

No Color
Documents
In File

SD-0613-2 Source System: Prefix: Basin:
S Starting Water Right: 07366 Ending Water Right: 07366
E Water Name
L Right No. Last, First CFS

36-07366

RIGHT SPLIT INTO PARTS A & B THRU APPROVED TRANSFER 5154.

36-07366A VISSER, TONY 2.830

VISSER, CAROL 2.830

36-07366B VISSER, TONY 0.110

VISSER, CAROL 0.110

(Enter=Continue) (GOLD 6=Produce Report) (GOLD 7=This Query) (Menu _____)

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 5154 OF)
WATER RIGHTS 36-07366A & 36-07366B IN)
THE NAME OF TONY & CAROL VISSER)

ORDER GRANTING
EXTENSION OF TIME TO
COMPLETE TRANSFER

On February 12, 1999 the Department approved the above referenced Application for Transfer with a condition that:

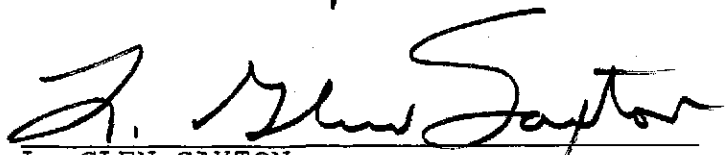
The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

The right holder has notified the Department that the transfer has not yet been accomplished.

The right holder has requested an extension of time for completion of the transfer and has shown reasonable cause for the delay.

IT IS, THEREFORE, HEREBY ORDERED that the right holder of Transfer No. 5154 is granted an extension to February 12, 2001 in which to accomplish the transfer.

Dated this 13th day of April, 2000.


L. GLEN SAXTON
Chief, Water Allocation Bureau

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5154
WATER RIGHT NO(S). 36-07366A & 36-07366B

This is to certify that: **TONY VISSER**
CAROL VISSER
1700 E 2428 S
GOODING ID 83330

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right 36-07366A: IRRIGATION	04/01 to 10/31	2.83 CFS	566.0 AF
Right 36-07366B: STOCKWATER	01/01 to 12/31	0.11 CFS	22.0 AF
	TOTAL:	2.94 CFS	588.0 AF

SOURCE

GROUNDWATER

Priority: 08/13/1973

LOCATION OF POINT(S) OF DIVERSION:

Right 36-07366A: SWNW , Sec. 8, Township 07S, Range 15E
Right 36-07366B: NESW , Sec. 8, Township 07S, Range 15E
GOODING County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
07S	15E	8	SWNW 37.0	NESW 30.5	NWSW 37.0	141.5
			SESW 37.0			141.5

Total number of acres irrigated: 141.5

PLACE OF USE: STOCKWATER

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>
07S	15E	8
		NESW

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TRANSFER NO. 5154
WATER RIGHT NO(S). 36-07366A & 36-07366B

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information for Right 36-07366A as required by Section 42-701, Idaho Code.
3. Right 36-07366A when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
4. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dated this 12th day of

February, 1999.


Chief, Water Allocation Bureau

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SEP 11 2003

Department of Water Resources

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP - 9 2003

By _____ 720
Clerk
Deputy Clerk

**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 Case No. 39576 _____	)))))))	For Decreed Water Right 36-7366 (Split administratively into water rights 36-7366A and 36-7366B) ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT IN PARTIAL DECREE and INCORPORATING INTO PARTIAL DECREE AN EXPRESS STATEMENT REGARDING GENERAL PROVISIONS, <i>NUNC PRO TUNC</i>
--	--	--

A *Partial Decree* was entered for water right 36-7366 ("decreed water right") on November 24, 1997. The period of use element therein was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, pursuant to administrative proceedings conducted before the Idaho Department of Water Resources (IDWR), the decreed water right was split into multiple water rights designated as 36-7366A and 36-7366B ("split water rights"). On August 2, 1999 IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included irrigation period of use recommendations for the split water rights.¹ There are no outstanding objections to IDWR's recommendations. The Court finds that IDWR's recommendations for irrigation period of use for the split water rights are based on the irrigation period of use for the decreed water right.

¹ Some or all of these split water rights may have again been split or affected by administrative proceedings following the issuance of the *Supplemental Director's Report*. However, this *Order* only amends the *Partial Decree* that was issued for the decreed water right and addresses only those split rights that were contained in the *Supplemental Director's Report*. Administrative changes to the split rights, if any, that occurred following the issuance of the *Supplemental Director's Report* are not affected by this *Order* and are therefore not referenced.

