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Department of Water Resources

DISTRICT COURT-SRBA

Fifth Judicial District

County of Twin Falls State of Idaho

SEP - 9 2003

By _____

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	)	For Decreed Water Right 36-2637A
	)	(Split administratively into water rights 36-2637B and
	)	36-2637C)
Case No. 39576	)	
_____	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
	)	INCORPORATING INTO PARTIAL DECREE AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, NUNC PRO TUNC

A *Partial Decree* was entered for water right 36-2637 ("decreed water right") on January 15, 1998. 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 36-2637B and 36-2637C ("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.

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:

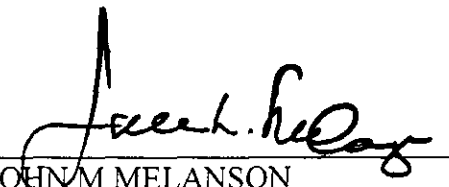
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5348
WATER RIGHT NO(S) . 36-02409E/36-02440A/36-02543A/~~36-02637B~~
36-07096A/36-07613

This is to certify that: TIM H WATERS
LINDA K WATERS
1931 HUNT RD
JEROME ID 83338

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 No. 36-02409E : IRRIGATION Priority: 12/02/1959	04/01 to 10/31	4.70 CFS	1248.8 AF
Right No. 36-02440A : IRRIGATION Priority: 06/01/1960	04/01 to 10/31	1.74 CFS	463.2 AF
Right No. 36-02543A : IRRIGATION Priority: 06/18/1962	04/01 to 10/31	1.12 CFS	308.8 AF
Right No. 36-02637B : IRRIGATION Priority: 01/27/1966	04/01 to 10/31	1.54 CFS	308.8 AF
Right No. 36-07096A : IRRIGATION Priority: 12/01/1969	04/01 to 10/31	0.77 CFS	154.4 AF
Right No. 36-07613 : IRRIGATION Priority: 02/26/1976	03/15 to 11/15	1.60 CFS	320.0 AF

TOTAL: * 11.47 CFS * 2804.5 AF

SOURCE

GROUNDWATER

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APR 18 2000

TRANSFER NO. 5348
 WATER RIGHT NO(S) . 36-02409E/36-02440A/36-02543A/36-02637B
 36-07096A/36-07613

LOCATION OF POINT(S) OF DIVERSION:

SENWNW , Sec. 29, Township 08S, Range 20E
 SENESE , Sec. 30, Township 08S, Range 20E
 JEROME 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>
08S	20E	29	NENW 40	NWNW 40	SWNW 40	
			SENW 35	NWSW 40	SWSW 40	235
		30	NENE 40	NWNE 40	SWNE 40	
			SENE 40	NESW 33	SESW 33	
			NESE 40	NWSE 40	SWSE 40	
			SESE 40			386
		31	NENE 40			40
		32	NWNW 40			40

Total number of acres irrigated: ** 701

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. This right 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.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
- ** 6. Right 36-02409E is limited to the irrigation of 312.2 acres in the place of use described above in a single irrigation season.
- ** 7. Right 36-02440A is limited to the irrigation of 115.8 acres in the place of use described above in a single irrigation season.
- ** 8. Right 36-02543A is limited to the irrigation of 77.2 acres in the place of use described above in a single irrigation season.
- ** 9. Right 36-02637B is limited to the irrigation of 77.2 acres in the place of use described above in a single irrigation season.
- ** 10. Right 36-07096A is limited to the irrigation of 38.6 acres in the place of use described above in a single irrigation season.

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TRANSFER NO. 5348
WATER RIGHT NO(S) . 36-02409E/36-02440A/36-02543A/36-02637B
36-07096A/36-07613

CONDITIONS OF APPROVAL AND REMARKS

- ** 11. Right 36-07613 is limited to the irrigation of 80.0 acres in the place of use described above in a single irrigation season.
- * 12. The total instantaneous diversion of water from all points of diversion under Transfer 5348 shall not exceed 11.47 cfs, nor a total combined annual volume of 2804.0 af.
- 13. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.

Dated this 3rd day of April, 2000.


Chief, Water Allocation Bureau

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5342

WATER RIGHT NO(S). 36-02409C/36-02409D/36-02440A/36-02440B
36-02543A/36-02543B/36-02637B/36-02637C/36-07096A/36-07096B

This is to certify that: **TIM H WATERS & BLAINE E MILLER**
LINDA K WATERS 250 S EDEN RD
1931 HUNT RD JEROME ID 83338
JEROME ID 83338

have 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.

