

**BEFORE THE IDAHO DEPARTMENT WATER RESOURCES  
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION  
FOR TRANSFER NO. 78283 IN THE  
NAME OF BUCKEYE FARMS, INC.**

**FINAL ORDER**

**PROCEDURAL BACKGROUND**

On January 25, 1994, Buckeye Farms, Inc. ("Buckeye") filed application for transfer no. 4930 with the Idaho Department of Water Resources ("Department") proposing to change the place of use for water right nos. 36-15 and 36-18. As a result of the Department transitioning to new transfer processing software, the application was renumbered to transfer no. 66354 in approximately 2000, and again renumbered to transfer no. 78283 ("the transfer") in December, 2012.

Notice of the application for transfer was published beginning on October 23, 1996. Aqua Life Inc., Western Legends LC, Michael G. Branchflower ("Branchflower"), and Verl C. Bell ("Bell"), protested the application.

Following the filing of protests in 1996, a formal hearing on the protests for the transfer was delayed pending a final determination of the rights in the Snake River Basin Adjudication ("SRBA"). During that time, several parties to the transfer and other applications for permit filed by Buckeye agreed to withdraw their protests. On October 13, 1998, Western Legends LC withdrew its protest. On October 27, 2010, Branchflower withdrew his protest. On November 3, 2010, Aqua Life Inc. withdrew its protest.

Since November of 2010, the Department conducted three additional pre-hearing conferences between Buckeye and Bell. After the most recent pre-hearing conference held on May 22, 2013, the Department issued a scheduling order for the exchange of briefs and identification of issues to be addressed. Based on a stipulation between the parties, the Department agreed to issue a decision without formal hearing after September 2, 2013.

On July 17, 2013, Buckeye amended the transfer to clarify the location of the proposed place of use. On August 15, 2013, Bell withdrew his protest. On August 29, 2013, Buckeye filed its rebuttal brief with the Department and requested that the transfer be approved based on the record created.

On November 21, 2013, the Department issued its *Preliminary Order Approving Application for Transfer* ("Preliminary Order") approving in part transfer no. 78283. The Preliminary Order bifurcated water right nos. 36-15 and 36-18 to avoid an enlargement of acres irrigated due to an overlap with another water right. The split portion of water right no. 36-15 was designated as water right no. 36-16987 and the split portion of water right no. 36-18 was designated as water right no. 36-16988. The Department determined that the amount of acres within the place of use that did not overlap with other decreed rights totaled 306.4 acres and were approved to be moved under water right nos. 36-16987 and 36-16988. The Preliminary Order determined that the water rights appurtenant to the remaining 176.6 acres could not be transferred because of an overlap with the place of use identified by water right no. 36-4. The original water right numbers were retained on the original acres that overlapped with water right no. 36-4, resulting in reduced diversion rates and reduced place of use acres.

On December 4, 2013, the Department received Buckeye's *Petition for Reconsideration* of the Preliminary Order. On December 13, 2013, the Department issued its *Order Denying Petition for Reconsideration*.

### **EXCEPTIONS TO PRELIMINARY ORDER**

On December 27, 2013, Buckeye filed with the Director of the Department ("Director") its *Exceptions Brief* ("Exceptions"). Oral argument was not requested. Buckeye's exceptions are summarized and addressed as follows:

Buckeye argues that as a result of the Department's decision to approve the transfer by bifurcating water right nos. 36-15 and 36-18, Buckeye "is left with only 63% of its water rights." *Exceptions* at 1.

The transfer approval did not reduce Buckeye's water rights; instead, it approved in part and left the remaining portions intact at the original place of use. Although it was not clear in the Preliminary Order, the intent of the bifurcation was to approve the part that had no enlargement issue and preserve the remainder for future consideration of a transfer if the enlargement issue could be resolved.

The Director has reviewed the extent of overlap between water right no. 36-4 and water right nos. 36-15 and 36-18 as determined in the Preliminary Order. The extent of historic overlap is not completely clear based on the evidence in the records. In the Preliminary Order, the Department assumed the maximum overlap within each decreed forty-acre tract. For example, water right no. 36-4 was decreed with 32 acres within the NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, Section 26, T07S, R13E and water right nos. 36-15 and 36-18 were decreed with a combined 35 acres within the same tract. In the Preliminary Order, the Department assumed that the 32 acres under water right no. 36-4 were completely within the 35 acres under water right nos. 36-15 and 36-18. Consequently, only 3 acres within the NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub> were approved for transfer under water right nos. 36-15 and 36-18 due to the enlargement issue. Without better evidence, the Director will assume the minimum overlap within each decreed forty-acre tract. Based on the example above, the extent of overlap in the NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub> would be only 27 acres, leaving 8 acres that could be

transferred without the enlargement issue. The changes will be reflected in the Findings of Fact and the transfer approvals in this Final Order.

Buckeye argues that because water right nos. 36-15 and 36-18 were not decreed with a condition acknowledging overlap with water right no. 36-4 or any other decreed right, it cannot be presumed that the rights overlap.

Although the rights were not decreed with overlap conditions, the rights have place of use descriptions that partially overlap. Furthermore, Buckeye acknowledges that water under right no. 36-4 was used on the overlapping place of use when water under right nos. 36-15 and 36-18 was unavailable. *Opening Brief* (July 17, 2014) at 2, 3, 7-9. Whether water rights include an overlap condition or not, the Department presumes overlapping use if the place of use (or a portion thereof) is the same.

