

BUCKEYE FARMS BAR-S LANDS

HDR
Engineering,
Inc.

Legend:

Water Rights:
36-00015 and 36-00018

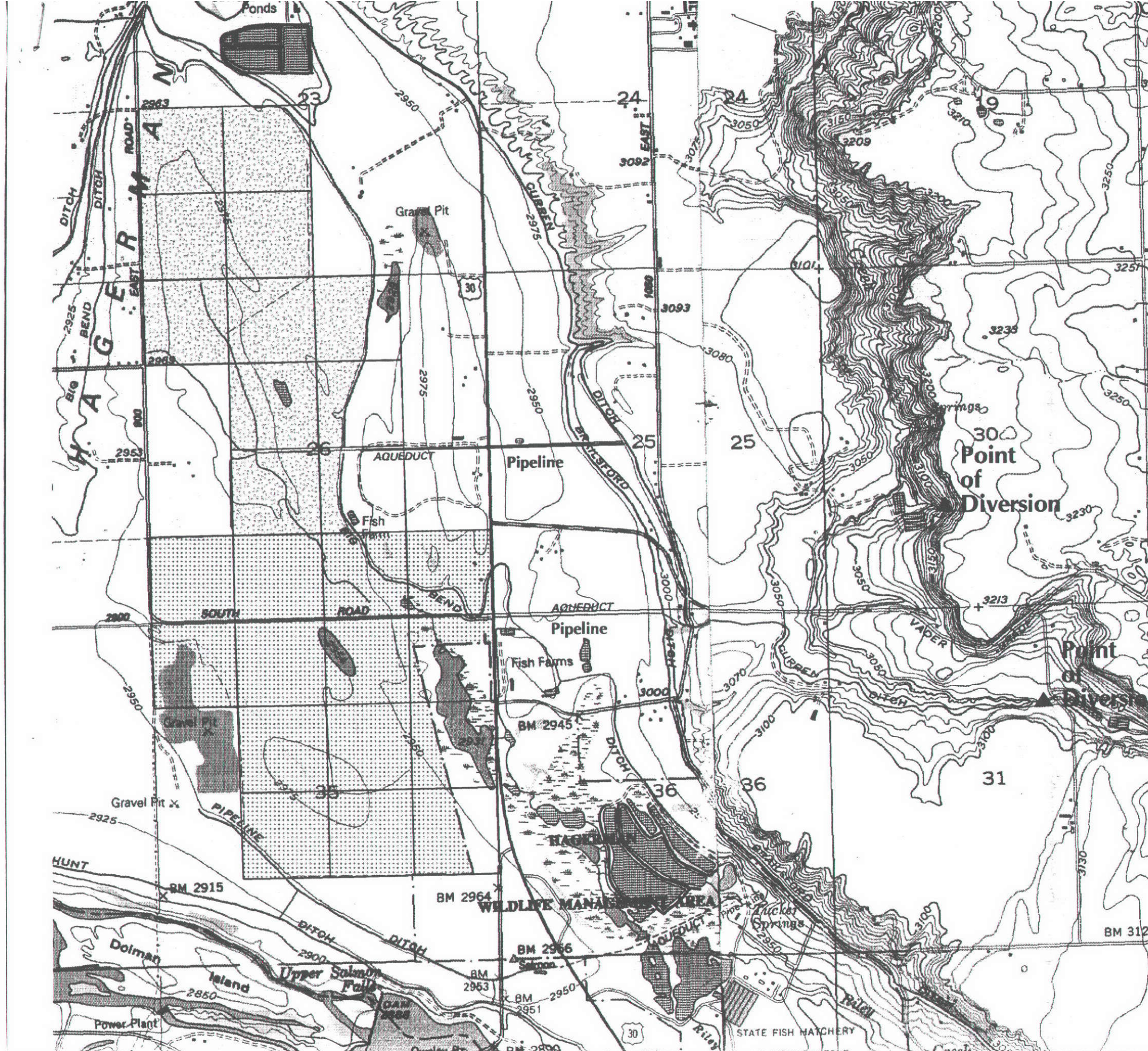
Land Sold

Land Retained

Pipeline

Point
of
Diversion

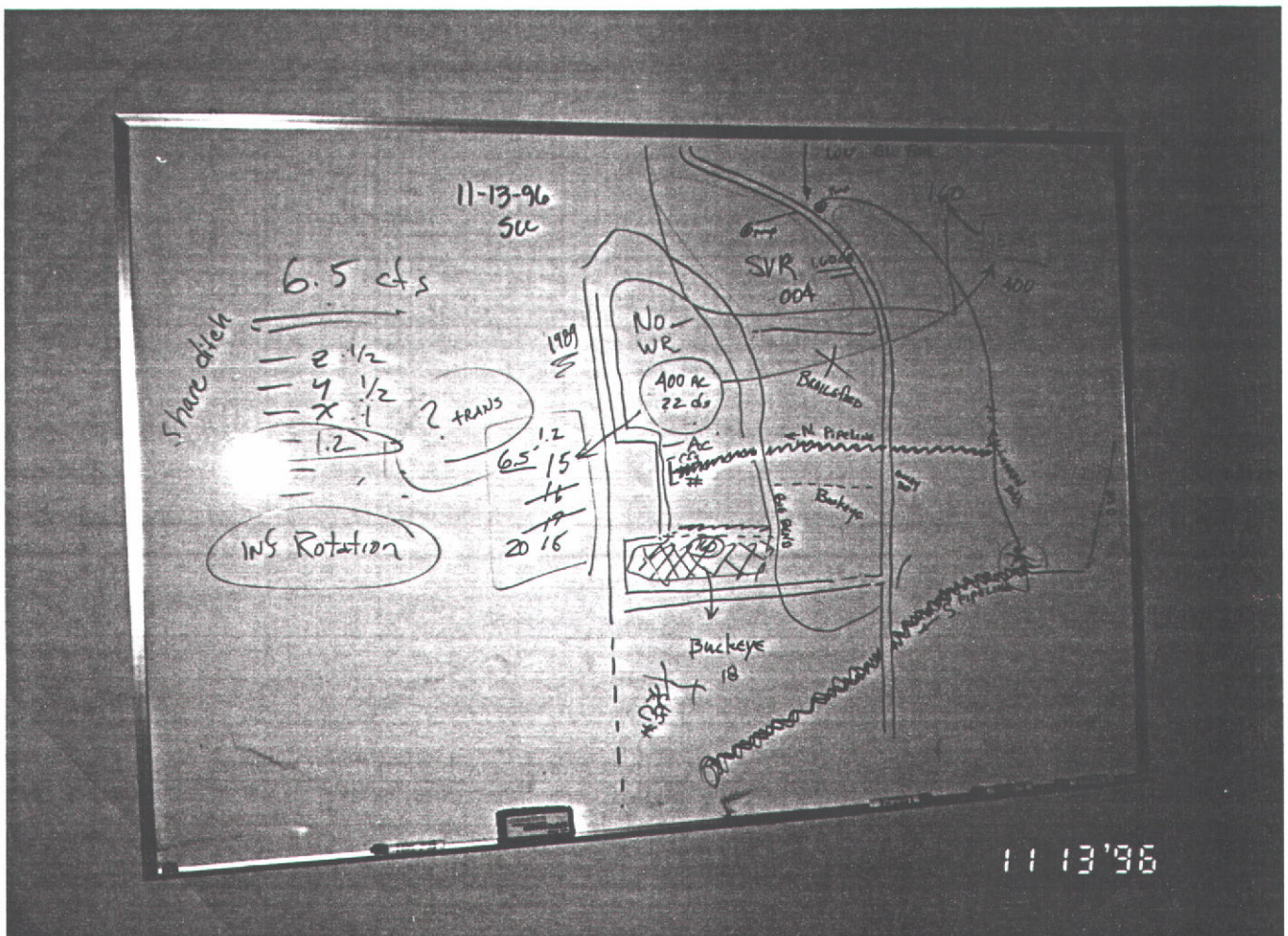
January 1994
Scale:



Buckeye Farms Transfer #4930
36-00015 and 36-00018
&
Spring Valley Ranch 36-00004

