

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

FAXED October 7, 2003
1-208-327-7866

RECEIVED
OCT - 9 2003

Department of Water Resources

State of Idaho
Department of Water Resources
Attn: Jeff Peppersack
1301 North Orchard Street
Boise, ID 83706

Re: Transfer No.: 70534 – Preliminary Order
Petition for Reconsideration - Conditions of Approval #2

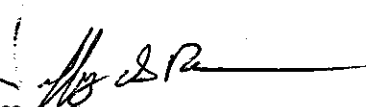
Dear Mr. Peppersack:

On behalf of our client Notch Butte Farms LLC, we have reviewed the preliminary order for Water Rights 36-16154 & 36-16155 and wish to formally submit a petition for reconsideration on Transfer #70534 and Water Right #36-16154.

Specifically, we object to Condition of Approval #2 which indicates that a portion of this right has been abandoned. Abandonment requires the intent of the right holder to abandon a right or portion of the right and according to our analysis and regional analysis by IDWR Southern Region personnel, abandonment of water under this right was not in question.

The condition is a carry-over condition from the parent right and is no longer applicable due to proper use of the right in accordance with the place of use. Thank you and have a great day.

Sincerely,


Jeffrey S. Rau, P.E.

Cc: John Lezamiz – Notch Butte LLC

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

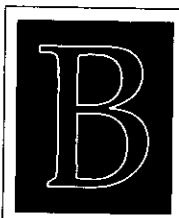
CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

FAXED October 7, 2003
1-208-327-7866

State of Idaho
Department of Water Resources
Attn: Jeff Peppersack
1301 North Orchard Street
Boise, ID 83706

Re: Transfer No.: 70530 – Preliminary Order
Exception to Listed Place of Use

Dear Mr. Peppersack:

On behalf of our client Notch Butte Farms LLC, we have reviewed the preliminary order for Water Rights 36-16148 & 36-16149 and wish to request an evaluation of the recommended place of use listed on Water Right 36-16148.

The transfer documents prepared for IDWR allowed for the transfer of 34 acres from water right 36-2173 to a new place of use and an adjustment in the place of use of the remainder 356 acres. As stated in Part 2C of the transfer documents, it was our intention to allocate 35 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 32.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ for irrigation for the remainder portion of the right. This adjustment was made to better reflect the actual irrigation practice in these two quarter sections. The preliminary notice signed on September 23, 2003 does not reflect this adjustment.

We would request that the place of use in the remainder portion of the right 36-16148 be adjusted to reflect the intent of that shown in the transfer documents prior to a final order on this right. Please review this request and contact me if you have any questions or comments. We would appreciate the opportunity to review an amended preliminary order if the place of use is changed. Thank you and have a great day.

Sincerely,

Jeffrey S. Rau, P.E.

Cc: John Lezamiz – Notch Butte LLC

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