Buckeye argues that “water rights may have the same place of use identified, but have no overlapping use,” much the same as water rights that have a Permissible Place of Use (“PPU”). *Exceptions* at 3.

The Director agrees that a PPU may describe an authorized place of use for multiple water rights with no overlapping use. However, rights within a PPU include a condition limiting use of the rights to a specified number of acres within the described PPU. Without a specific condition limiting the acres, it must be assumed that the use overlaps within the described place of use.

Buckeye argues that “the development of these rights plainly demonstrates that water right nos. 36-15 and 36-18 did not ‘historically overlap’ water right no. 36-4.” *Exceptions* at 3. Buckeye further argues that because the rights were originally developed on separate land or were not used on the same land at the same time, then there was no overlapping use.

Whether or not water right no. 36-4 was developed on a place of use separate from water right nos. 36-15 and 36-18 or used at times when water right nos. 36-15 and 36-18 were unavailable is irrelevant. Water right no. 36-4 was decreed for use on some of the same lands as decreed rights nos. 36-15 and 36-18. The decrees do not limit or restrict their combined usage on those lands. While the water rights remain appurtenant to the decreed places of use, there is no concern regarding enlargement of use under those rights (within the limits of the decrees). However, if water right nos. 36-15 and 36-18 are allowed to be separated from the overlapping place of use with water right no. 36-4, the result would be an enlargement when the rights are considered in combination.

Water right nos. 36-15 and 36-18 were decreed to allow a total of 483 irrigated acres. Water right no. 36-4 was decreed to allow a total of 416 irrigated acres. Using the minimum overlap determination discussed above, 140 acres identified as a place of use by water right no. 36-4 are also identified as a place of use by water right nos. 36-15 and 36-18. At their decreed place of use, the total number of acres irrigated under all three rights in combination would be 722.4 acres. If the transfer were approved as requested, the total number of acres that could be irrigated under all three rights in combination would increase to 862.4 acres. Furthermore, once

separated, the volume of water use under water right no. 36-4 would likely be increased to provide a full supply for all of the increased acreage.

Buckeye argues that because the place of use for water right no. 36-4 was based on an accomplished transfer, and because an accomplished transfer may only be recognized if it does not cause injury to other rights, then the transfer approval's reduction of water right nos. 36-15 and 36-18 should be rejected because such reduction constitutes injury. *Exceptions* at 5.

As discussed above, the transfer approval did not reduce Buckeye's water rights; instead, it approved in part and left the remaining portions intact at the original place of use. When used as decreed, the combined water use pursuant to water right nos. 36-4, 36-15 and 36-18 on the decreed places of use is not limited or restricted. The enlargement issue arises as a result of the request to alter the way the rights would be exercised by separating the overlapping portion of the rights through a change in the place of use.

Buckeye argues that "at most, the record shows that water right no. 36-4 was supplemental to nos. 36-15 and 36-18." *Exceptions* at 6. "As a result of the Hearing Officer's failure to recognize the supplemental use of water right no. 36-4, the decision concludes that lands in Hagerman can beneficially use 4.5 inches/acre." *Exceptions* at 7. "The Department's Transfer Memorandum No. 24 specifically allows the transfer of supplemental water rights following a consideration of the use of the water. Rather than consider this use, however, the Hearing Officer refused to conduct this analysis." *Id.*

Buckeye argues that because the Department did not recognize the use of right no. 36-4 as supplemental, the Department is acknowledging that the rights could all be used together beneficially (totaling 4.5 inches per acre). Because the SRBA decrees do not restrict how the rights are used in combination, Buckeye and Western Legends LC could use the rights together, although this could result in the waste of water if such amounts are unnecessary. "[N]either [a] licensee nor anyone claiming a right under [a] decree, shall at any time be entitled to the use of more water than can be beneficially applied on the lands for the benefit of which such right may have been confirmed." *In Matter of Distribution of Water to Various Water Rights Held By or For Ben. of A & B Irrigation Dist.*, 155 Idaho 640, \_\_\_, 315 P.3d 828, 838 (2013) (citations and quotation marks omitted).

In practice, the Department considers a supplemental right to have a different source than the associated primary right and is restricted for use when the primary right is unavailable or insufficient. A typical example would be a ground water right used to supplement an earlier-priority surface water right. A supplemental right is always considered to be an overlapping or stacked right, whether it is used while the associated primary right is still partially available or after the primary right is fully curtailed. Non-supplemental overlapping rights don't include a restriction on timing of use because the source is generally the same or there is no need for the restriction to protect a particular source. Although water right no. 36-4 was historically used to provide additional water at times when water right nos. 36-15 and 36-18 were available, water right no. 36-4, as decreed, would not be considered a supplement right under the Department's definition of a supplemental water right.

As recognized in Transfer Memorandum No. 24, the Department does allow the transfer of supplemental water rights in some circumstances. The place of use for a supplemental right may be changed for continued use as a supplemental right at a different place of use provided the primary rights at the original and proposed places of use provide comparable water supplies. Buckeye's application is not seeking to transfer its rights for continued supplemental use, so the circumstance is not applicable.