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SEP 11 2003

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THEREFORE, IT IS ORDERED that period of use element for the irrigation portion of the above-captioned decreed water right is hereby amended and decreed as:

PERIOD OF USE: 04-01 to 10-31

The use of water for irrigation under this right may begin as early as March 15 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned decreed water right is hereby amended and decreed to contain the following:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

IT IS FURTHER ORDERED that this order is being entered *nunc pro tunc* effective as of the date the *Partial Decree* was issued and shall not supercede any subsequent administrative changes to the water right that may have occurred following entry of the *Partial Decree*.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED: September 9, 2003.


JOHN M MELANSON
Presiding Judge, pro tem
Snake River Basin Adjudication

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Department of Water Resources
Adjudication Bureau

1997 NOV 24 PM 3:57

DISTRICT COURT
TWIN FALLS COUNTY, IDAHO
FILED

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	)	ORDER OF PARTIAL DECREE
	)	
Case No. 39576	)	For Water Right 36-07366
	)	

On August 1, 1997, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-07366 is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED November 24, 1997.


DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

Page 1

MICROFILMED

DEC 11 2003

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)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-07366

1997 NOV 24 PM 3:57

DISTRICT COURT-S
TWIN FALLS COUNTY
FILED _____

NAME & ADDRESS: TONY VISSER
CAROL VISSER
1660 E 2400 S
GOODING ID 83330

SOURCE: GROUNDWATER

QUANTITY: 2.94 CFS
588.0 AFY

PRIORITY DATE: 08/13/1973

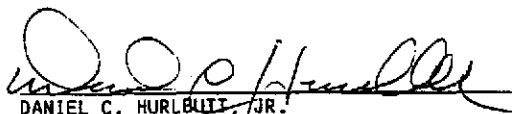
POINT OF DIVERSION: T07S R15E S08 NWWSW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	2.94 CFS 588.0 AFY

PLACE OF USE:	IRRIGATION	Within GOODING County			
	T07S R15E S08	SWNW 37	NESW 36	NWSW 37	SESW 37
	147 ACRES TOTAL				

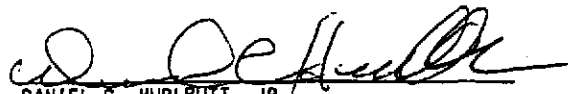
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
MAINTAINED AS A PART OF THE DIVERTING WORKS.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-07366

PAGE 1
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DEC 11 2000

1997 NOV 28 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-07366

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 36-07366 was mailed
on November 28, 1997, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
CLIVE STRONG
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

TONY VISSER
CAROL VISSER
1660 E 2400 S
GOODING, ID 83330
Phone: 208-934-9066

CERTIFICATE OF MAILING

PAGE 1
11/24/97

DEC 11 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

April 13, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TONY VISSER
CAROL VISSER
1700 E 2428 S
GOODING ID 83330

RE: Water Right Nos. 36-07366A and 36-07366B (Transfer 5154)

Dear Mr. And Mrs. Visser:

Enclosed is a copy of the Order Granting Extension of Time to Complete Transfer in connection with the above referenced transfer which extends the time within which to complete the transfer to **February 12, 2001**. The department granted the extension based on reasonable cause you have shown that caused the delay. It is important that you work diligently toward the completion of this project during this extension period since the department may not be able to grant additional extension requests.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

If you have any questions regarding this matter, please feel free to contact the department.

Sincerely,

Deborah Drew-Ellis
Administrative Assistant I
Water Allocation Bureau

Enclosures

c: IDWR - Regional Office

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DEC 11 2003

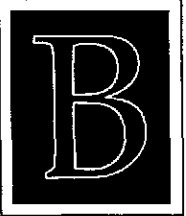
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Department of Water Resources



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

April 4, 2000

Mr. Glen Saxton
Idaho Department of Water Resources
1301 North Orchard
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Transfer 5154 Water Rights 36-07366B

Project No. 430-01-2000

Dear Glen:

Tony and Carol Visser applied for and received approval on February 12, 1999 to transfer a portion of irrigation water right 36-07366 to stock water for a planned heifer ranch in Gooding County. Condition four (4) of that transfer required the Vissers to accomplish the authorized change within one year of the date of approval.

The Vissers have secured the property and have pursued the planning of the heifer ranch. As you know, the Vissers had considerable delay in securing the water right transfer for their Big Sky new dairy and the planned heifer ranch is in support of that dairy.