13 November 1996 - Steve Clelland's Drawing
of the above rights.

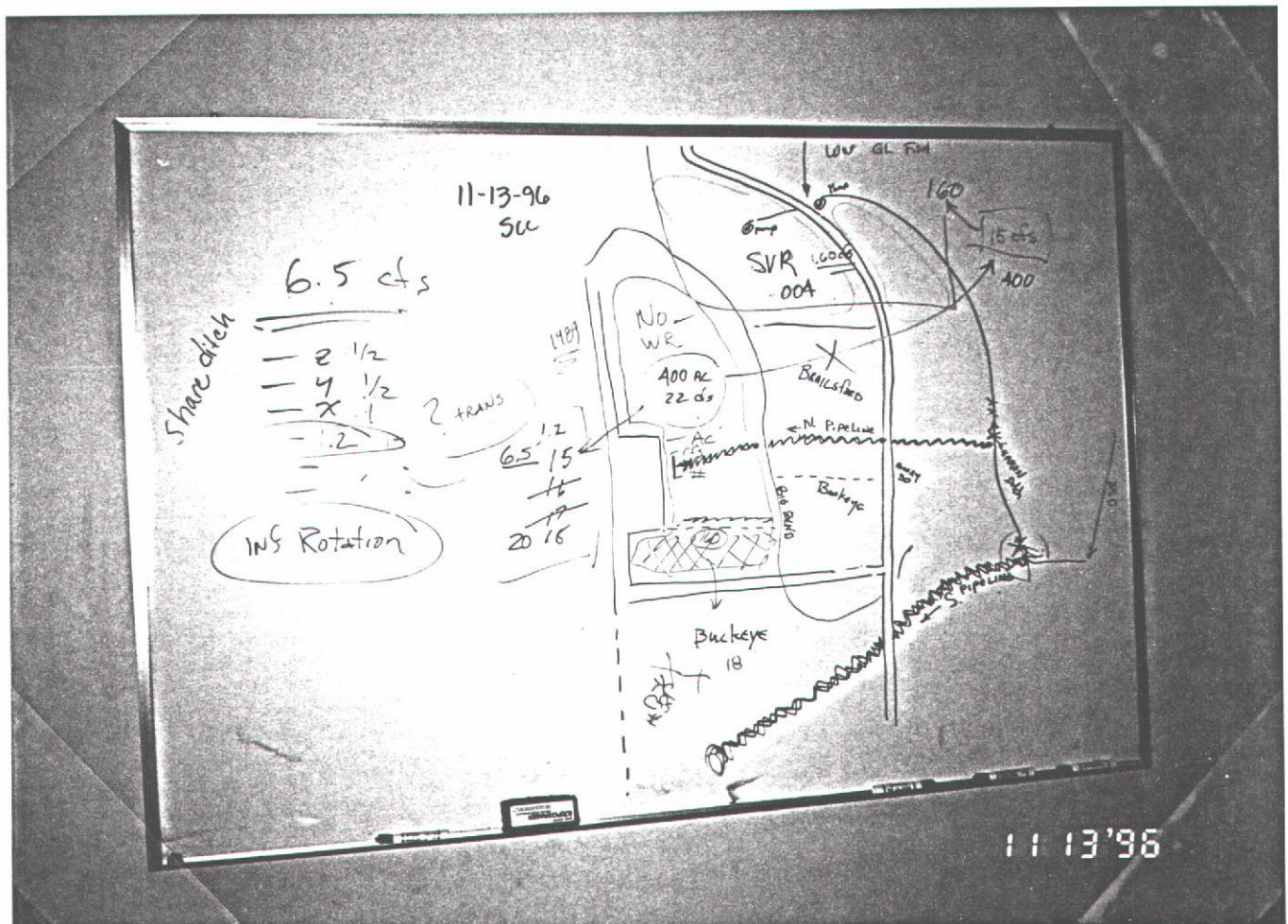
Photo By: SCL

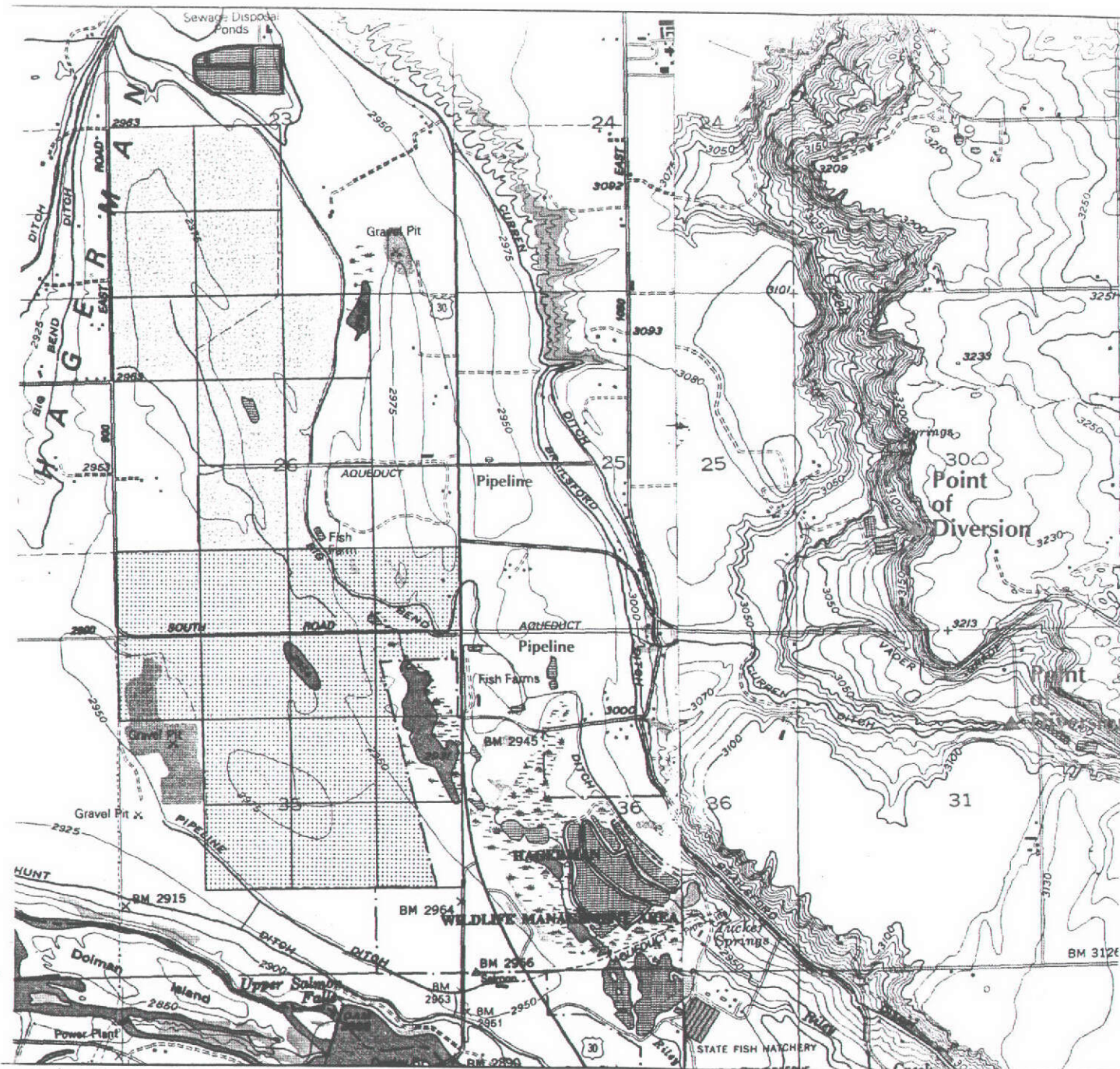


Buckeye Farms Transfer #4930
36-00015 and 36-00018
&
Spring Valley Ranch 36-00004

13 November 1996 - Steve Clelland's Drawing
of the above rights.

Photo By: SCC





BUCKEYE FARMS BAR-S LANDS

HDR
Engineering,
Inc.

Legend:

Water Rights:
36-00015 and 36-00018



Land Sold



Land Retained



Pipeline

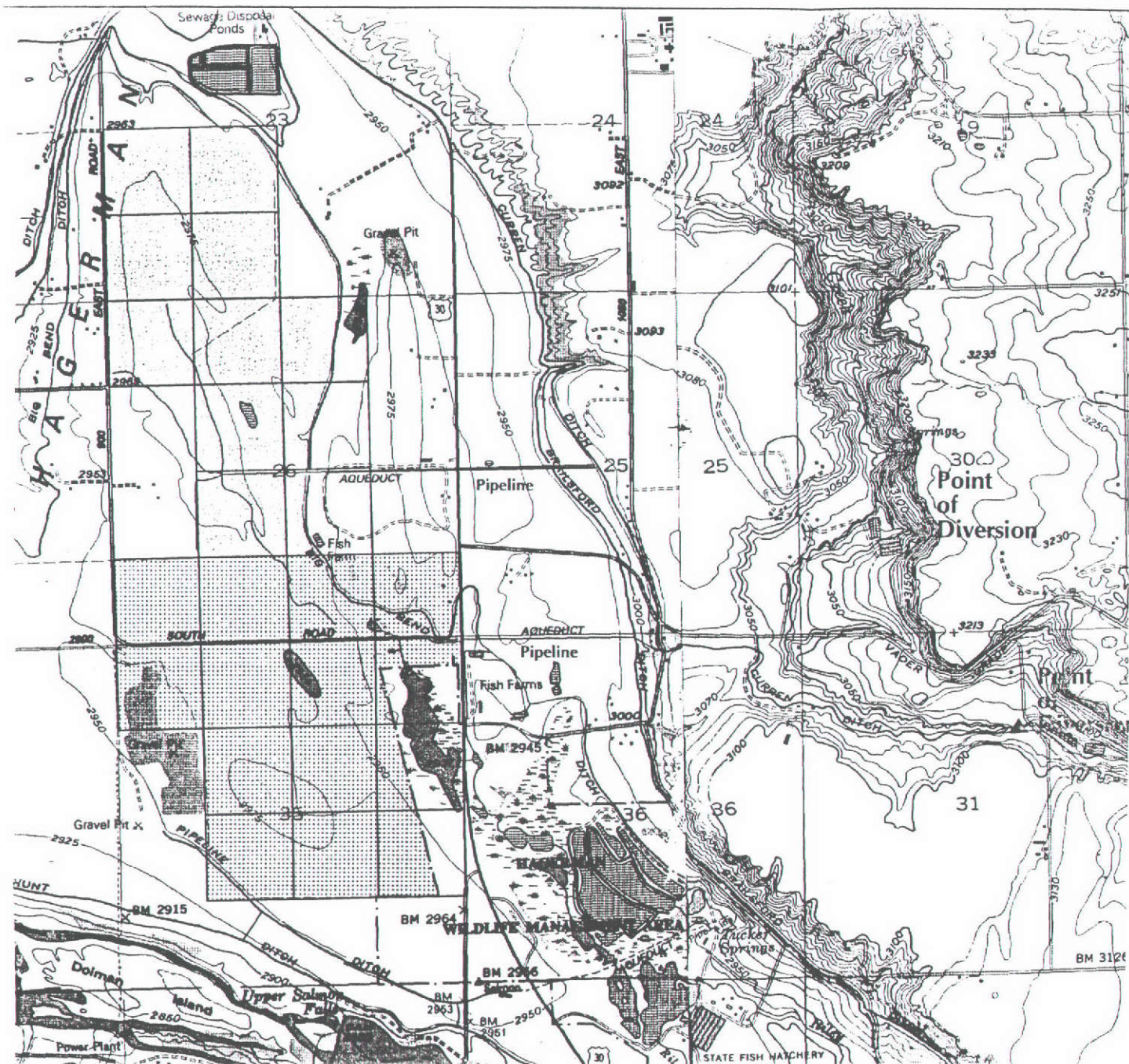


Point
of
Diversion



January 1994
Scale:





BUCKEYE FARMS BAR-S LANDS

**HDR
Engineering,
Inc**

Legend:

Water Rights:
36-00015 and 36-00018



Land Sold



Land Retained

Pipeline



**Point
of
Diversion**



**January 1994
Scale:**



Re: Protested TR # 4930
Duckeye Farms (36-00015,
36-00018)

ROUTING SLIP

Distribution		Provided for your:	
Date: 2/12/99	NY	Information	X
To: <i>Glenn</i>		Comments	
From: <i>Sup file/ Safton</i>		Approval	
<i>Southern</i>		Signature	
Special Notes:			

RECEIVED

FEB 18 1999

Department of Water Resources

MAILING LIST FOR PROTESTED TR #4930
BUCKEYE FARMS (36-00015, 36-00018)

Applicant:

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

Attorney for Applicant:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Protestants:

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Verl
VERN C BELL
853 E 2830 S
HAGERMAN ID 83332

WESTERN LEGENDS LC

Attorney for Western Legends, Lc:

PATRICK D BROWN ESQ
HEPWORTH LEZAMIZ & HOHNHORST
PO BOX 389
TWIN FALLS ID 83303-0389

AQUA LIFE INC

Attorney for Aqua Life Inc:

C TOM ARKOOSH
PO BOX 32
GOODING ID 83330

Made M. indelible
Part B - Folder 1
multiple parts
Folder 3

Protest Withdrawn
10/13/98

PROTESTANTS FOR APPLICATIONS

Protestant		-----Buckeye Farms-----		-----		--Western Legends_			
		36-08783		36-08784		36-08785		36-08786	
		Prot.	With.	Prot.	With.	Prot.	With.	Prot.	With.
4	* Aqua Life Inc.	x		x		x		x	
3	Peter L. Sturdivant	x		x				x	
3	W.H. Moseley Co.	x		x				x	
3	Patsy Smith Dunn	x		x				x	
1	Richard & Gretchen Uppiano	x							
3	* Michael Branchflower	x		x				x	
3	Vernita Talbott	x		x				x	
3	Western Legends LC	x		x		x			
4	ID Dept Fish & Game	x		x		x		x	
2	Jerry R. Fowler	x						x	
1	Robert & Dorothy Strom			x					
		10		9		3		2	

**Note: Prot. = Protested
With. = Withdrawn

* PROTESTANT TO TR# 4930 a/s.o.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

KEN ELLIS
AQUA LIFE CORP
PO BOX 1867
TWIN FALLS ID 83303-1867

RE: APPLICATIONS FOR PERMIT NO. 36-08783 through 36-08785 filed in the name of Buckeye Farms, Inc. AND APPLICATION FOR PERMIT NO. 36-08786 filed in the name of Western Legends

Dear Mr. Ellis:

Your protest against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

Please note that the Department may consider holding joint pre-hearing conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
- *Application 36-08786 by Western Legends

Please let me know if this would be feasible. Also, please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure
cc:
JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

RE: APPLICATIONS FOR PERMIT NO. 36-08783 and 36-08784 filed in the name of
Buckeye Farms, Inc. AND APPLICATION FOR PERMIT NO. 36-08786 filed in the name of
Western Legends

Dear Mr. Branchflower:

Your protest against the approval of the above referenced applications have been
received and a copy has been sent to the applicant with the suggestion that he
contact you directly to determine the exact nature of the protest and, if
possible, to resolve the matter without action by the Department.

Please note that the Department may consider holding joint pre-hearing
conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
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Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure
cc:
JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906



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SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

VERL C BELL
853 E 2830 S
HAGERMAN ID 83332

RE: APPLICATIONS FOR PERMIT NO. 36-08783 and 36-08784 filed in the name of Buckeye Farms, Inc. AND APPLICATION FOR PERMIT NO. 36-08786 filed in the name of Western Legends

Dear Mr. Bell:

You are a recorded protestant to pending Transfer No. 4930 filed on 01/25/94 in the name of Buckeye Farms by their attorney on record, John A. Rosholt.

Please note that the Department may consider holding joint pre-hearing conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
- *Application 36-08786 by Western Legends

Please let me know if this would be feasible. Also, please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure
cc:
JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Page 1 of 8STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 4930APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant Buckeye Farms Phone (208) 622-4100
Post Office address Route One Box 150 18335 U.S. Hwy 30 Hagerman, ID 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Northern half of property was sold.
Transferring the water to remaining lands.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-00015</u>	<u>3/08/1902</u>	<u>6.5</u>	<u>Irrigation</u>	<u>3-15</u> to <u>11-15</u>
<u>36-00018</u>	<u>4/01/1917</u>	<u>20.0</u>	<u>Irrigation</u>	<u>3-15</u> to <u>11-15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 26.5 cubic feet per second and/or _____ acre-feet per annum.3. Source of water 36-00015 Weatherby Springs tributary to Billingsley Creek
36-00018 Billingsley Creek Snake River4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	7S	14E	Gooding	Weatherby Spg 36-00015
	NE	SW	NE	31	7S	14E	Gooding	Billingsley Crk 36-00018

5. Lands irrigated or place of use: * Per telecon w/Dave Shaw 10-3-96

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	13E	26											40	40			40	40	160ac
7S	13E	35	10	40	40	15	40	40		40	40				20	40	*	*	325ac

PART 1

6. General Information:

a. Description of diversion system 36-00015/Water delivery through the Bar-S ditch,
Curren Ditch, South pipeline.