The Department also allows a change from a supplemental right for use as a primary right if the applicant can clearly demonstrate, using historic diversion records for the supplemental right, that there would be no enlargement of the water rights being changed or other related water rights. Because the Department requires that use of a supplemental right is limited to times when the primary right is unavailable or insufficient, enlargement of the primary right is usually not a concern. To prevent enlargement, an approval of a change from a supplemental right to a primary use requires that the use of water under the supplemental right is limited to its historic use.

If water right no. 36-4 is considered to be a supplemental right for this transfer, separation from the primary rights could only be approved under very limited circumstances. Water right nos. 36-15 and 36-18 would need to be moved to a place of use where a similar primary-supplemental relationship could be established with another right. In this unusual circumstance, water right no. 36-4 is senior to water right nos. 36-15 and 36-18, but had been used only when water right nos. 36-15 and 36-18 were unavailable. The supplemental right at the new place of use would need to be similar in priority date and source. Or, if a similar primary-supplemental relationship could not be established with another right, then the transfer of right nos. 36-15 and 36-18 to a new place of use would require the use of water right no. 36-4 to be limited to its historic volume to prevent its enlargement. For the Department to approve such a transfer, the consent of the owner of water right no. 36-4 would be required.

After considering the Preliminary Order, Exceptions and other evidence, the Director finds, concludes and orders as follows:

### FINDINGS OF FACT

1. On September 16, 1988, Spring Valley Ranch, Inc. ("Spring Valley") claimed in the SRBA water right no. 36-4 and others on 360 acres within the S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$  and SE $\frac{1}{4}$  Section 23; and W $\frac{1}{2}$ SW $\frac{1}{4}$  Section 24, T07S, R13E.
2. On February 7, 1989, Buckeye deeded to Spring Valley the SW $\frac{1}{4}$  of Section 23; N $\frac{1}{2}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$  and SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 26 all in T07S, R13E. The deed reserved water right nos. 36-3, 36-15, 36-16, 36-17, permit nos. 36-7740 and 36-7742 and 67.5 shares in the Big Bend Irrigation and Mining Co. Water right no. 36-18 was not listed.
3. On April 24, 1989, Buckeye claimed in the SRBA water right nos. 36-15 and 36-18 on 870 total acres within Sections 23, 26 and 35, T07S, R13E including the place of use for lands sold to Spring Valley listed above.

4. On December 29, 1989, Spring Valley amended its claim of water right no. 36-4 for irrigation of a total of 734.9 acres, including lands purchased from Buckeye listed above.

5. On January 25, 1994, Buckeye filed application for transfer no. 4930 renumbered to transfer no. 78283.

6. On October 10, 1995, Spring Valley deeded to Western Legends LC its lands referenced above including appurtenant water right no. 36-4.

7. On March 6, 1997, water right nos. 36-15 and 36-18 were partially decreed in the name of Buckeye in the SRBA.

8. Water right nos. 36-15 and 36-18 authorize the irrigation of 483 acres in Sections 23, 26 and 35, T07S, R13E. Portions of the place of use for these water rights are on lands owned by Western Legends LC.

9. On July 22, 1999, water right nos. 36-4 and 36-15534<sup>1</sup> were partially decreed in the name of Western Legends LC in the SRBA with portions overlapping the place of use of decreed water right nos. 36-15 and 36-18.

10. Water right nos. 36-4 and 36-15534 authorize the irrigation of 416 acres in Sections 23, 24 and 26, T07S, R13E.

11. The documents submitted by Buckeye in this proceeding establish that the place of use for water right nos. 36-4, 36-15 and 36-18 historically overlapped:

“Buckeye Farms did use water from the Spring Valley ranches – including water right no. 36-04 at times when Spring Valley land had excess water. This water was rented or diverted from Spring Valley with their permission.” *Aff. of John A. Burke* at ¶ 14.

“[Spring Valley] owns Right No. 36-0004 for 15 cfs of water with a priority date of September 10, 1884, for use on other lands owned by [Spring Valley] although water from said right has been used by [Buckeye] and [Buckeye’s] predecessors on the parcel which is the subject of this Agreement when not otherwise being used by [Spring Valley].” *Aff. of John A. Burke*, Ex. A at 3.

12. Buckeye participated in the SRBA objection resolution of water right no. 36-4 and signed the SRBA Standard Form 5 settlement document whereby it was agreed that water right no. 36-4 was historically used on the lands sold to Spring Valley listed above. The same lands where a portion of water right nos. 36-15 and 36-18 are decreed.

13. Buckeye water right nos. 36-15 and 36-18 and Western Legends LC water right nos. 36-4 and 36-15534 were decreed in the SRBA as partial overlapping water rights.

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<sup>1</sup> Water right no. 36-15534 was originally claimed in the SRBA as part of water right no. 36-4. The right was decreed based on beneficial use with a later priority date, resulting in a separate water right number.

14. Since 1999, water right nos. 36-4 and 36-15534 have been split by ownership and are no longer active water right numbers. Water right no. 36-4 has been split into water right nos. 36-16831, 36-16832, 36-16833, 36-16834, 36-16835, and 36-16885. Water right no. 36-15534 has been split into water right nos. 36-16856 and 36-16857.

15. Water right nos. 36-15 and 36-18 currently overlap with active water right nos. 36-16831, 36-16834, 36-16856 and 36-16857. The extent of historic overlap is not completely clear based on the evidence in the records. Without better evidence, the Director will assume the minimum overlap within each decreed forty-acre tract. Attachment "A" is a spreadsheet describing in detail the overlap scenarios considered for each 40-acre tract. The extent of overlap is determined to be 140 acres.