TIM H & LINDA K WATERS / 36-02409C, 36-02440A, 36-02543A, 36-02637B & 36-07096A :

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 36-02409C :			
Priority: 12/02/1959			
IRRIGATION	04/01 to 10/31	1.14 CFS	308.8 AF
Right No. 36-02440A :			
Priority: 06/01/1960			
IRRIGATION	04/01 to 10/31	1.74 CFS	463.2 AF
Right No. 36-02543A :			
Priority: 06/18/1962			
IRRIGATION	04/01 to 10/31	1.12 CFS	308.8 AF
Right No. 36-02637B :			
Priority: 01/27/1966			
IRRIGATION	04/01 to 10/31	1.54 CFS	308.8 AF
Right No. 36-07096A :			
Priority: 12/01/1969			
IRRIGATION	04/01 to 10/31	0.77 CFS	154.4 AF
TOTAL:		6.31 CFS	** 1544.0 AF

LOCATION OF POINT(S) OF DIVERSION:

NESE , Sec. 30, Township 08S, Range 20E
JEROME 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>
08S	20E	29	NWSW 40	SWSW 40		80
		30	NESW 33	SESW 33	NESE 40	
			NWSE 40	SWSE 40	SESE 40	226
		31	NENE 40			40
		32	NWNW 40			40

Total number of acres irrigated: * 386

APR 23 2003

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APR 14 1999

TRANSFER NO. 5342
 WATER RIGHT NO(S). 36-02409C/36-02409D/36-02440A/36-02440B
 36-02543A/36-02543B/36-02637B/36-02637C/36-07096A/36-07096B

BLAINE E MILLER / 36-02409D, 36-02440B, 36-02543B, 36-02637C & 36-07096B :

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 36-02409D :			
Priority: 12/02/1959			
STOCKWATER	01/01 to 12/31	0.04 CFS	8.0 AF
COMMERCIAL	01/01 to 12/31	0.04 CFS	0.4 AF
SUBTOTAL:		0.04 CFS	8.4 AF
Right No. 36-02440B :			
Priority: 06/01/1960			
STOCKWATER	01/01 to 12/31	0.06 CFS	12.0 AF
COMMERCIAL	01/01 to 12/31	0.06 CFS	0.6 AF
SUBTOTAL:		0.06 CFS	12.6 AF
Right No. 36-02543B :			
Priority: 06/18/1962			
STOCKWATER	01/01 to 12/31	0.04 CFS	8.0 AF
COMMERCIAL	01/01 to 12/31	0.04 CFS	0.4 AF
SUBTOTAL:		0.04 CFS	8.4 AF
Right No. 36-02637C :			
Priority: 01/27/1966			
STOCKWATER	01/01 to 12/31	0.06 CFS	8.0 AF
COMMERCIAL	01/01 to 12/31	0.06 CFS	0.4 AF
SUBTOTAL:		0.06 CFS	8.4 AF
Right No. 36-07096B :			
Priority: 12/01/1969			
STOCKWATER	01/01 to 12/31	0.03 CFS	4.0 AF
COMMERCIAL	01/01 to 12/31	0.03 CFS	0.2 AF
SUBTOTAL:		0.03 CFS	4.2 AF
TOTAL:		*** 0.23 CFS	*** 42.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 35, Township 08S, Range 19E
 JEROME County

PLACE OF USE: STOCKWATERTWN RGE SEC

08S 19E 35 SWNW

PLACE OF USE: COMMERCIALTWN RGE SEC

08S 19E 35 NENW NWNW SWNW
 SENW

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APR 14 1999

TRANSFER NO. 5342
WATER RIGHT NO(S). 36-02409C/36-02409D/36-02440A/36-02440B
36-02543A/36-02543B/36-02637B/36-02637C/36-07096A/36-07096B

SOURCE

GROUNDWATER

CONDITIONS OF APPROVAL AND REMARKS

1. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
2. This right 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.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- * 5. Right 36-02409C is limited to the irrigation of 77.2 acres in the place of use described above in a single irrigation season.
- * 6. Right 36-02440A is limited to the irrigation of 115.8 acres in the place of use described above in a single irrigation season.
- * 7. Right 36-02543A is limited to the irrigation of 77.2 acres in the place of use described above in a single irrigation season.
- * 8. Right 36-02637B is limited to the irrigation of 77.2 acres in the place of use described above in a single irrigation season.
- * 9. Right 36-07096A is limited to the irrigation of 38.6 acres in the place of use described above in a single irrigation season.
- ** 10. Rights 36-02409C, 36-02440A, 36-02543A, 36-02637B and 36-07096A when combined shall not exceed a total annual maximum diversion volume of 1544.0 af at the field headgate, and the irrigation of 386.0 acres in a single irrigation season.
11. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
12. Commercial use is for a dairy.
13. Use of water under this approval shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.
14. The dairy operation authorized under this approval shall comply with applicable county zoning and use ordinances.
- *** 15. The total instantaneous diversion of water from all points of diversion for the dairy shall not exceed 0.23 cfs, nor a total combined annual volume of 42.0 af.

NOT RECORDED

APR 14 1993

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APR 14 1999

TRANSFER NO. 5342

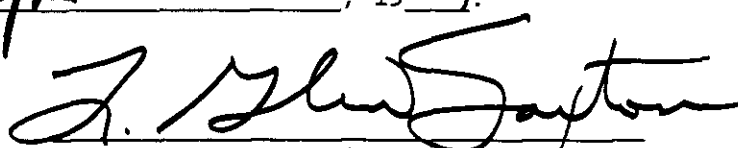
WATER RIGHT NO(S). 36-02409C/36-02409D/36-02440A/36-02440B
36-02543A/36-02543B/36-02637B/36-02637C/36-07096A/36-07096B

CONDITIONS OF APPROVAL AND REMARKS

16. The water used for commercial use under this transfer approval is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water shall not irrigate growing plants unless the water is first beneficially used in the dairy as authorized by these water rights.