36-00018/Water delivery through the Curren Ditch, South pipeline.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Other waters are available for these lands

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

3

3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 36-00015 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Weatherby Springs tributary to Billingsley Creek
4. Date or priority 3-8-1902

5. Water is used for the following purpose:

amount 6.50 cfs for Irrig. purposes from 3-15 to 11-15
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 6.50 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	7S	14E	Gooding	Bgr S Ditch, Carren Ditch, North South Pipelines

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals.
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	23									32	25	40	34					141
		26					10	22		21	19			16		6	22	12	128
		35	8	9	38	9	15	2		37	40				19	37			214

Total acres 483

9. Describe any other water rights used for the same purpose as described above 36-00018

PART 2Transfer No. 4930

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 36-00018 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Billingsley Creek tributary to Snake River

4. Date or priority 4-1-1917

5. Water is used for the following purpose:

amount 20.0 cfs for Irrig. purposes from 3-15 to 11-15
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 20.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	SW	NE	31	7S	14E	Gooding	Curren Ditch, North & South Pipelines

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	23									32	35	40	34					141
		26					10	22		21	19			16		6	22	13	128
		35	8	9	38	9	15	2		37	40				19	37			214

Total acres 483

9. Describe any other water rights used for the same purpose as described above 36-00015

PART 2

Transfer No. 4930

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

**HDR
Engineering,
Inc.**

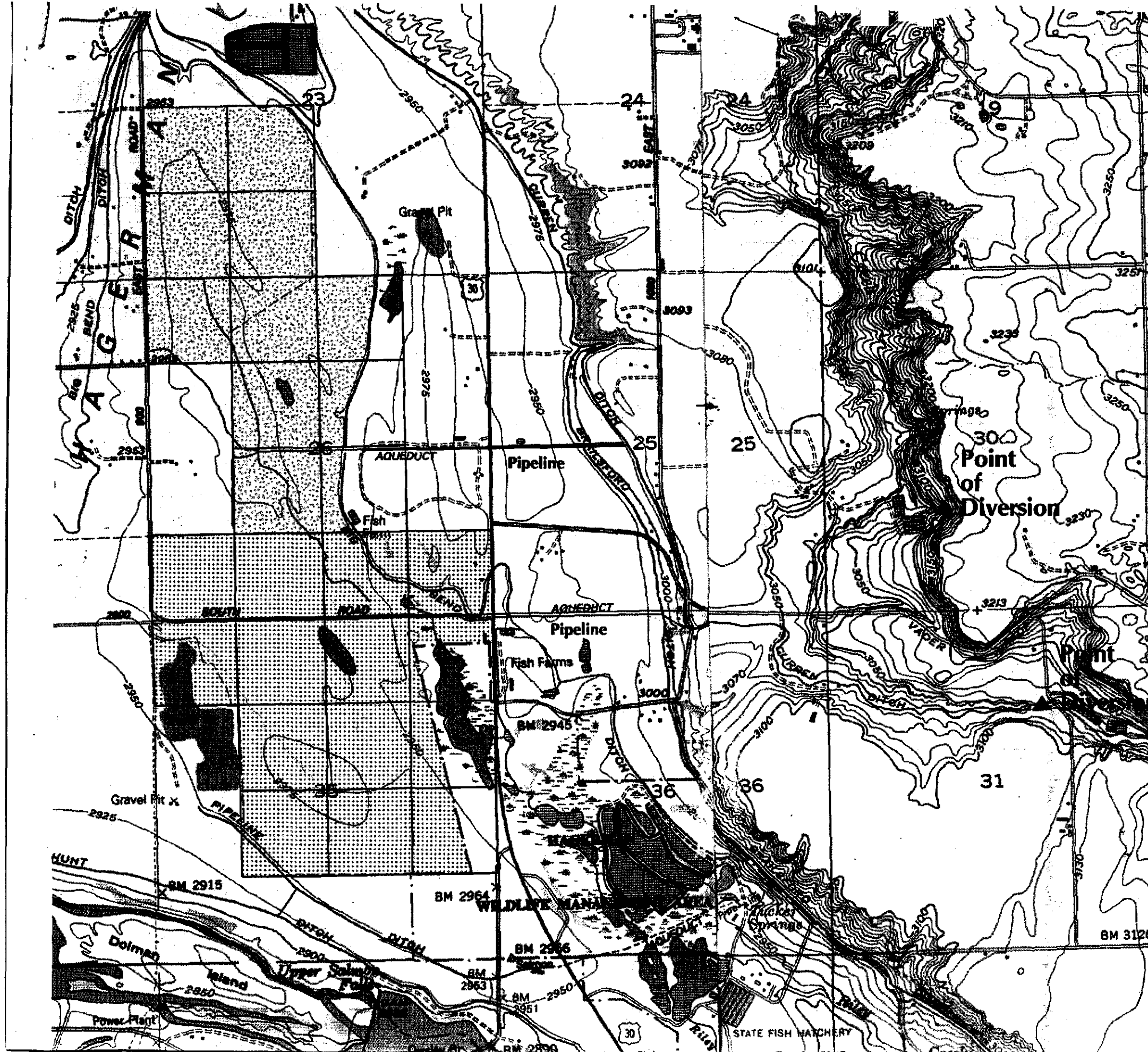
Water Rights:
36-00015 and 36-00018

Land Retained

Pipeline

Point of Diversion

January 1994
Scale:



PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

BUCKEYE FARMS

By: Dean A. Rosholt
 Attorney-in-Fact (Signature of Applicant)

Subscribed and sworn to before me this 25th day of January, 19 94.

Maureen Vait Hickland
 (Notary Public)

My commission expires 12-17-97

Residing at Hooding

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 1 attachments

Received by alr Date 1-25-94 Protest filed by _____

Prelim. check by JF Stanton Fee \$50.00

Received by MTS 5016501 Date 1-25-94

Published in Hooding Co. Leader, F.D. Stationary, Post Register, Tribune Copies of protest forwarded by _____

Pub. dates 10/23/96, 10/30/96, 10/24/96, 10/31/96 Hearing held by _____ Date _____

Watermaster recommendation requested on 10/7/96 Recommended for ☐ approval ☐ denial

_____ rec'd. 11/12/96 by _____

Copy of transfer sent to lien holder _____

RECEIVED

JAN 25 1994

Department of Water Resources
 Southern Region Office

CORPORATION WARRANTY DEED

FOR VALUE RECEIVED, BUCKEYE FARMS, INC., a corporation duly organized and existing under the laws of the State of Idaho, Grantor, does hereby grant, bargain, sell and convey unto

SPRING VALLEY RANCHES, INC., a Utah corporation whose address is P.O. Box 73, Hagerman, Idaho 83332, Grantee, the following described real estate, situated in Gooding County, Idaho, to wit:

T. 7 S., R. 13E., Boise Meridian, Gooding County, Idaho:

Section 23: SW1/4

Section 26: N1/2 NW1/4, W1/2 NE1/4, NW1/4 SE1/4, NE1/4 SW1/4, SE1/4 NW1/4

EXCEPTING THEREFROM the parcel of land described as follows:

BEGINNING at the Southwest corner of the NE1/4 SE1/4 of said Section 26;

Thence North and parallel with the East line of Section 26 to the Northwest corner of the NE1/4 NE1/4 of Section 26;

Thence West along the North line of said Section 26 to a point which is 30 feet West of the West bank of the Big Bend Ditch;

Thence Southerly along a line running 30 feet West of the West bank of said Big Bend Ditch to a point which is directly West of the Southwest corner of the NE1/4 SE1/4 of said Section 26;

Thence East and parallel with the North line of Section 26 to THE POINT OF BEGINNING.

Reserving unto the Grantor Water Right Nos. 36-0001, 36-0015, 36-0016, 36-0017; Permit Nos. 36-7742 and 36-7740; or 67.5 shares of Big Bend Irrigation and Mining Co. stock appurtenant to the above described parcel, it being acknowledged that said property is being conveyed without water rights.

By recordation of this Deed, Spring Valley Ranches, Inc. assumes all obligations concerning the environmental requirements for the above described

property in accordance with Sections 9 and 11 of the Agreement between the parties dated as of January 31, 1989.

To have and to hold the said premises and their appurtenances unto the said Grantee, its successors and assigns, forever.

The said Grantor does hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises; that said premises are free from all encumbrances except as set forth above and assumed by Grantee; and that Grantor will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed by its President and its Secretary.

DATED this 7 day of Feb, 1989.

BUCKEYE FARMS, INC.

By [Signature]
President

ATTEST:

By John A. Burke
Secretary

STATE OF IDAHO

County of Blaine ss.

On this 7th day of February, 1989, before me, a Notary Public, in and for said County and State, personally appeared James H. Brownell and John A. Burke, known or identified to me to be the President and Secretary, respectively, of BUCKEYE FARMS, INC., the corporation that executed the foregoing instrument, 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.

[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at: Hailey, Idaho
My commission expires: 2/2/91

0472m

LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

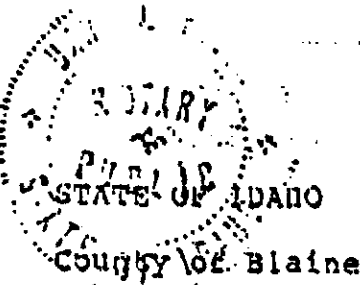
The undersigned hereby nominates and appoints JOHN A. ROSHOLT, of 142 Third Avenue N., Twin Falls, Idaho 83301, as attorney-in-fact with full authority to act for and on behalf of Buckeye Farms, Inc., an Idaho corporation, to file water right claims in the Snake River Basin Adjudication and to execute any and all documents required or necessary to file and perfect such rights for the properties of Buckeye Farms, Inc., for which corporation I am the secretary, located in Gooding County, Idaho.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the above-mentioned. Further, I hereby declare that each and every agreement, receipt or payment which shall be by my said agent given, made or done for the aforesaid purposes shall be as good, valid and effectual as if they had been signed, sealed and delivered by me in my own proper person for said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal:

This 31st day of August, 1988.

John A. Burke
JOHN A. BURKE
Secretary Buckeye Farms, Inc.



) ss.

On this 31st day of AUGUST, 1988, before me, a Notary Public, in and for said County and State, personally appeared JOHN A. BURKE, Secretary of BUCKEYE FARMS, INC., the corporation that executed the foregoing instrument, 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.

David T. [Signature]
NOTARY PUBLIC FOR IDAHO
Residing at: HAILEY
My commission expires: 7-8-91

0192m

AUG 31 1988 15:49

8-31-95

Jim -

Marci S. is trying to
Resolve this Trans. Now.
(see memo inside)

SEC

327-5450

Marci Sterling is
working on these claims
copy of transfer sent to her
1-27-94. working on new land
list for claims.
Contacted 3-21-94. still working on it.

MAILING LIST FOR PROTESTED TR #4930
BUCKEYE FARMS (36-00015, 36-00018)

Applicant:

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

Attorney for Applicant:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Protestants:

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Verl
VERN C BELL
853 E 2830 S
HAGERMAN ID 83332

~~WESTERN LEGENDS LC~~

~~Attorney for Western Legends, Lc:~~

~~PATRICK D BROWN ESQ
HEPWORTH LEZAMIZ & HOHNHORST
PO BOX 389
TWIN FALLS ID 83303-0389~~

*Protest Withdrawn
10/13/98*

AQUA LIFE INC

Attorney for Aqua Life Inc:

C TOM ARKOOSH
PO BOX 32
GOODING ID 83330

-Buckeye Farms-----

36-08783

36-08784

36-08785

--Western Legends_

36-08786

Prot.	With.
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Prot.	With.
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Prot.	With.
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Prot.	With.
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****Note: Prot. = Protested
With. = Withdrawn**

* Protestant to TR# 4930 a/so.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

KEN ELLIS
AQUA LIFE CORP
PO BOX 1867
TWIN FALLS ID 83303-1867

RE: APPLICATIONS FOR PERMIT NO. 36-08783 through 36-08785 filed in the name of Buckeye Farms, Inc. AND APPLICATION FOR PERMIT NO. 36-08786 filed in the name of Western Legends

Dear Mr. Ellis:

Your protest against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

Please note that the Department may consider holding joint pre-hearing conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
- *Application 36-08786 by Western Legends

Please let me know if this would be feasible. Also, please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure
cc:
JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

RE: APPLICATIONS FOR PERMIT NO. 36-08783 and 36-08784 filed in the name of Buckeye Farms, Inc. AND APPLICATION FOR PERMIT NO. 36-08786 filed in the name of Western Legends

Dear Mr. Branchflower:

Your protest against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

Please note that the Department may consider holding joint pre-hearing conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
- *Application 36-08786 by Western Legends

Please let me know if this would be feasible. Also, please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure
cc:
JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

VERL C BELL
853 E 2830 S
HAGERMAN ID 83332

RE: APPLICATIONS FOR PERMIT NO. 36-08783 and 36-08784 filed in the name of Buckeye Farms, Inc. AND APPLICATION FOR PERMIT NO. 36-08786 filed in the name of Western Legends

Dear Mr. Bell:

You are a recorded protestant to pending Transfer No. 4930 filed on 01/25/94 in the name of Buckeye Farms by their attorney on record, John A. Rosholt.

Please note that the Department may consider holding joint pre-hearing conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
- *Application 36-08786 by Western Legends

Please let me know if this would be feasible. Also, please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

mb for

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure
cc:
JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

February 12, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

BUCKEYE FARMS INC
18335 US HWY 30
HAGERMAN ID 83332

RE: APPLICATIONS FOR PERMIT NOS. 36-08783 through 36-08785

Dear Applicants:

Enclosed are copies of protests filed against the above referenced applications.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

Please note that your applications are considered contested cases and subject to the Rules of Procedure adopted by the Department. Also, please note that the Department may consider holding joint pre-hearing conferences &/or hearings on the following contested cases:

- *Transfer No. 4930 (36-00015 & 36-00018) by Buckeye Farms
- *Applications 36-08783 through 36-08785 by Buckeye Farms
- *Application 36-08786 by Western Legends

Please let me know if this would be feasible. If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

Enclosures

cc:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

DAVID B SHAW
2309 N MOUNTAIN VIEW DR
SUITE 174
BOISE ID 83706



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

October 14, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL J MCCARTHY CO MGR
WESTERN LEGENDS LC
PO BOX 737
HAGERMAN ID 83332

RE: Application for Transfer No. 4930 (Buckeye Farms)

Dear Mr. McCarthy:

This office acknowledges receipt of the withdrawal of your protest against the above referenced application.

Since there were multiple protestants, the concerns of the other protestants will need to be addressed by the Department before final processing of the application can be completed.