Because of these delays, construction on the new heifer ranch complex was not completed by February 12, 2000.

I am therefore requesting, in behalf of Mr. and Mrs. Visser that the time for accomplishing the change authorized by Transfer 5154 be extended to February 12, 2001.

Please let me know if you need additional information.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Sincerely,

Charles E. Brockway

cc: Tony and Carol Visser
Rob Williams

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DEC 11 2003

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APR 18 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866 www.idwr.state.id.us/idwr/idwrhome.htm

February 22, 1999

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

TONY VISSER
CAROL VISSER
1700 E 2428 S
GOODING ID 83330

RE: Water Rights 36-07366A/46-07366B (Transfer 5154)

Dear Mr. & Mrs. Visser:

Enclosed is the copy of your approved Transfer of Water Right for the above referenced water rights (Transfer 5154). Please be sure to thoroughly read the Conditions and Remarks listed on the transfer. Also, please be advised that the accompanying transfer approval should be considered and treated as a **preliminary order** of the department issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the approved transfer.

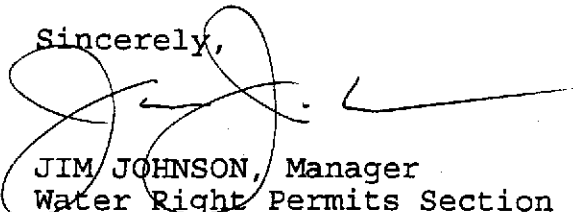
As of July 1, 1996, all water right owners are required to report any change in water right ownership and any change of mailing address to the department.

If you have acquired any other water right or have changed your mailing address **PRIOR TO** July 1, 1996, you have until July 30, 1998, to record the ownership and/or address change with the department.

If you acquired other water rights or changed your mailing address **AFTER** July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes in a timely manner could result in a \$100 late filing fee. You can contact any office of the department for more information. If you have any questions concerning your water right listed above you can contact me at (208) 327-7947.

Sincerely,


JIM JOHNSON, Manager
Water Right Permits Section

JJ:klt
Enclosures

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MAR 10 1999 DEC 11 2003

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of February, 1999 I mailed a true and correct copy, postage prepaid, of the foregoing **TRANSFER APPROVAL** to the person(s) listed below:

WATER RIGHTS 36-07366A/36-07366B (Transfer 5154)

**TONY VISSER
CAROL VISSER
1700 E 2428 S
GOODING ID 83330**


Kari Lynn Townsend
Secretary

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MAR 10 1999

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of the order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from a preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

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MAR 10 1999

MICROFILMED Page 1

DEC 11 2003

MEMORANDUM

TO: File 36-07366

FROM: Pam Skaggs/State Office

SUBJECT: Transfer 5154

DATE: August 27, 1998

Transfer 5154 changes the point of diversion, nature & season of use under a portion of Right 36-07366 creating Part B, and corrects the legal description of the existing irrigation well under the remaining portion of the right identified as Part A. This right has been decreed in the SRBA and the transfer is based on the decree information.

Region review of the current use identified that the existing irrigation well is located within SWNW instead of the NWSW, S08, T07S, R15E. The change to Part A is a correction of the right as recorded and no physical change will occur.

The proposed change in nature of use is to provide stockwater for a feedlot facility for 1,600 cattle. A new well will be drilled to provide for stockwater uses. 5.5 acres of irrigation are being dried up to provide the water and site for the feedlot. No expansion of use occurs through the approval of this transfer.

Season of use was adjusted to year round use for stockwater. Recommended conditions include drilling permit requirements, measuring & annual reporting under the irrigation portion of the right, irrigation overlap, and standard transfer conditions.

Change in Nature of Use Evaluation

	<u>Use</u>	<u>Rate</u>	<u>Irr.Acres</u>	<u>Div.Vol./C.U.Vol.</u>
Original	Irrigation	2.94 cfs	147.0 acres	588.0 af/441.0 af
Part A	Irrigation	2.83 cfs	141.5 acres	566.0 af/424.5 af
Part B	Stockwater	0.11 cfs	(5.5 acres)	22.0 af/ * 0.0 af
After Transfer	Irr./Stock.	2.94 cfs	141.5 acres	588.0 af/424.5 af

*Consumptive use of beef cattle too small to be considered significant per memo from Marci Sterling, July 3, 1991.

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MAR 10 1999