17. Two points of diversion are located within SWNW, S35, T08S, R19E.

Dated this 12th day of April, 1999.


Chief, Water Allocation Bureau

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APR 14 1999

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 36-02637A

1993 JAN 15 AM 11:29

FILED
TWIN FALLS CO., IDAHO

NAME & ADDRESS: LINDA K WATERS
TIM H WATERS
1931 HUNT RD
RT 4
JEROME ID 83338

SOURCE: GROUNDWATER

QUANTITY: 1.6 CFS
320.0 AFY

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 6.54 CFS. COMBINED RIGHT NOS.:
36-02440, 36-02409B, 36-02543 & 36-07096.

PRIORITY DATE: 01/27/1966

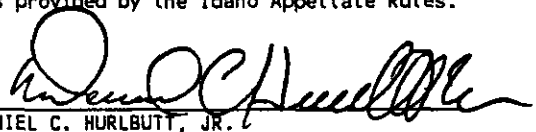
POINT OF DIVERSION: T08S R20E S30 SENESE Within JEROME County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	1.6 CFS 320.0 AFY

PLACE OF USE: IRRIGATION Within JEROME County
T08S R20E S30 NESW 40 NWSE 40
80 ACRES TOTAL

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

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APR 14 1999

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-02637A

PAGE 1
DEC-29-1997

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NOV 20 2003

MEMORANDUM

TO: FILE 36-02637

FROM: PAM SKAGGS

RE: TRANSFER # 5348

DATE: 12-2-98

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 36-02409.

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APR 14 1999

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NOV 20 2003

MEMORANDUM

TO: Files 36-02409B, 36-02440, 36-02543, 36-02637A & 36-07096

FROM: Pam Skaggs/State Office

SUBJECT: Transfer 5342

DATE: March 29, 1999

Transfer 5342 changes the point of diversion, place, nature & season of use under portions of the above referenced rights to provide for enlargement of an existing dairy. The remaining irrigation portions of the rights are changed to reflect the existing combined right permissible place of use system found while investigating the transfer for dairy purposes. No physical changes will be made to the irrigation portions of the rights.

All of these rights have been recommended in the SRBA and Rights 36-02637A and 36-07096 have been decreed. Each of these rights prior to transfer, have individual places of use with no overlapping acres, but are tied together through the same well and combined right limits. The combined rights provided 6.54 cfs for 400.0 unique acres from the same well. The transfer proposes, with the approval of the right holder, retiring 14 specific acres by reducing each right proportionately and reducing the permissible place of use to 386 total acres.

Season of use and diversion volume were adjusted for the dairy use. Recommended conditions include drilling permit requirements, multiple points of diversion limits, measuring & annual reporting, water quality, county zoning, land application, irrigation overlap, permissible place of use & combined right limits, and standard transfer conditions.

Change in Nature of Use Evaluation

				Div. Vol./C.U. Vol.
Combined Rights prior to Transfer	=	6.54 cfs	400.0 acres	1600.0 afa/1200.0 afa
36-02409B---	Part C)	1.14 cfs	77.2 acres	308.8 afa/ 231.6 afa
	Part D)	0.04 cfs	(2.8 acres)	8.4 afa/ 8.4 afa
36-02440 ---	Part A)	1.74 cfs	115.8 acres	463.2 afa/ 347.4 afa
	Part B)	0.06 cfs	(4.2 acres)	12.6 afa/ 12.6 afa
36-02543 ---	Part A)	1.12 cfs	77.2 acres	308.8 afa/ 231.6 afa
	Part B)	0.04 cfs	(2.8 acres)	8.4 afa/ 8.4 afa
36-02637A---	Part B)	1.54 cfs	77.2 acres	308.8 afa/ 231.6 afa
	Part C)	0.06 cfs	(2.8 acres)	8.4 afa/ 8.4 afa
36-07096 ---	Part A)	0.77 cfs	38.6 acres	154.4 afa/ 115.8 afa
	Part B)	0.03 cfs	(1.4 acres)	4.2 afa/ 4.2 afa
		6.31 cfs	386.0 acres	1544.0 afa/1158.0 afa
		0.23 cfs (14.0 acres)		42.0 afa/ 42.0 afa
		6.54 cfs	400.0 acres	1586.0 afa/1200.0 afa

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APR 14 1999
NOV 20 2003

MEMORANDUM

36-2637
TO: FILE 36-02409
FROM: PAM SKAGGS
RE: TRANSFER # 5342
DATE: 11-18-98

Original Transfer Application, Form and correspondence
regarding the above referenced Transfer is located within
file # 36-02409.

36-2409

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APR 14 1999