The Department will continue review of the application without further contact with you unless information is requested.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

cc:

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Western Legends LC

Post Office Box 737
Hagerman, Idaho 83332

Telephone (208) 837-6641

September 11, 1998

RECEIVED

OCT 13 1998

Department of Water Resources
Southern Region

Mr. Allen Merrit
Southern Regional Manager
Idaho Department of Water Resources
Twin Falls, Idaho

Via Fax: (208) 736-3037

Re: Application for Transfer No. 4930 Regarding Water Right Nos 36-00015 and
36-00018 Applicant: Buckeye Farms

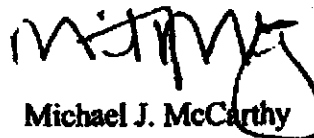
Dear Mr. Merrit:

On November 12, 1996, Western Legends LC filed a Notice of Protest in the
above referenced Transfer case. We hereby withdraw this Notice of Protest.

Please note your receipt of this withdrawal on this letter and fax a copy of our
files.

Very truly yours,

WESTERN LEGENDS LC



Michael J. McCarthy
Co-manager

MJM:Pw

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: RE:
PAM WASACHER & MIKE MCCARTHY APPT. 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

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

NOV 08 1996

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4930 OF WATER RIGHT)
36-00015 and WATER RIGHT 36-0018)
IN THE NAME OF BUCKEYE FARMS.)

Department of Water Resources
Southern Region

NOTICE OF PROTEST

COMES NOW Aqua Life, Inc., by and through its attorney of record, C. Tom Arkoosh, and file this Protest to Application No. 4930. The Protestants' representative for service in this matter is C. Tom Arkoosh of 116 4th Ave. W., Post Office Box 32, Gooding, Idaho. Telephone: (208) 934-8872. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

1. The proposed use would reduce the quantity of water under existing rights.
2. The water supply is insufficient for the proposed use.
3. The proposed use conflicts with the local public interest.
4. The proposed use is contrary to conservation of water resources within the State of Idaho.
5. The change in use would constitute an enlargement in use.

At hearing the Protestants will present evidence regarding the impact on both the quality and quantity of water which the proposed change would have on existing water

NOTICE OF PROTEST

I

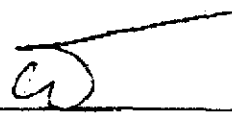
Receipt #5019679
11/8/96
TMB

rights, as well as the local public interest. The protest can be resolved only by denial of the transfer application, and, consequently, Protestants pray the application be denied.

By filing this protest, the Protestants give notice to the Department of Water Resources and to the Applicant that they intend to appear at all conferences or hearings in this matter; they intend to present evidence and cross-examine; and, in order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the Applicant or others, or obtain information from the Department of Water Resources. Therefore, the Protestant requests that any hearing in this matter be scheduled in order to allow the hearing officer to take up prehearing matters.

Respectfully submitted,

DATED this 8th day of November, 1996.



C. Tom Arkoosh

CERTIFICATE OF SERVICE

We hereby certify that on the 8th day of November, 1996, we caused to be served a true and correct copy of the above and foregoing document by the method indicated below, and addressed to the following:

- ☒ U.S. Mail
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ Telecopy (FAX)

Idaho Department of Water Resources
222 Shoshone Street East
Twin Falls, ID 83301

Buckeye Farms
Rt 1 Box 150
183335 US Highway 30
Hagerman, Idaho 83332



C. Tom Arkoosh

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

NOV 12 1996

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Transfer # 4930 in the name of Buckeye Farms
 2. Name of protestant Michael G Branchflower
 3. Protestant's representative for service (If different than protestant) _____
 4. Service mailing address Box 392 Wendell Idaho 83355
 5. Service telephone no. 208 536 2594
 6. Basis of protest (including statement of facts and law upon which the protest is based)
SEE ATTACHED
- (additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? Deny the transfer # 4930 in the name of Buckeye Farms

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 12 day of Nov, 19 96.


 PROTESTANT

 PROTESTANT'S REPRESENTATIVE

NOV 12 1996

NOTE:

Department of Water Resources

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by GLS Date 12 Nov 96 Time 1545 hrs.
\$25.00 fee Receipted by GLS # 5019687 Date SAME

NOV 12 1996

Department of Water Resources
Southern Region

⑥ I don't think water right numbers 36-00015 & 36-00018 have been used on the property being transferred from within the last five years.

Water rights 36-00015 36-00018
36-00133 36-00192 36-00186 36-00188
& 36-2029 provide water to the property where the proposed transfer would take the water to. I believe if the transfer is approved this would be an excessive amount of water on this property.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED
NOV 12 1996
 Department of Water Resources
 South

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Transfer No. 4930 in the name of Buckeye Farms
2. Name of protestant Verl C. Bell
3. Protestant's representative for service (If different than protestant)
4. Service mailing address 853 East 2830 South Hagerman Idaho 83332
5. Service telephone no. 208-837-4405
6. Basis of protest (including statement of facts and law upon which the protest is based)
Water diversion from Weatherby Springs is limited to 6.5 cfs by Gooding County Case #16676
January 1979 Judge Kramer presiding. Water Right # A36-00033E claims .75 cfs, protestant
has continually irrigated with this water right. If transfer #4930 is in addition to the
6.5 cfs presently being diverted this protest is withdrawn. Claimed water right 36-00015
has undergone a period of 5 or more ~~years~~ consecutive years of non-use.
(additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? Leave Water Right A36-00033E intact.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 2th day of November, 1996.

Verl C. Bell
 PROTESTANT

PROTESTANT'S REPRESENTATIVE

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

RECEIVED
NOV 12 1996
Department of Transportation

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by GLS Date 12 Nov 96 Time 1600 hrs.
\$25.00 fee Receipted by GLS # 5019688 Date 12 Nov 96

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 12 1996

Department of Water Resources
Southern Region

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

NOTICE OF PROTEST

APPLICANT: Buckeye Farms)

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. # 6019689
1627 hrs.
GWS 12 Nov 96

- (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.

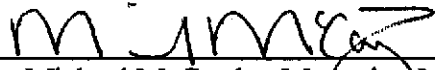
At hearing, the protestant will present evidence regarding the negative impact of the proposed change on existing water rights, the river and spring flows, the conservation of water, and the local public interest. The protest can be resolved only by denial of the transfer application. Consequently, the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

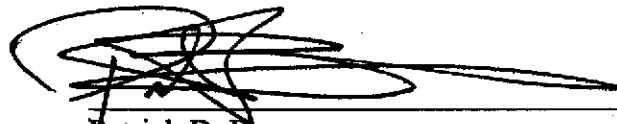
Additionally, the hearing process may be expedited by pre-hearing disclosure and a focusing of the issues. Therefore, the protestant requests a pre-hearing conference pursuant to rule 37.01.01.510.

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
My Commission Expires: May 1 1998

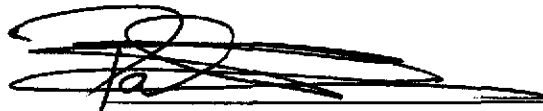
CERTIFICATE OF SERVICE

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

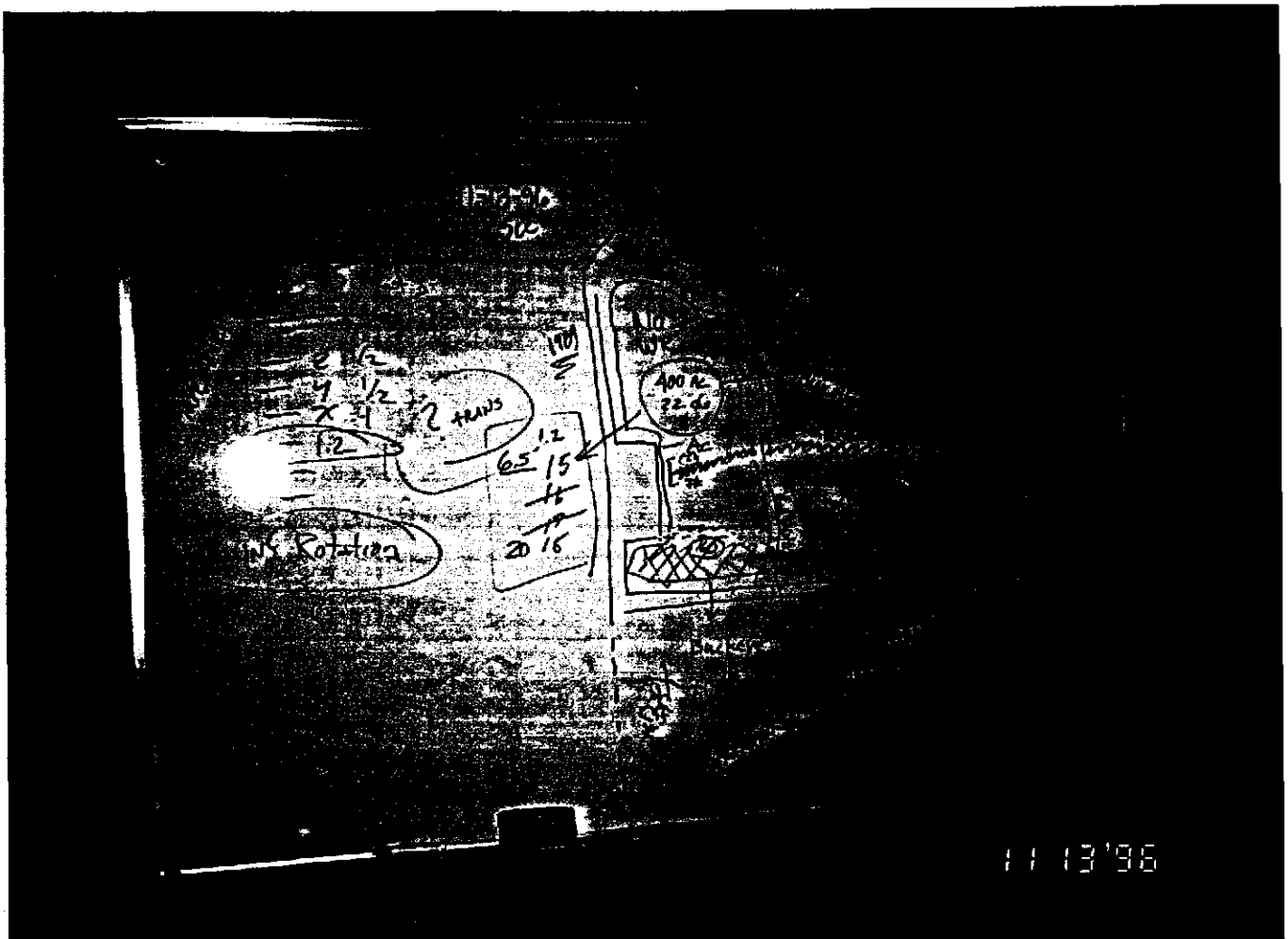

Patrick D. Brown

(wp61:f:\water\61486PRO.N08)llm

Buckeye Farms Transfer #4930
36-00015 and 36-00018
&
Spring Valley Ranch 36-00004

13 November 1996 - Steve Clelland's Drawing
of the above rights.

Photo By: SCC



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.

MAILING LIST FOR PROTESTED TR #4930
BUCKEYE FARMS (36-00015, 36-00018)

Applicant:

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

Attorney for Applicant:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Protestants:

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Verl
VERN C BELL
853 E 2830 S
HAGERMAN ID 83332

~~WESTERN LEGENDS LC~~

~~Attorney for Western Legends, Lc:~~

~~PATRICK D BROWN ESQ
HEPWORTH LEZAMIZ & HOHNHORST
PO BOX 389
TWIN FALLS ID 83303-0389~~

*Protest Withdrawn
10/13/98*

AQUA LIFE INC

Attorney for Aqua Life Inc:

C TOM ARKOOSH
PO BOX 32
GOODING ID 83330

MAILING LIST FOR APP 36-08783, BUCKEYE FARMS

Applicant:

BUCKEYE FARMS INC
18335 US HWY 30
HAGERMAN ID 83332

Attorney:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Consultant:

DAVID B SHAW
2309 N MOUNTAIN VIEW DR
SUITE 174
BOISE ID 83706

Protestants:

JERRY R FOWLER
919 JUSTICE GRADE
HAGERMAN ID 83332

RICHARD UPPIANO &
GRETCHEN UPPIANO
929 JUSTICE GRADE
HAGERMAN ID 83332

PETER STURDIVANT
PO BOX 606
HAILEY ID 83333

W H MOSELEY
PO BOX 272
HAGERMAN ID 83332

PATSY SMITH DUNN
18 BLUE SPRUCE DR
HAGERMAN ID 83332

CARL H NELLIS
ID DEPT FISH & GAME
PO BOX 428
JEROME ID 83338

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Protestants, Cont:

VERNITA TALBOTT
1354 N E 5TH ST
BEND OR 97701

WESTERN LEGENDS LC
PO BOX 5656
TWIN FALLS ID 83303-5656

KEN ELLIS
AQUA LIFE CORP
PO BOX 1867
TWIN FALLS ID 83303-1867

MAILING LIST FOR APP 36-08784, BUCKEYE FARMS

Applicant:

BUCKEYE FARMS INC
18335 US HWY 30
HAGERMAN ID 83332

Attorney:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Consultant:

DAVID B SHAW
2309 N MOUNTAIN VIEW DR
SUITE 174
BOISE ID 83706

Protestants:

