	322.0 AF
			1.60 CFS	322.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BIG FLAT CREEK SENE Sec. 14 Twp 15S Rge 10E OWYHEE County

BIG FLAT CREEK NWNW Sec. 24 Twp 15S Rge 10E OWYHEE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S 10E 13		1.9	39.0				13.0	33.6	39.9	6.5	11.2	38.8		39.9	36.8		260.6
15S 10E 14				17.0									10.0			2.9	29.9
15S 10E 24		4.9			6.0												10.9

Total Acres: 301.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 92.0 acres within the place of use described above in a single irrigation season.
2. Rights 51-96, 51-7085 and 51-7267 when combined shall not exceed a total diversion rate of 4.80 cfs, a total annual maximum diversion volume of 1029.8 af at the field headgate, and the irrigation of 301.4 acres.
3. Rights 51-96, 51-7085, 51-7267 and 51-10184 when combined shall not exceed a total annual maximum diversion volume of 1060.0 af at the field headgate, and the irrigation of 301.4 acres.
4. At the time of this approval, this water right is within State Water District No. 51A. In the future use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within the water district or any subsequent water district that may supercede 51A.

WATER RIGHT NO. 51-7267
As Modified by Transfer No. 70694

CONDITIONS OF APPROVAL

5. Upon reactivation or creation of a new water district (I.C. 42-604) or a water management district (I.C. 42-706), and after specific notification by the Department, right holders shall install a suitable measuring device and shall annually report the information to the Department.
6. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
7. When actively regulated by a Water District, a lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
8. The diversion and use of water described in Transfer 70694 may be subject to additional limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
9. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
11. Rights 51-96, 51-7085, and 51-7267 are also diverted through the points of diversion described above. Right 51-10184 is also diverted through the point of diversion located in the NWNW, S24, T15S, R10E.
12. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 11th day of June, 2007


Administrator, Water Management Division