16. The proposed place of use is similar in soil character as the current place of use requiring similar amounts of water to irrigate using historical practices.

### CONCLUSIONS OF LAW

1. Idaho Code § 42-222 sets forth the criteria used to evaluate transfer applications:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter.

2. Buckeye satisfied its burden of proof for the review criteria set forth in Idaho Code § 42-222 for moving a portion of the rights. However, those portions of water right nos. 36-15 and 36-18 overlapping with the active water right numbered successors to water right nos. 36-4 and 36-15534 must be excluded from the transfer approval because if the portions of the rights that overlap other rights were allowed to be transferred, the transfer to another place of use would result in the enlargement of the use of the water and increase the overall number of acres irrigated in the area contrary to Idaho Code § 42-222. *Barron v. Idaho Dep't of Water Res.*, 135 Idaho 414, 420, 18 P.3d 219, 225 (2001) (If two water rights are unstacked and one is moved to another tract, with the result that the two water rights would irrigate more land, "then there is an enlargement of the water right.")

3. In order to prevent enlargement of the water rights, the transfer approval should include only the portions of the rights and the number of acres under water right nos. 36-15 and 36-18 that do not overlap with other water rights.

### ORDER

IT IS HEREBY ORDERED that application for transfer no. 78283 in the name of Buckeye Farms Inc. is APPROVED in part and upon conditions as set forth in the attached "Approval of Transfer No. 78283".

Dated this 21<sup>st</sup> day of February, 2014.

  
GARY SPACKMAN  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 21<sup>st</sup> day of February, 2014, I mailed a true and correct copy of the foregoing document, postage pre-paid, to the following:

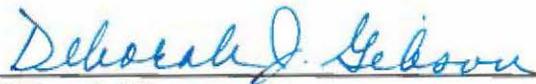
BUCKEYE FARMS INC  
PO BOX 269  
HAGERMAN ID 83332

BARKER ROSHOLT & SIMPSON  
ATTN JOHN SIMPSON  
1010 W JEFFERSON STE 102  
PO BOX 2139  
BOISE ID 83701-2139

BARKER ROSHOLT & SIMPSON  
ATTN PAUL ARRINGTON  
195 RIVER VISTA PL STE 204  
TWIN FALLS ID 83301

OLD CURRAN RANCH  
PO BOX 3398  
HAILEY ID 83333

WESTERN LEGENDS LC  
C/O WILLIAM LEHMAN  
PO BOX 764  
KETCHUM ID 83340



Deborah Gibson  
Administrative Assistant to the Director

# ATTACHMENT A

11-11-13

FEB 21 2014

## Buckeye Transfer Split

Attachment A Transfer No. 78283

Right No.	Priority	Source	CFS	Acres	Overlap		
					CFS	Acres	
Parent 36-15	3/8/1902	Weatherby Spring	6.50	483	6.50	483	
Child 36-15					1.88	140	
Child 36-16987					4.62	343	
Parent 36-18	4/1/1917	Billingsley Creek	20.00	483	20.00	483	
Child 36-18					5.80	140	
Child 36-16988					14.20	343	
<b>Right 36-4</b>				36-15534			
					Primary	Overlap	
Sec 23	NESW		32	5.6	5	32	0
	NWSW		35	32	32	8	27
	SWSW		40	34	34	6	34
	SESW		34	27	27	13	21
Sec 26	NENW		10	20	20	10	
	NWNW		22	39	39	1	21
	SENW		21	38	38	2	19
	NESW		19	39	39	1	18
	SESW		16			16	
	NWSE		6	10	10	6	0
	SWSE		22			22	
	SESE		12			12	
Sec 35	NENE		8			8	
	NWNE		9			9	
	SWNE		38			38	
	SENE		9			9	
	NENW		15			15	
	NWNW		2			2	
	SENW		37			37	
	NESW		40			40	
	NESE		19			19	
	NWSE		37			37	
			<b>483</b>	<b>244.6</b>		<b>343</b>	<b>140</b>

Lands retained by Buckeye

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT  
TRANSFER NO. 78283

This is to certify that: BUCKEYE FARMS INC  
PO BOX 269  
HAGERMAN, ID 83332

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

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
36-15	WR/DECREED	3/8/1902	6.50 cfs	N/A	483	483	WEATHERBY SPRINGS
36-18	WR/DECREED	4/1/1917	20.0 cfs	N/A	483	483	BILLINGSLEY CREEK

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
36-7740	WR/LICENSE	8/1/1977	6.500 cfs	4710.0 af	N/A	N/A	WEATHERBY SPRINGS
36-8728	WR/LICENSE	9/24/1987	6.500 cfs	763.0 af	N/A	N/A	WEATHERBY SPRINGS
36-7742	WR/LICENSE	8/1/1977	20.000 cfs	14500.0 af	N/A	N/A	BILLINGSLEY CREEK
36-8730	WR/LICENSE	9/24/1987	20.000 cfs	763.0 af	N/A	N/A	BILLINGSLEY CREEK
36-16831	WR/DECREED	9/10/1884	8.730 cfs	N/A	209.6	242.2	BILLINGSLEY CREEK
36-16834	WR/DECREED	9/10/1884	0.340 cfs	N/A	7.8	9.0	BILLINGSLEY CREEK
36-16856	WR/DECREED	2/15/1946	0.070 cfs	N/A	2.0	9.0	BILLINGSLEY CREEK
36-16857	WR/DECREED	2/15/1946	14.100 cfs	56.0 af	54.0	241.0	BILLINGSLEY CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
36-15	YES	NO	YES	NO	NO	NO
36-18	YES	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
36-15	36-16987	4.620 cfs	N/A	343.0	439.2	36-15	1.880 cfs	N/A	140.0	140.0
36-18	36-16988	14.200 cfs	N/A	343.0	439.2	36-18	5.800 cfs	N/A	140.0	140.0
<b>COMBINED TOTALS</b>		<b>18.820 cfs</b>	<b>N/A</b>	<b>343.0</b>	<b>439.2</b>		<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