PETER STURDIVANT
PO BOX 606
HAILEY ID 83333

W H MOSELEY
PO BOX 272
HAGERMAN ID 83332

PATSY SMITH DUNN
18 BLUE SPRUCE DR
HAGERMAN ID 83332

CARL H NELLIS
ID DEPT FISH & GAME
PO BOX 428
JEROME ID 83338

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Protestants, Cont:

VERNITA TALBOTT
1354 N E 5TH ST
BEND OR 97701

WESTERN LEGENDS LC
PO BOX 5656
TWIN FALLS ID 83303-5656

KEN ELLIS
AQUA LIFE CORP
PO BOX 1867
TWIN FALLS ID 83303-1867

ROBERT M STROM &
DOROTHY E STROM
931 JUSTICE GRADE
HAGERMAN ID 83332

MAILING LIST FOR APP 36-08785, BUCKEYE FARMS

Applicant:

BUCKEYE FARMS INC
18335 US HWY 30
HAGERMAN ID 83332

Attorney:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Consultant:

DAVID B SHAW
2309 N MOUNTAIN VIEW DR
SUITE 174
BOISE ID 83706

Protestants:

CARL H NELLIS
ID DEPT FISH & GAME
PO BOX 428
JEROME ID 83338

WESTERN LEGENDS LC
PO BOX 5656
TWIN FALLS ID 83303-5656

KEN ELLIS
AQUA LIFE CORP
PO BOX 1867
TWIN FALLS ID 83303-1867

MAILING LIST FOR APP 36-08786, WESTERN LEGENDS LLC

Applicant:

ATTN MIKE MC CARTHY
WESTERN LEGENDS LC
PO BOX 737
HAGERMAN ID 83332

Consultant:

CHARLES G BROCKWAY
BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST-STE 4
TWIN FALLS ID 83301

Protestants:

JERRY R FOWLER
919 JUSTICE GRADE
HAGERMAN ID 83332

PETER STURDIVANT
PO BOX 606
HAILEY ID 83333

W H MOSELEY
PO BOX 272
HAGERMAN ID 83332

PATSY SMITH DUNN
18 BLUE SPRUCE DR
HAGERMAN ID 83332

CARL H NELLIS
ID DEPT FISH & GAME
PO BOX 428
JEROME ID 83338

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

Protestants, Cont:

VERNITA TALBOTT
1354 N E 5TH ST
BEND OR 97701

KEN ELLIS
AQUA LIFE CORP
PO BOX 1867
TWIN FALLS ID 83303-1867

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 3600015 & 3600018

(T# 4930 B.F.)

RECOMMENDATION OF WATERMASTER

I, Geo H. Lemmon, watermaster of Hagerman,
of Water District No. 36-A, County of Gooding, State of Idaho,
whose address is 27275-1050 E Hagerman ID 83332
have read the attached copy of the application for transfer of water right for Buckeye
Farms, and to the best of my knowledge believe the
(name) ^{Not}
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: _____

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: There are many clerical
errors in the applications. The Supreme Court
of the State of Idaho has not decided whether
a water right is personal property and can be

Dated at 11-12-96, Idaho, this _____ day of _____ 19 ____.

Hagerman, ID.

Geo H. Lemmon
(signature)

NOV 12 1996

moved at will or is apertent to an area.

2. John Bedingfields # 36-000 15-16-17-18 are seperated
3. and how this transfer effects the share ditch

36.00~~00~~, 009, 010^{016, 017,}, 011, 033, ~~044~~, 042

044, 061, 062, 063, 105, 116: In light of

District Judge Duglas D Kramen's order

where he disqualified him self from

adjudicating this Weatherby Spring Water

1-22-79. is a partial forfeiture of a W.R.?

If Buckeye Farms transfers 6.5 cfs of Weatherby
water there is no water for these other rights,
by Kramen's order.

Head of Billingsley Creek at Curran Tunnel

Total

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg/Year
1966	52.2	48.2	44.9	38.5	34.2	45.4	51.3	53.2	62.4	69.9	58.4	49.2	50.7
1967	43.9	39.3	33.4	36.6	37.6	47.4	49.0	52.9	58.9	69.4	67.4	64.3	50.0
1968	52.8	45.8	41.2	36.0	36.8	45.0	50.5	58.9	68.2	68.2	65.5	63.1	52.7
1969	50.8	43.4	38.2	33.4	34.3	45.5	49.6	58.5	65.9	66.9	64.7	57.2	50.7
1970	49.8	42.7	42.0	34.7	34.5	42.5	50.3	59.4	66.0	69.3	63.3	60.0	51.2
1971	50.2	41.2	39.1	37.2	40.5	43.4	51.0	60.5	64.8	73.7	70.2	63.4	52.9
1972	55.1	48.1	43.0	40.6	45.9	58.1	61.0	67.3	73.9	76.1	68.2	66.7	58.7
1973	57.9	49.1	46.2	37.6	39.6	42.1	53.1	55.1	57.8	65.8	61.6	55.3	51.8
1974	44.1	46.5	41.1	35.8	34.4	43.4	47.1	55.0	59.2	69.6	62.8	57.9	49.7
1975	43.0	39.9	32.8	33.5	37.3	39.5	43.2	51.9	55.6	57.9	56.2	58.3	45.8
1976	50.0	44.3	41.1	33.1	35.9	38.0	39.5	47.2	56.4	61.6	58.7	53.0	46.6
1977	47.1	39.5	37.7	35.2	32.6	37.0	34.9	33.9	37.9	38.9	42.4	37.6	37.9
1978	33.3	29.4	30.1	28.3	27.6	27.3	27.9	33.6	49.9	42.8	40.3	36.5	33.9
1979	34.4	30.3	29.3	24.5	20.3	25.4	27.1	36.1	47.8	47.7	42.2	38.3	33.6
1980	34.6	31.7	27.5	25.8	22.7	30.9	32.7	34.5	37.8	47.4	41.1	34.9	33.5
1981	31.1	26.7	22.4	23.7	20.0	21.5	27.5	33.3	37.0	39.1	41.0	34.1	29.8
1982	30.6	30.1	29.7	24.7	24.1	23.0	29.0	33.1	42.8	46.7	47.6	41.9	33.6
1983	37.0	33.1	32.3	28.2	30.3	29.0	35.1	43.1	47.5	51.9	48.6	46.7	38.6
1984	41.0	40.1	37.4	33.6	31.5	35.0	37.9	42.1	42.9	47.6	45.8	44.1	39.9
1985	40.2	38.3	36.1	34.5	31.7	31.0	32.9	45.3	48.9	52.0	49.1	42.5	40.2
1986	37.8	36.5	34.8	32.4	34.3	34.2	38.2	49.6	52.6	55.6	51.5	48.9	42.2
1987	43.3	38.2	36.1	30.7	30.1	35.5	37.2	45.2	45.6	52.3	47.4	45.3	40.6
1988	37.6	33.9	30.8	27.6	27.7	30.1	29.9	35.8	39.7	47.5	43.1	37.9	35.1
1989	34.4	31.3	28.7	22.2	23.2	25.0	27.5	35.3	34.9	42.9	38.7	36.7	31.7

This is where the problem started with the delivery of W.R # 36-0018
 Then when Judge Kralner Order - S Ditch to 625" 1-22-79.
 And when the IDWR said "use your water or lose it." with
 the rest of Billingsley Creek.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

Notice is hereby given that BUCKEYE FARMS, RT 1 BOX 150, 18335 US HWY 30; HAGERMAN ID 83332 has filed a transfer application pursuant to Section 42-222 of IDAHO CODE. The purpose of Transfer No. 4930 is to change place of use.

Water Right No. 36-00015 (6.5 cfs) with a priority date of 3/8/1902 will be diverted from Weatherby Springs tributary to Billingsley Creek within SE1/4NE1/4SW1/4, S30, T7S, R14E; Gooding County.

Water Right No. 36-00018 (20.0 cfs) with a priority date of 4/1/1917 will be diverted from Billingsley Creek tributary to Snake River within NE1/4SW1/4NE1/4, S31, T7S, R14E; Gooding County

A total of 26.5 cfs of water is being transferred to irrigate 483 acres within parts of Sections 26 and 35, T7S, R13E.

Any protest against approval of the proposed changes must be filed with the Department of Water Resources, Southern Region, 222 Shoshone Street East, Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before November 11, 1996. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Gooding County Leader on 10/23 & 10/30/96 and in the Idaho Statesman, Post Register, Lewiston Morning Tribune, & Times News on 10/24 & 10/31/96.



SOUTHERN REGION
222 SHOSHONE AVE
TWIN FALLS ID 83301
(208) 736-3033

GOVERNOR

KARL J DREHER
DIRECTOR

October 10, 1996

JOHN A ROSHOLT ESQ
PO BOX 1906
TWIN FALLS ID 83303-1906

Re: Application for Transfer No. 4930 (36-00015, 36-00018)

Dear Mr. Rosholt:

The Department of Water Resources acknowledges receipt of the Application for Transfer filed on behalf of Buckeye Farms.

Since your application involves the diversion of 10.0 cfs or greater as specified in Sections 42-203A & 42-222 of the Idaho Code, the Department is required to publish notice of your application in the newspaper designated for the county in which the point of diversion is located as well as the major newspaper in each of the Department of Water Resources administrative regions.

Therefore, this office has scheduled advertising the application in The Gooding County Leader for 10/23 & 10/30/96 and also in the Idaho Statesman, Post Register, Lewiston Morning Tribune, & Times News on 10/24 & 10/31/96.

The advertisement(s) will be published for two weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

Before we can forward your application to our state office for approval we must include in the file evidence of ownership of the land to which the water is appurtenant such as copies of deeds, tax records, etc. and a notarized statement from any lien holder on the property agreeing to the proposed change.

State Office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE STREET
TWIN FALLS ID 83301
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

October 7, 1996

GEORGE LEMMON WATERMASTER
WATER DISTRICT #36-A
RT 1 BOX 218
HAGERMAN ID 83332

Re: Application for Transfer of Water Right Nos. 36-00015 & 36-00018 (T# 4930, Buckeye Farms).

Dear Mr. Lemmon:

Enclosed is a copy of an Application for Transfer of a Water Right within your District, and Watermaster's Recommendation Form.

Section 42-222 of the IDAHO CODE requires that the watermaster must be advised of proposed changes in water rights in the water district and must notify the Department of his recommendation on the application.

Please complete the enclosed recommendation form and return it to this office.

Processing of the application can be completed in 20 days, therefore, your prompt response to this request will be appreciated.

If you have any questions about the application, please contact this office or the applicant.

Very truly yours,

A handwritten signature in cursive script that reads "James E. Stanton".

James E. Stanton
Sr. Water Resource Agent

JS:MB

Enclosures

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-44-4931



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033

Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Buckey Farms
18335 US HWY 30
Hagerman, ID
83332

June 7, 1996

RE: Application for Transfer of Water Rights 36-00015 & 36-00018

Dear Sirs;

The above-referenced application was filed in January of 1994 to remove water from the land that you sold to Spring Valley Ranch. But due to objections to our SRBA recommendations, the application has been held pending the outcome of negotiations between you and IDWR. Since the Form 5s have now been signed on these rights, I plan to proceed with processing of this transfer. The final recommendation is for 483 acres of irrigation, whereas the application shows 485 acres. The application needs to be corrected to show only 483 acres. Once this is done, we should be able to advertise the transfer. The transfer will be based on the stipulated data rather than on the original court decrees or our original Director's Report findings.

I will be out of town until June 24, but your application will be in my in basket during my absense. If you wish to correct the app. during my absense, Allen Merritt can assist you in this matter.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

cc: John Rosholt

From: DWR03::DSHAFF 7-JUN-1996 12:27:33.50
To: DWR60::JSTANTON
CC: DWR60::DJONES MSTERLIN,DSHAFF
Subj: BUCKEYE TRANSFER

Jim, Marcie brought me into the loop on this old proposal. I talked to Jim Johnson about what records to use. He felt comfortable using the current version of the R-records for 36-00015 and 36-00018 to establish the right as recorded for Part II of the transfer application. One proviso, however, is the advertisement should not show the "R" itself. Another directive is to require a copy of the deed for the parcel sold from which the water is coming.

Marcie said you on vacation for two weeks starting Monday. Have a good break from the salt mines.

T # 4931

COMMUNICATION DOCUMENTATION

TRANSFER FILE OF SAME

IDWR Employee/Agent Steve Clelland

BUCKEYE FARMS TRANSFER

CC: MARCI STERLING & TRANSFER FILE

Re: Protested TR 4930 (36-00015,00018)
Buckeye Farms

ROUTING SLIP

DISTRIBUTION		REFERENCE	
TO: <i>dup file / Glen Jackson</i>		Our Conversation	
FROM: <i>Southern</i>		Your Request	
<i>10/15/98</i>		The Attached	<i>X</i>
PROVIDED FOR YOUR:		PLEASE REVIEW AND:	
Information	<i>X</i>	Take Proper Action	
Approval		Comment and Return	
Signature		File	
SPECIAL NOTES:			



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

RECEIVED

OCT 19 1998

Department of Water Resources

October 14, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL J MCCARTHY CO MGR
WESTERN LEGENDS LC
PO BOX 737
HAGERMAN ID 83332

RE: Application for Transfer No. 4930 (Buckeye Farms)

Dear Mr. McCarthy:

This office acknowledges receipt of the withdrawal of your protest against the above referenced application.

Since there were multiple protestants, the concerns of the other protestants will need to be addressed by the Department before final processing of the application can be completed.

The Department will continue review of the application without further contact with you unless information is requested.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

CC:

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Western Legends LC

Post Office Box 737
Hagerman, Idaho 83332

Telephone (208) 837-6641

September 11, 1998

RECEIVED

OCT 13 1998

Department of Water Resources
Southern Region

Mr. Allen Merrit
Southern Regional Manager
Idaho Department of Water Resources
Twin Falls, Idaho

Via Fax: (208) 736-3037

Re: Application for Transfer No. 4930 Regarding Water Right Nos 36-00015 and
36-00018 Applicant: Buckeye Farms

Dear Mr. Merrit:

On November 12, 1996, Western Legends LC filed a Notice of Protest in the
above referenced Transfer case. We hereby withdraw this Notice of Protest.

Please note your receipt of this withdrawal on this letter and fax a copy or our
files.

Very truly yours,

WESTERN LEGENDS LC



Michael J. McCarthy
Co-manager

MJM:Pw

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

1996 MAY -7 PM 4:13
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
PAGE 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	)	Subcase: 36-00015
	)	
Case No. 39576	)	PRELIMINARY MASTER REPORT
	)	AND RECOMMENDATION
	)	

FINDING OF FACT

On April 21, 1989, Buckeye Farms, Inc., filed its *Notice of Claim to a Water Right* claiming 6.5 cfs of water from Weatherby Springs to irrigate 790 acres based on the 1932 *New International Mortgage Bank* decree. The Director of the Idaho Department of Water Resources filed his *Director's Report for Reporting Area 3 (Basin 36)* on November 2, 1992, recommending 1.22 cfs for 446 acres.

On April 30, 1993, the claimant filed its *Objection* to quantity, period of year, place of use, consumptive use and remarks. The claimant and IDWR filed a *Standard Form 5* on September 13, 1995.

CONCLUSIONS OF LAW

The claimant is entitled to a water right as described in the *Standard Form 5*.

RECOMMENDATION

It is recommended that Buckeye Farms, Inc., be adjudicated the following water right under claim 36-00015:

Name and address of claimant:
Buckeye Farms, Inc.
18335 U.S. Hwy 30
Hagerman, ID 83332

Source of water:

Weatherby Springs

Quantity of water used:

6.5 cfs

.66 cfs of this right is limited to use for conveyance losses in delivery of this right.

Date of priority:

March 8, 1902

Point of diversion:

**T 7S, R 14E, § 30, B.M., Gooding County, Idaho,
SE¼NE¼SW¼**

Water is delivered through the Bar S Ditch, Curren Ditch, North Pipeline and South Pipeline.

Purpose of use:

Irrigation

Period of use:

Irrigation Season

Place of use:

T 7S, R 13E, B.M., Gooding County, Idaho,

§ 23: NE¼SW¼ -32 acres

NW¼SW¼ -35 acres

SW¼SW¼ -40 acres

SE¼SW¼ -34 acres

§ 26: NE¼NW¼ -10 acres

NW¼NW¼ -22 acres

SE¼NW¼ -21 acres

NE¼SW¼ -19 acres

SE¼SW¼ -16 acres

NW¼SE¼ -6 acres

SW¼SE¼ -22 acres

SE¼SE¼ -12 acres

§ 35: NE¼NE¼ -8 acres

NW¼NE¼ -9 acres

SW¼NE¼ -38 acres

SE¼NE¼ -9 acres

NE¼NW¼ -15 acres

NW¼NW¼ -2 acres

SE¼NW¼ -37 acre

NE $\frac{1}{4}$ SW $\frac{1}{4}$ -40 acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$ -19 acres
NW $\frac{1}{4}$ SE $\frac{1}{4}$ -37 acres
483 acres- total

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.

Annual volume of consumptive use:

Use of this right, with right no. 36-00018, is limited to a total combined annual consumptive use volume of 1,449 af.

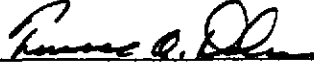
Conditions on exercise of water right:

None

Remarks or other matters necessary for definition of the right, for clarification of any element of the right, or for administration of the right by the director:

None

DATED: May 6, 1996.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 12 1996

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;

NOTICE OF PROTEST, page 1

Rept. # 5019689
1627 hrs.
GWS 12 NOV 96

- (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 M. Barry, 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: Buloh Bahu

My Commission Expires: May, 1998

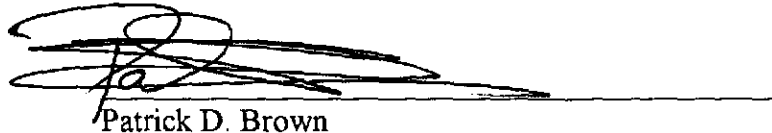
CERTIFICATE OF SERVICE

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



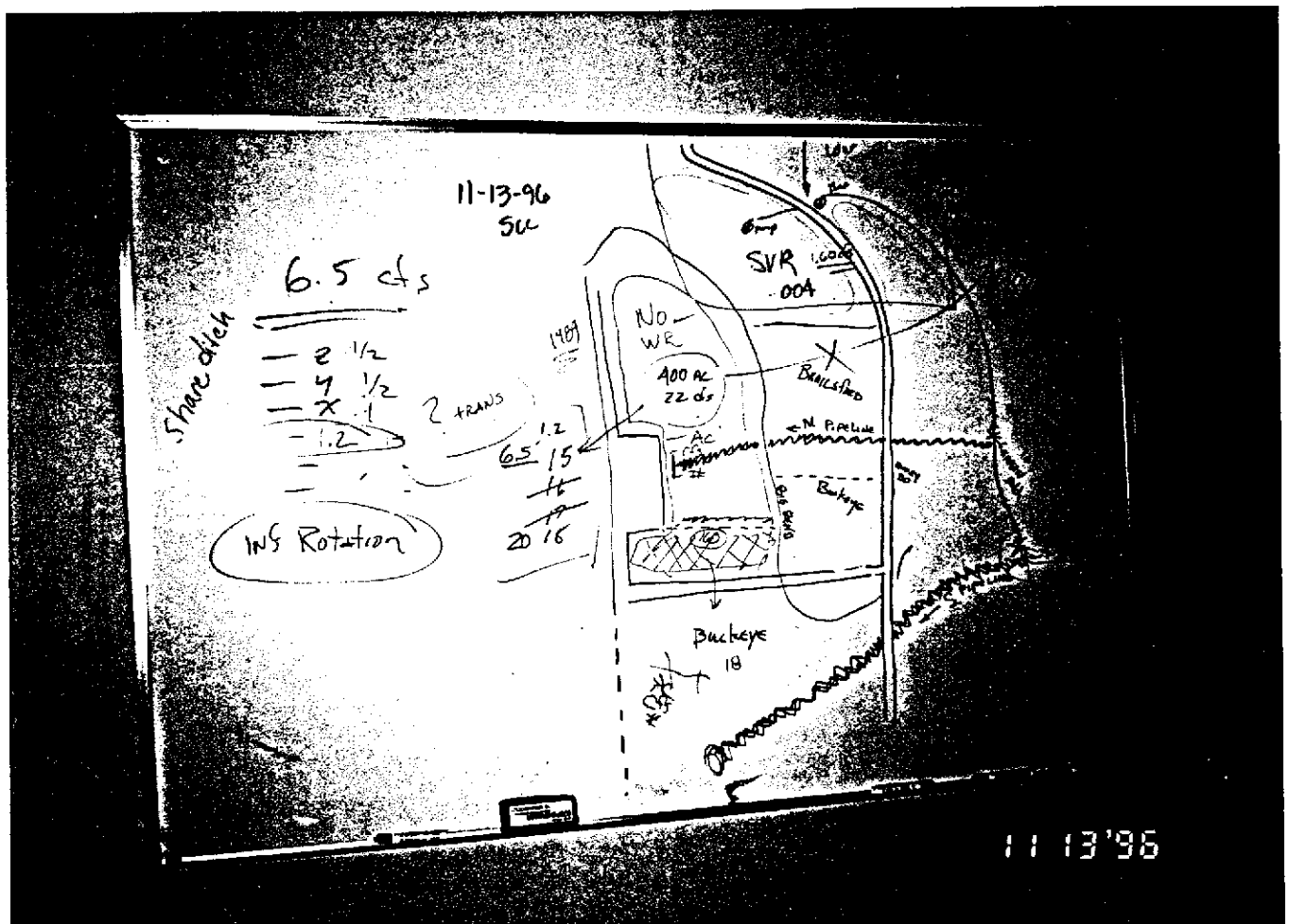
Patrick D. Brown

(wp61:f:\water\61486PRO.N08)llm

Buckeye Farms Transfer #4930
36-00015 and 36-00018
&
Spring Valley Ranch 36-00004

13 November 1996 - Steve Clelland's Drawing
of the above rights.

Photo By: SCC



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.

APPLICATION FOR TRANSFER OF WATER RIGHT

NO. 3600015 & 3600018 (T# 4930 B.F.)

RECOMMENDATION OF WATERMASTER

I, Geo H. Lemmon, watermaster of Hagerman,
of Water District No. 36-A, County of Gooding, State of Idaho,
whose address is 27275-1050 E Hagerman ID 83332
have read the attached copy of the application for transfer of water right for Buckeye
Farms, and to the best of my knowledge believe the
(name) ^{Not}
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend
that the Director of the Department of Water Resources approve the transfer subject to
the following conditions: _____

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-
quested for the following reasons: There are many clerical
errors in the applications. The Supreme Court
of the State of Idaho has not decided whether
a water right is personal property and can be

Dated at 11-12-96, Idaho, this _____ day of _____ 19 ____.
Hagerman, ID.

Geo H. Lemmon
(signature)

NOV 12 1996

Head of Billingsley Creek at Curran Tunnel

Total

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg/Year
1966	52.2	48.2	44.9	38.5	34.2	45.4	51.3	53.2	62.4	69.9	58.4	49.2	50.7
1967	43.9	39.3	33.4	36.6	37.6	47.4	49.0	52.9	58.9	69.4	67.4	64.3	50.0
1968	52.8	45.8	41.2	36.0	36.8	45.0	50.5	58.9	68.2	68.2	65.5	63.1	52.7
1969	50.8	43.4	38.2	33.4	34.3	45.5	49.6	58.5	65.9	66.9	64.7	57.2	50.7
1970	49.8	42.7	42.0	34.7	34.5	42.5	50.3	59.4	66.0	69.3	63.3	60.0	51.2
1971	50.2	41.2	39.1	37.2	40.5	43.4	51.0	60.5	64.8	73.7	70.2	63.4	52.9
1972	55.1	48.1	43.0	40.6	45.9	58.1	61.0	67.3	73.9	76.1	68.2	66.7	58.7
1973	57.9	49.1	46.2	37.6	39.6	42.1	53.1	55.1	57.8	65.8	61.6	55.3	51.8
1974	44.1	46.5	41.1	35.8	34.4	43.4	47.1	55.0	59.2	69.6	62.8	57.9	49.7
1975	43.0	39.9	32.8	33.5	37.3	39.5	43.2	51.9	55.6	57.9	56.2	58.3	45.8
1976	50.0	44.3	41.1	33.1	35.9	38.0	39.5	47.2	56.4	61.6	58.7	53.0	46.6
1977	47.1	39.5	37.7	35.2	32.6	37.0	34.9	33.9	37.9	38.9	42.4	37.6	37.9
1978	33.3	29.4	30.1	28.3	27.6	27.3	27.9	33.6	49.9	42.8	40.3	36.5	33.9
1979	34.4	30.3	29.3	24.5	20.3	25.4	27.1	36.1	47.8	47.7	42.2	38.3	33.6
1980	34.6	31.7	27.5	25.8	22.7	30.9	32.7	34.5	37.8	47.4	41.1	34.9	33.5
1981	31.1	26.7	22.4	23.7	20.0	21.5	27.5	33.3	37.0	39.1	41.0	34.1	29.8
1982	30.6	30.1	29.7	24.7	24.1	23.0	29.0	33.1	42.8	46.7	47.6	41.9	33.6
1983	37.0	33.1	32.3	28.2	30.3	29.0	35.1	43.1	47.5	51.9	48.6	46.7	38.6
1984	41.0	40.1	37.4	33.6	31.5	35.0	37.9	42.1	42.9	47.6	45.8	44.1	39.9
1985	40.2	38.3	36.1	34.5	31.7	31.0	32.9	45.3	48.9	52.0	49.1	42.5	40.2
1986	37.8	36.5	34.8	32.4	34.3	34.2	38.2	49.6	52.6	55.6	51.5	48.9	42.2
1987	43.3	38.2	36.1	30.7	30.1	35.5	37.2	45.2	45.6	52.3	47.4	45.3	40.6
1988	37.6	33.9	30.8	27.6	27.7	30.1	29.9	35.8	39.7	47.5	43.1	37.9	35.1
1989	34.4	31.3	28.7	22.2	23.2	25.0	27.5	35.3	34.9	42.9	38.7	36.7	31.7

This is where the problem started with the delivery of W.R #36-0018
 Then when Judge Kramer Order - S Ditch to 625" 1-22-79.
 And when the IDWR said "use your water or loose it." with
 the rest of Billingsley Creek.