Transfer No. 78283

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT  
TRANSFER NO. 78283

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Director







**WATER RIGHT NO. 36-16987**  
**As Modified by Transfer No. 78283**

**CONDITIONS OF APPROVAL**

4. Rights 36-16987, 36-00015, 36-08728 and 36-07740 when combined shall not exceed a total diversion rate of 6.5 cfs.
5. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 36A.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.





**WATER RIGHT NO. 36-16988**  
**As Modified by Transfer No. 78283**

**CONDITIONS OF APPROVAL**

4. Rights 36-16988, 36-00018, 36-08730 and 36-07742 when combined shall not exceed a total diversion rate of 20 cfs.
5. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 36A.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.

Transfer No. 78283

**WATER RIGHT NO. 36-7740  
As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-7740 is now described as follows:

**Right Holder:** BUCKEYE FARMS INC  
PO BOX 269  
HAGERMAN, ID 83332

**Priority Date:** 8/1/1977

**Source:** WEATHERBY SPRINGS      **Tributary:** BILLINGSLEY CREEK

<u><b>BENEFICIAL USE</b></u>	<u><b>From</b></u>	<u><b>To</b></u>	<u><b>Diversion Rate</b></u>	<u><b>Diversion Volume</b></u>
FISH PROPAGATION	01/01	to 12/31	6.500 cfs 6.500 cfs	4710.0 af 4710.0 af

**LOCATION OF POINT(S) OF DIVERSION**

WEATHERBY SPRINGS      SENESW      Sec 30 Twp 07S Rge 14E GOODING County

**PLACE OF USE: FISH PROPAGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE														
07S	13E	34							X					X						
									L7					L3						

**CONDITIONS OF APPROVAL**

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Rights 36-16987, 36-00015, 36-08728 and 36-07740 when combined shall not exceed a total diversion rate of 6.5 cfs.
4. Use of water under this right shall be non-consumptive.
5. Water is delivered through Bar S Ditch and Curren Ditch.
6. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.

Transfer No. 78283

RECORDED

FEB 21 2014

**WATER RIGHT NO. 36-8728**  
**As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-8728 is now described as follows:

**Right Holder:** BUCKEYE FARMS INC  
 PO BOX 269  
 HAGERMAN, ID 83332

**Priority Date:** 9/24/1987

**Source:** WEATHERBY SPRINGS                      **Tributary:** BILLINGSLEY CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
AESTHETIC STORAGE	01/01	to 12/31		763.0 af
DIVERSION TO STORAGE	01/01	to 12/31	6.500 cfs	
RECREATION STORAGE	01/01	to 12/31		763.0 af
WILDLIFE STORAGE	01/01	to 12/31	6.500 cfs	763.0 af

**LOCATION OF POINT(S) OF DIVERSION**

WEATHERBY SPRINGS      SENESW      Sec 30 Twp 07S Rge 14E GOODING County

**PLACE OF USE: AESTHETIC STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE														
07S	13E	27												X				X	X	
07S	13E	33			X	X												X	X	X
07S	13E	33			X													X		
					L4													L10		
07S	13E	34	X	X		X	X		X		X	X	X		X	X		X	X	
07S	13E	34							X			X	X		L3			L1	L2	
07S	13E	35		X					L7			X	X		L4	L5				

**PLACE OF USE: RECREATION STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE															
07S	13E	27													X					X	X
07S	13E	33			X	X												X	X		X
07S	13E	33			X													X			
					L4													L10			
07S	13E	34	X	X		X	X		X		X	X	X		X	X		X	X		
07S	13E	34							X			X	X		L3			L1	L2		
07S	13E	35		X					L7			X	X		L4	L5					

Transfer No. 78283

SCANNED

FEB 21 2014

**WATER RIGHT NO. 36-8728**  
**As Modified by Transfer No. 78283**

**PLACE OF USE: WILDLIFE STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
07S	13E	27																X			X	X	
07S	13E	33			X	X												X	X			X	
07S	13E	33			X													X					
					L 4																		
07S	13E	34	X	X		X	X			X		X	X					X	X				
											L 3							X			L 1	L 2	
07S	13E	34								X		X	X										
											L 7		L 4	L 5									
07S	13E	35		X			X					X									X		

**CONDITIONS OF APPROVAL**

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Rights 36-16987, 36-00015, 36-07740 and 36-08728 when combined shall not exceed a total diversion rate of 6.5 cfs.
4. Rights 36-08729, 36-08730, 36-08335 and 36-08728 when combined shall not exceed a total annual maximum storage volume of 871 af.
5. The uses of water under this right are for private fishing, hunting and aesthetic ponds.
6. Water is delivered through Bar S Ditch and Curren Ditch.