CORPORATION WARRANTY DEED

FOR VALUE RECEIVED, BUCKEYE FARMS, INC., a corporation duly organized and existing under the laws of the State of Idaho, Grantor, does hereby grant, bargain, sell and convey unto

SPRING VALLEY RANCHES, INC., a Utah corporation whose address is P.O. Box 73, Hagerman, Idaho 83332, Grantee, the following described real estate, situated in Gooding County, Idaho, to wit:

T. 7 S., R. 13E., Boise Meridian, Gooding County, Idaho:

Section 23: SW1/4

Section 26: N1/2 NW1/4, W1/2 NE1/4, NW1/4 SE1/4, NE1/4 SW1/4, SE1/4 NW1/4

EXCEPTING THEREFROM the parcel of land described as follows:

BEGINNING at the Southwest corner of the NE1/4 SE1/4 of said Section 26;

Thence North and parallel with the East line of Section 26 to the Northwest corner of the NE1/4 NE1/4 of Section 26;

Thence West along the North line of said Section 26 to a point which is 30 feet West of the West bank of the Big Bend Ditch;

Thence Southerly along a line running 30 feet West of the West bank of said Big Bend Ditch to a point which is directly West of the Southwest corner of the NE1/4 SE1/4 of said Section 26;

Thence East and parallel with the North line of Section 26 to THE POINT OF BEGINNING.

Reserving unto the Grantor Water Right Nos. 36-0003, 36-0015, 36-0016, 36-0017; Permit Nos. 36-7742 and 36-7740; or 67.5 shares of Big Bend Irrigation and Mining Co. stock appurtenant to the above described parcel, it being acknowledged that said property is being conveyed without water rights.

By recordation of this Deed, Spring Valley Ranches, Inc. assumes all obligations concerning the environmental requirements for the above described

property in accordance with Sections 9 and 11 of the Agreement between the parties dated as of January 31, 1989.

To have and to hold the said premises and their appurtenances unto the said Grantee, its successors and assigns, forever.

The said Grantor does hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises; that said premises are free from all encumbrances except as set forth above and assumed by Grantee; and that Grantor will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed by its President and its Secretary.

DATED this 7 day of Feb, 1989.

BUCKEYE FARMS, INC.

By [Signature]
President

ATTEST:

By [Signature]
Secretary

STATE OF IDAHO

County of Blaine ss.

On this 7th day of February, 1989, before me, a Notary Public, in and for said County and State, personally appeared James H. Brumell and John A. Burke, known or identified to me to be the President and Secretary, respectively, of BUCKEYE FARMS, INC., the corporation that executed the foregoing instrument, 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.

[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at: Harley, Idaho
My commission expires: 2-2-90

0472m

CORPORATION WARRANTY DEED - 2

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 # 493C

From: DWR03::DSHAFF 7-JUN-1996 12:27:33.50
To: DWR60::JSTANTON
CC: DWR60::DJONES MSTERLIN,DSHAFF
Subj: BUCKEYE TRANSFER

Jim, Marcie brought me into the loop on this old proposal. I talked to Jim Johnson about what records to use. He felt comfortable using the current version of the R-records for 36-00015 and 36-00018 to establish the right as recorded for Part II of the transfer application. One proviso, however, is the advertisement should not show the "R" itself. Another directive is to require a copy of the deed for the parcel sold from which the water is coming.

Marcie said you on vacation for two weeks starting Monday. Have a good break from the salt mines.

T# 493

MAILING LIST FOR PROTESTED TR #4930
BUCKEYE FARMS (36-00015, 36-00018)

Applicant:

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

RECEIVED

NOV 18 1996

Department of Water Resources

Attorney for Applicant:

JOHN A ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

Protestants:

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

VERN C BELL
853 E 2830 S
HAGERMAN ID 83332

WESTERN LEGENDS LC

Attorney for Western Legends, Lc:

PATRICK D BROWN ESQ
HEPWORTH LEZAMIZ & HOHNHORST
PO BOX 389
TWIN FALLS ID 83303-0389

AQUA LIFE INC

Attorney for Aqua Life Inc:

C TOM ARKOOSH
PO BOX 32
GOODING ID 83330

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.



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST E
TWIN FALLS ID 83301
(208) 736-3033 Fax 736-3037

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

November 15, 1996

MICHAEL BRANCHFLOWER
PO BOX 392
WENDELL ID 83355

RE: APPLICATION FOR TRANSFER NO. 4930 (36-00015, 36-00018-Buckeye Farms)

Dear Protestant(s):

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST E
TWIN FALLS ID 83301
(208) 736-3033 Fax 736-3037

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

November 15, 1996

JOHN ROSHOLT ESQ
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

RE: APPLICATION FOR TRANSFER NO. 4930 (36-00015, 36-00018-Buckeye Farms)

Dear Mr. Rosholt:

Enclosed are copies of protests filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:mb

Enclosures

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?
2. Will the proposed transfer constitute an enlargement in the use of the original right?
3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
4. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, and 4 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST E
TWIN FALLS ID 83301
(208) 736-3033 Fax 736-3037

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

November 15, 1996

BUCKEYE FARMS
18335 US HWY 30
HAGERMAN ID 83332

RE: APPLICATION FOR TRANSFER NO. 4930 (36-00015, 36-00018)

Gentlemen:

Enclosed are copies of protests filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

NOV 08 1996

Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 4930 OF WATER RIGHT)
36-00015 and WATER RIGHT 36-0018)
IN THE NAME OF BUCKEYE FARMS.)

NOTICE OF PROTEST

COMES NOW Aqua Life, Inc., by and through its attorney of record, C. Tom Arkoosh, and file this Protest to Application No. 4930. The Protestants' representative for service in this matter is C. Tom Arkoosh of 116 4th Ave. W., Post Office Box 32, Gooding, Idaho. Telephone: (208) 934-8872. This Protest is filed based upon the provisions of Idaho Code Section 42-203 (A), 42-222, and other laws of the United States and the State of Idaho. The Protest is filed upon the following grounds:

1. The proposed use would reduce the quantity of water under existing rights.
2. The water supply is insufficient for the proposed use.
3. The proposed use conflicts with the local public interest.
4. The proposed use is contrary to conservation of water resources within the State of Idaho.
5. The change in use would constitute an enlargement in use.

At hearing the Protestants will present evidence regarding the impact on both the quality and quantity of water which the proposed change would have on existing water

NOTICE OF PROTEST

I

Receipt #5019679
11/8/96
mB

rights, as well as the local public interest. The protest can be resolved only by denial of the transfer application, and, consequently, Protestants pray the application be denied.

By filing this protest, the Protestants give notice to the Department of Water Resources and to the Applicant that they intend to appear at all conferences or hearings in this matter; they intend to present evidence and cross-examine; and, in order to adequately prepare to present evidence and cross-examine at hearing, it may be necessary to obtain discovery from the Applicant or others, or obtain information from the Department of Water Resources. Therefore, the Protestant requests that any hearing in this matter be scheduled in order to allow the hearing officer to take up prehearing matters.

Respectfully submitted,

DATED this 8th day of November, 1996.


C. Tom Arkoosh

CERTIFICATE OF SERVICE

We hereby certify that on the 8th day of November, 1996, we caused to be served a true and correct copy of the above and foregoing document by the method indicated below, and addressed to the following:

- ☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (FAX)

Idaho Department of Water Resources
222 Shoshone Street East
Twin Falls, ID 83301

Buckeye Farms
Rt 1 Box 150
183335 US Highway 30
Hagerman, Idaho 83332



C. Tom Arkoosh

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

RECEIVED

NOV 12 1996

Department of Water Resources

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Transfer # 4930 in the name of
Backeye Farms
 2. Name of protestant Michael G Branch Flower
 3. Protestant's representative for service (If different than protestant)

 4. Service mailing address Box 392 Woodrell Idaho 83355
 5. Service telephone no. 208 536 2594
 6. Basis of protest (including statement of facts and law upon which the protest is based)
SEE ATTACHED

- (additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? Delay the transfer # 4930 in
the name of Backeye Farms

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 12 day of Nov, 19 96.



PROTESTANT

PROTESTANT'S REPRESENTATIVE

NOV 12 1996

NOTE:

Department of Water Resources

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by GLS Date 12 Nov 96 Time 1545 hrs.
 \$25.00 fee Received by GLS # 5019687 Date SAME

NOV 12 1996

Department of Water Resources
Southern Region

⑥ I don't think water number 36-00015 & 36-00018 have been used on the property being transferred from within the last five years.

Water rights 36-00015 36-00018
36-00133 36-00192 36-00186 36-00188
& 36-2029 provide water to the property where the proposed transfer would take the water to. I believe if the transfer is approved this would be an excessive amount of water on this property.

Page 1 of 8STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 4930APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1RECEIVED
OCT 15 1996
Department of Water Resources
(208) 622-4100Name of applicant Buckeye Farms Phone _____
Post Office address Route One Box 150 18335 U.S. Hwy 30 Hagerman, ID 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Northern half of property was sold.
Transferring the water to remaining lands.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number Priority Amount (cfs/ac-ft) Nature of Use Period of Use
- | | | | | |
|----------|-----------|------|------------|---------------|
| 36-00015 | 3/08/1902 | 6.5 | Irrigation | 3-15 to 11-15 |
| 36-00018 | 4/01/1917 | 20.0 | Irrigation | 3-15 to 11-15 |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 26.5 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water 36-00015 Weatherby Springs tributary to Billingsley Creek
36-00018 Billingsley Creek Snake River
4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	7S	14E	Gooding	Weatherby Spg 36-00015
	NE	SW	NE	31	7S	14E	Gooding	Billingsley Crk 36-00018

5. Lands irrigated or place of use:

** Per telecon. w/Dave Shaw 10-3-96*

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	13E	26											40	40			37	37	160ac
7S	13E	35	10	40	40	15	40	40		40	40				20	40	*	*	325ac

Total acres 485 *483**

PART 1

6. General Information:

a. Description of diversion system 36-00015/Water delivery through the Bar-S ditch,
Curren Ditch, South pipeline.
36-00018/Water delivery through the Curren Ditch, South pipeline.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Other waters are available for these lands

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

RECEIVED
 OCT 15 1996
 Department of Water Resources

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. _____ Decreed to _____
 in case of _____ vs. _____
 dated _____ in _____ county of _____

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. 36-000/5 on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice☐ Warranty Deed☐ Other _____

3. Source of water Weatherby Springs tributary to Billingsley Creek

4. Date or priority 3-8-1902

5. Water is used for the following purpose:

amount 6.50 cfs for Irrig. purposes from 3-15 to 11-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6. Total amount of water under right 6.50 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	7S	14E	Gooding	Bgr S Ditch, Curren Ditch, North & South Pipelines

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals.
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	23									33	25	40	34					141
		26					10	22		21	19			16		6	22	12	128
		35	8	9	38	9	15	2		37	40				19	37			214

Total acres 483

9. Describe any other water rights used for the same purpose as described above 36-000/8

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 36-000/8 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Billingsley Creek tributary to Snake River

4. Date or priority 4-1-1917

5. Water is used for the following purpose:

amount 20.0 cfs for Irrig. purposes from 3-15 to 11-15
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 20.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	SW	NE	31	7S	14E	Gooding	Curren Ditch, North & South Pipelines

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	23									32	35	40	34					141
		26					10	22		21	19			16		6	22	12	128
		35	8	9	38	9	15	2		37	40				19	37			214

Total acres 483

9. Describe any other water rights used for the same purpose as described above 36-000/5

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

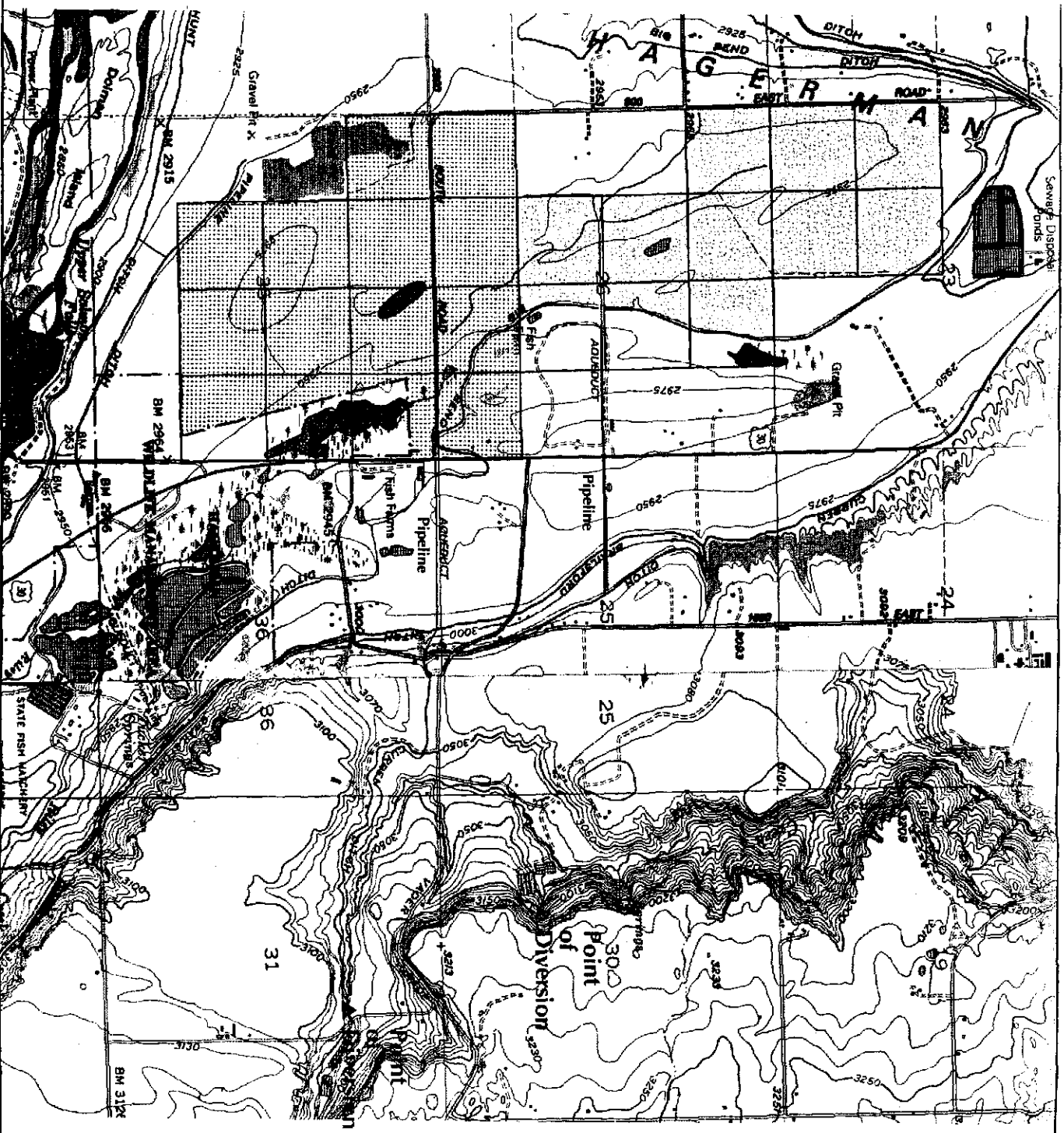
2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____



BUCKEYE FARMS BAR-S LANDS

HDR
Engineering,
Inc.

Legend:

Water Rights:
36-00015 and 36-00018

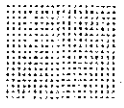


Land Sold

Land Retained

Pipeline

Point
of
Diversion



January 1994
Scale:



PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

BUCKEYE FARMS

By:

Dean A. Rosholt
 Attorney-in-Fact (Signature of Applicant)

Subscribed and sworn to before me this 25th day of January, 19 94.

Maureen Vait Stickleland
 (Notary Public)

My commission expires 12-17-97

Residing at Hooding

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 1 attachments

Received by all Date 1-25-94 Protest filed by _____

Prelim. check by JF Stanton Fee \$50.00

Receipted by MTS 5016501 Date 1-25-94

Published in Hooding Co. Leader, F.D. Statesman, Post Register, Tribune Copies of protest forwarded by ✓

Pub. dates 10/23 + 10/30/96; 10/24 + 10/31/96 Hearing held by _____ Date _____

Watermaster recommendation requested on 10/2/96 Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED

JAN 25 1994

Department of Water Resources
 Southern Region Office

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

RECEIVED
NOV 12 1996

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Transfer No. 4930 in the name of Buckeye Farms
2. Name of protestant Verl C. Bell
3. Protestant's representative for service (If different than protestant)

4. Service mailing address 853 East 2830 South Hagerman Idaho 83332
5. Service telephone no. 208-837-4405
6. Basis of protest (including statement of facts and law upon which the protest is based)
Water diversion from Weatherby Springs is limited to 6.5 cfs by Gooding County Case #16676
January 1979 Judge Kramer presiding. Water Right # A36-00033E claims .75 cfs, protestant
has continually irrigated with this water right. If transfer #4930 is in addition to the
6.5 cfs presently being diverted this protest is withdrawn. Claimed water right 36-00015
has undergone a period of 5 or more ~~years~~ consecutive years of non-use.
(additional pages may be attached to describe the nature of the protest)
7. What would resolve your protest? Leave Water Right A36-00033E intact.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 12th day of November, 1996.

Verl C. Bell
PROTESTANT

PROTESTANT'S REPRESENTATIVE

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

RECEIVED
NOV 12 1996
Department of Transportation

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by GLS Date 12 Nov 96 Time 1600 hrs.
\$25.00 fee Receipted by GLS # SD19688 Date 12 Nov 96

Page 1 of 8STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 4930APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of applicant Buckeye Farms Phone (208) 622-4100
Post Office address Route One Box 150 18335 U.S. Hwy 30 Hagerman, ID 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Northern half of property was sold.
Transferring the water to remaining lands.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number Priority Amount (cfs/ac-ft) Nature of Use Period of Use
- | | | | | |
|-----------------|------------------|-------------|-------------------|-----------------------------|
| <u>36-00015</u> | <u>3/08/1902</u> | <u>6.5</u> | <u>Irrigation</u> | <u>3-15</u> to <u>11-15</u> |
| <u>36-00018</u> | <u>4/01/1917</u> | <u>20.0</u> | <u>Irrigation</u> | <u>3-15</u> to <u>11-15</u> |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
2. Total amount of water being transferred 26.5 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water 36-00015 Weatherby Springs tributary to Billingsley Creek
36-00018 Billingsley Creek Snake River
4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	7S	14E	Gooding	Weatherby Spg 36-00015
	NE	SW	NE	31	7S	14E	Gooding	Billingsley Crk 36-00018

5. Lands irrigated or place of use:

* Per telecon w/Dave Shaw 10-3-96

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	13E	26											40	40			40	40	160ac
7S	13E	35	10	40	40	15	40	40		40	40				20	40	*	*	325ac

Total acres 485 483*

PART 1

6. General Information:

- General information:
- a. Description of diversion system 36-00015/Water delivery through the Bar-S ditch,
Curren Ditch, South pipeline.
36-00018/Water delivery through the Curren Ditch, South pipeline.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Other waters are available for these lands

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 36-00015 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Weatherby Springs tributary to Billingsley Creek
4. Date or priority 3-8-1902

5. Water is used for the following purpose:

amount 6.50 cfs for Irrig. purposes from 3-15 to 11-15
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 6.50 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	7S	14E	Gooding	Bar S Ditch, Curran Ditch, North South Pipelines

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	23									32	35	40	34					141
		26					10	22		21	19			16		6	22	12	128
		35	8	9	38	9	15	2		37	40				19	37			214

Total acres 483

9. Describe any other water rights used for the same purpose as described above 36-00018

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 36-000/8 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Billingsley Creek tributary to Snake River

4. Date or priority 4-1-1917

5. Water is used for the following purpose:

amount 20,0 cfs for Irrig. purposes from 3-15 to 11-15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 20.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	SW	NE	31	7S	14E	Gooding	Curren Ditch, North & South Pipelines

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
7S	13E	23									32	35	40	34					141
		26					10	22		21	19			16		6	22	12	128
		35	8	9	38	9	15	2		37	40				19	37			214

Total acres 483

9. Describe any other water rights used for the same purpose as described above 36-000/5

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED
(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

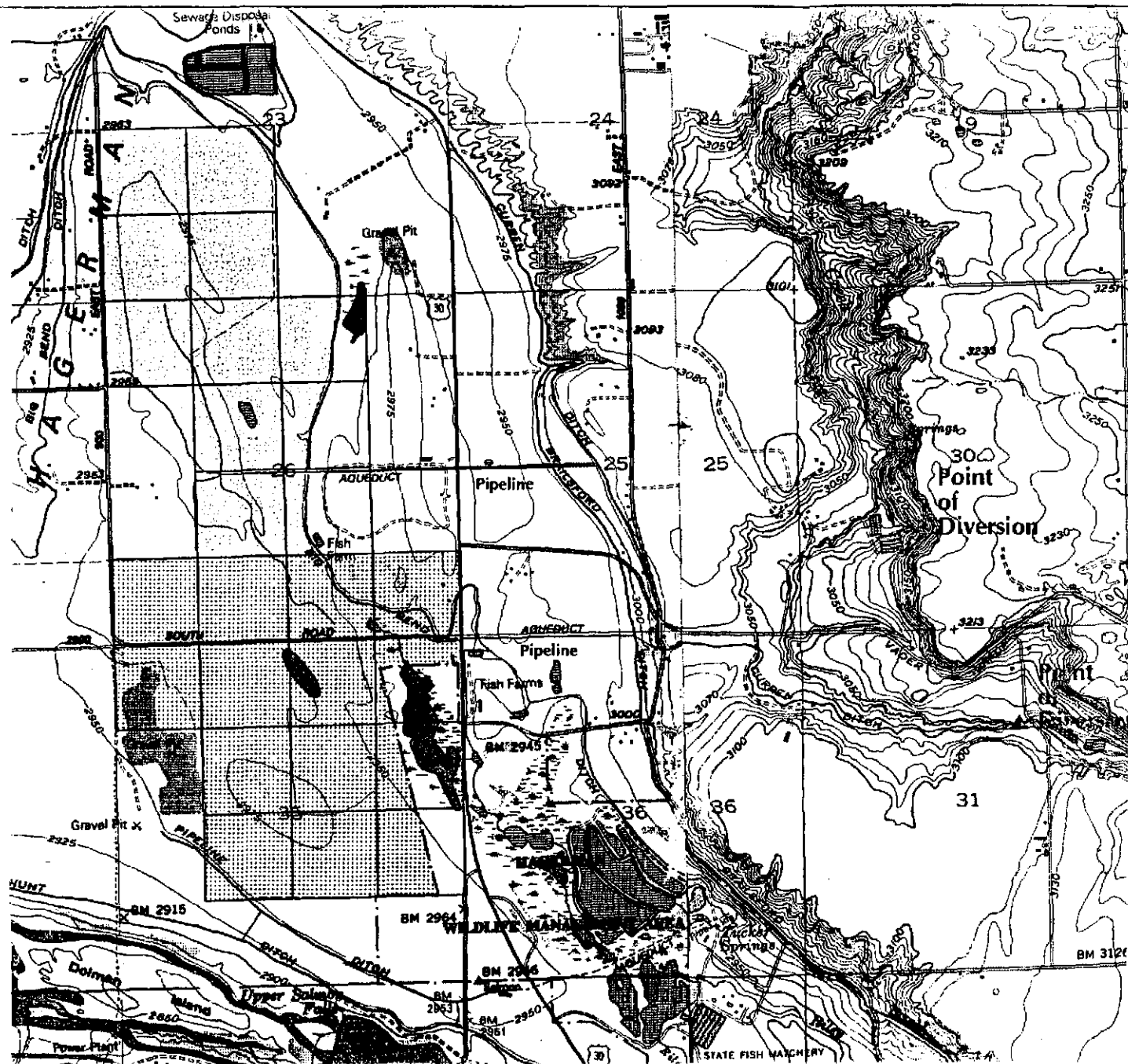
2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____



BUCKEYE FARMS BAR-S LANDS

HDR
Engineering,
Inc

Legend:

Water Rights:
36-00015 and 36-00018



Land Sold



Land Retained

Pipeline



Point
of
Diversion



January 1994
Scale:



PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

BUCKEYE FARMS

By:

Dean A. Rosholt
 Attorney-in-Fact (Signature of Applicant)

Subscribed and sworn to before me this 25th day of January, 19 94.

Michael Walt Hickland
 (Notary Public)
 Residing at Gooding

My commission expires 12-17-97

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 1 attachments

Received by all Date 1-25-94 Protest filed by _____

Prelim. check by JF Stanton Fee \$50.00

Received by MTS 5016501 Date 1-25-94

Published in Gooding Co. Leader, F.R. Statesman, Post Register, Tribune Copies of protest forwarded by ✓

Pub. dates 10/23, 10/30/96, 10/24 & 10/31/96 Hearing held by _____ Date _____

Watermaster recommendation requested on 10/7/96 Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

RECEIVED

JAN 25 1994

Department of Water Resources
 Southern Region Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

Buckey Farms
18335 US HWY 30
Hagerman, ID
83332

June 7, 1996

RE: Application for Transfer of Water Rights 36-00015 & 36-00018

Dear Sirs;

The above-referenced application was filed in January of 1994 to remove water from the land that you sold to Spring Valley Ranch. But due to objections to our SRBA recommendations, the application has been held pending the outcome of negotiations between you and IDWR. Since the Form 5s have now been signed on these rights, I plan to proceed with processing of this transfer. The final recommendation is for 483 acres of irrigation, whereas the application shows 485 acres. The application needs to be corrected to show only 483 acres. Once this is done, we should be able to advertise the transfer. The transfer will be based on the stipulated data rather than on the original court decrees or our original Director's Report findings.

I will be out of town until June 24, but your application will be in my in basket during my absense. If you wish to correct the app. during my absense, Allen Merritt can assist you in this matter.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

cc: John Rosholt

moved at will or is pertinent to an area.

2. John Bedingfields #36-00015-16-17-18 are separated

3. And how this transfer affects the share ditch

#36.00~~00~~, 009, 010^{016, 017}, 011, 033, ~~041~~, 042

#044, 061, 062, 063, 105, 116: In light of

District Judge Douglas D Kramen's order

where he disqualified him self from

adjudicating this weatherby Spring Water

1-22-79. is a partial forfeiture of a W.R.?

If Buckeye Farms transfers 6.5^{cfs} of Weatherby

water there is no water for these other rights,
by Kramen's order.