Transfer No. 78283

78283  
 FEB 27 2014

**WATER RIGHT NO. 36-7742**  
**As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-7742 is now described as follows:

**Right Holder:** BUCKEYE FARMS INC  
 PO BOX 269  
 HAGERMAN, ID 83332

**Priority Date:** 8/1/1977

**Source:** BILLINGSLEY CREEK                      **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
FISH PROPAGATION	01/01	to 12/31	20.000 cfs	14500.0 af
			20.000 cfs	14500.0 af

**LOCATION OF POINT(S) OF DIVERSION**

BILLINGSLEY CREEK              NESWNE              Sec 31 Twp 07S Rge 14E GOODING County

**PLACE OF USE: FISH PROPAGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE															
07S	13E	34								X				X							
										L7				L3							

**CONDITIONS OF APPROVAL**

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Rights 36-16988, 36-00018, 36-08730 and 36-07742 when combined shall not exceed a total diversion rate of 20 cfs.
4. Use of water under this right shall be non-consumptive.
5. Water is delivered through Curren Ditch.
6. This right is subject to the agreement dated 7/18/88 between right holder and protestants to the extent such agreement covers matters within the jurisdiction of IDWR.
7. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.

Transfer No. 78283

RECEIVED  
 FEB 2 1991

**WATER RIGHT NO. 36-8730**

**As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-8730 is now described as follows:

**Right Holder:** BUCKEYE FARMS INC  
PO BOX 269  
HAGERMAN, ID 83332

**Priority Date:** 9/24/1987

**Source:** BILLINGSLEY CREEK                      **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
AESTHETIC STORAGE	01/01	to 12/31		763.0 af
DIVERSION TO STORAGE	01/01	to 12/31	20.000 cfs	
RECREATION STORAGE	01/01	to 12/31		763.0 af
WILDLIFE STORAGE	01/01	to 12/31	20.000 cfs	763.0 af

**LOCATION OF POINT(S) OF DIVERSION**

BILLINGSLEY CREEK                      NESWNE                      Sec 31 Twp 07S Rge 14E      GOODING County

**PLACE OF USE: AESTHETIC STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	27												X			X	X	
07S	13E	33			X	X											X	X	X
07S	13E	33			X												X		
					L4												L10		
07S	13E	34	X	X		X	X		X	X	X	X	X		X	X			
07S	13E	34							X			X	X		L1	L2			
07S	13E	35		X				X						X					

**PLACE OF USE: RECREATION STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	27															X		
07S	13E	33			X	X											X	X	X
07S	13E	33			X												X		
					L4												L10		
07S	13E	34	X	X		X	X		X	X	X	X	X		X	X			
07S	13E	34							X			X	X		L1	L2			
07S	13E	35		X				X						X					

Transfer No. 78283

SCANNED

FEB 21 2014





**WATER RIGHT NO. 36-16831**  
**As Modified by Transfer No. 78283**

**CONDITIONS OF APPROVAL**

1. The operation and administration of this water right is also subject to the terms and conditions of the following contractual agreement: The water right agreement entered into on September 16, 1998, between Western Legends LC and The Magic Valley Ground Water District, North Snake Ground Water District, American Falls-Aberdeen Ground Water District, Bingham Ground Water District, The Idaho Ground Water Appropriators, Inc., and Cranney Bros., filed of record in the office of the Gooding County clerk and recorded on September 28, 1998, as instrument No. 177310; the provisions of such agreement (including, without limitation, paragraphs 4.A – 4.F, 5 and 7 thereof) to apply fully to this water right notwithstanding the fact that the agreement may contain references to source of water for this right, acres, priority dates, or other matters of that differ from those specified herein.
2. Water is delivered through the Curren Ditch.
3. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 209.6 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 36-16857 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 242.2 ACRES IN A SINGLE IRRIGATION SEASON.
4. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
5. Rights 36-15, 36-18, 36-16857, 36-16831, 36-16856 and 36-16834 when combined shall not exceed a total irrigation of 251.2 acres in any one season.
6. USE OF THIS RIGHT WITH RIGHT NO. 36-16857 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.73 CFS.
7. THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED, SO LONG AS THE QUANTITY DIVERTED AT THE POINT OF DIVERSION DOES NOT CONSTITUTE UNREASONABLE WASTE.

**WATER RIGHT NO. 36-16834**  
**As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-16834 is now described as follows:

**Right Holder:** WESTERN LEGENDS LC  
 C/O WILLIAM LEHMAN  
 PO BOX 764  
 KETCHUM, ID 83340

**Priority Date:** 9/10/1884

**Source:** BILLINGSLEY CREEK                      **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	02/15	to 11/30	0.340 cfs
STOCKWATER	01/01	to 12/31	0.040 cfs
			0.340 cfs

**LOCATION OF POINT(S) OF DIVERSION**

BILLINGSLEY CREEK            NESWNE            Sec 31 Twp 07S Rge 14E    GOODING County

**PLACE OF USE: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
07S	13E	26								9.0													9.0

Right Acre Limit: 7.8

POU Total Acres: 9.0

**PLACE OF USE: STOCKWATER**

Twp	Rng	Sec	NE				NW				SW				SE				Totals				
			NE	NW	SW	SE																	
07S	13E	23																					X

**CONDITIONS OF APPROVAL**

1. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 7.8 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 36-16856 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 9 ACRES IN A SINGLE IRRIGATION SEASON.
2. Water is delivered through the Curren Ditch.
3. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Transfer No. 78283

RECORDED  
 FEB 24 2014

**WATER RIGHT NO. 36-16834**  
**As Modified by Transfer No. 78283**

**CONDITIONS OF APPROVAL**

4. Rights 36-15, 36-18, 36-16857, 36-16831, 36-16856 and 36-16834 when combined shall not exceed a total irrigation of 251.2 acres in any one season.
5. USE OF THIS RIGHT WITH RIGHT NO. 36-16856 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .34 CFS.
6. THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED, SO LONG AS THE QUANTITY DIVERTED AT THE POINT OF DIVERSION DOES NOT CONSTITUTE UNREASONABLE WASTE.
7. The operation and administration of this water right is also subject to the terms and conditions of the following contractual agreement: The water right agreement entered into on September 16, 1998, between Western Legends LC and The Magic Valley Ground Water District, North Snake Ground Water District, American Falls-Aberdeen Ground Water District, Bingham Ground Water District, The Idaho Ground Water Appropriators, Inc., and Cranney Bros., filed of record in the office of the Gooding County clerk and recorded on September 28, 1998, as instrument No. 177310; the provisions of such agreement (including, without limitation, paragraphs 4.A – 4.F, 5 and 7 thereof) to apply fully to this water right notwithstanding the fact that the agreement may contain references to source of water for this right, acres, priority dates, or other matters of that differ from those specified herein.

Transfer No. 78283

RECORDED

FEB 21 2014

**WATER RIGHT NO. 36-16856  
As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-16856 is now described as follows:

**Right Holder:** WESTERN LEGENDS LC  
C/O WILLIAM LEHMAN  
PO BOX 764  
KETCHUM, ID 83340

**Priority Date:** 2/15/1946

**Source:** BILLINGSLEY CREEK                      **Tributary:** SNAKE RIVER

<u><b>BENEFICIAL USE</b></u>	<u><b>From</b></u>	<u><b>To</b></u>	<u><b>Diversion Rate</b></u>
IRRIGATION	02/15	to 11/30	0.070 cfs 0.070 cfs

**LOCATION OF POINT(S) OF DIVERSION**

BILLINGSLEY CREEK                      NESWNE                      Sec 31 Twp 07S Rge 14E GOODING County

**PLACE OF USE: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	26						9.0											9.0

Right Acre Limit: 2.0  
POU Total Acres: 9.0

**CONDITIONS OF APPROVAL**

1. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 2.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 36-16834 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 9.0 ACRES IN A SINGLE IRRIGATION SEASON.
2. Water is delivered through the Curren Ditch.
3. The operation and administration of this water right is also subject to the terms and conditions of the following contractual agreement: The water right agreement entered into on September 16, 1998, between Western Legends LC and The Magic Valley Ground Water District, North Snake Ground Water District, American Falls-Aberdeen Ground Water District, Bingham Ground Water District, The Idaho Ground Water Appropriators, Inc., and Cranney Bros., filed of record in the office of the Gooding County clerk and recorded on September 28, 1998, as instrument No. 177310; the provisions of such agreement (including, without limitation, paragraphs 4.A – 4.F, 5 and 7 thereof) to apply fully to this water right notwithstanding the fact that the agreement may contain references to source of water for this right, acres, priority dates, or other matters of that differ from those specified herein.

Transfer No. 78283

APPROVED

FEB 21 2014

**WATER RIGHT NO. 36-16856**  
**As Modified by Transfer No. 78283**

**CONDITIONS OF APPROVAL**

4. USE OF THIS RIGHT WITH RIGHT NO. 36-16834 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF .42 CFS.
5. Rights 36-15, 36-18, 36-16857, 36-16831, 36-16856 and 36-16834 when combined shall not exceed a total irrigation of 251.2 acres in any one season.

**WATER RIGHT NO. 36-16857  
As Modified by Transfer No. 78283**

In accordance with the approval of Transfer No. 78283, Water Right No. 36-16857 is now described as follows:

**Right Holder:** OLD CURRAN RANCH LLC  
PO BOX 3398  
HAILEY, ID 83333

**Priority Date:** 2/15/1946

**Source:** BILLINGSLEY CREEK                      **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DIVERSION TO STORAGE	01/01	to 12/31	14.100 cfs	
IRRIGATION	02/15	to 11/30	1.950 cfs	
WILDLIFE	01/01	to 12/31	14.100 cfs	
WILDLIFE STORAGE	01/01	to 12/31	14.100 cfs	56.0 af
				56.0 af

**LOCATION OF POINT(S) OF DIVERSION**

BILLINGSLEY CREEK                      NESWNE                      Sec 31 Twp 07S Rge 14E GOODING County

**PLACE OF USE: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
07S	13E	23																		98.0
07S	13E	26			6.0		20.0	30.0		38.0	39.0						10.0			143.0

Right Acre Limit: 54.0  
POU Total Acres: 241.0

**PLACE OF USE: WILDLIFE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE															
07S	13E	23																			
07S	13E	26								X											

**PLACE OF USE: WILDLIFE STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE															
07S	13E	23																			
07S	13E	26								X											

Transfer No. 78283

SCANNED

FEB 21 2014

**WATER RIGHT NO. 36-16857**  
**As Modified by Transfer No. 78283**

**CONDITIONS OF APPROVAL**

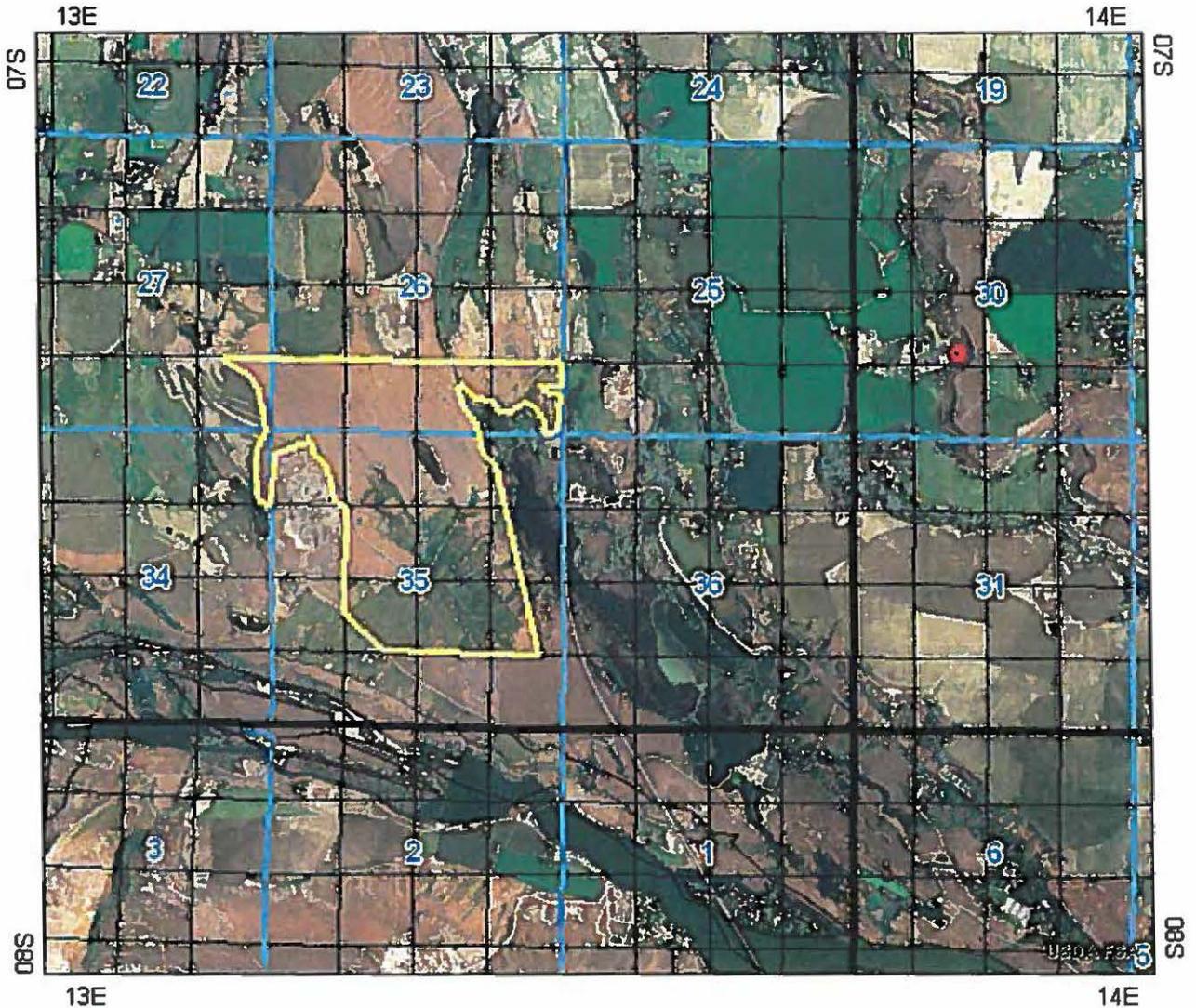
1. The operation and administration of this water right is also subject to the terms and conditions of the following contractual agreement: The water right agreement entered into on September 16, 1998, between Western Legends LC and The Magic Valley Ground Water District, North Snake Ground Water District, American Falls-Aberdeen Ground Water District, Bingham Ground Water District, The Idaho Ground Water Appropriators, Inc., and Cranney Bros., filed of record in the office of the Gooding County clerk and recorded on September 28, 1998, as instrument No. 177310; the provisions of such agreement (including, without limitation, paragraphs 4.A – 4.F, 5 and 7 thereof) to apply fully to this water right notwithstanding the fact that the agreement may contain references to source of water for this right, acres, priority dates, or other matters of that differ from those specified herein.
2. Water is delivered through the Curren Ditch.
3. STORAGE CAPACITY 56.0 AF.  
USE OF THIS RIGHT WITH RIGHT NO. 36-16831 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.73 CFS.
4. Rights 36-15, 36-18, 36-16857, 36-16831, 36-16856 and 36-16834 when combined shall not exceed a total irrigation of 251.2 acres in any one season.
5. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 54.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 36-16831 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 242.2 ACRES IN A SINGLE IRRIGATION SEASON.

# Attachment To Transfer No. 78283 Final Order

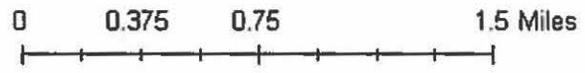
Right: 36-16987

Limited to 343 acres within 439.2 acre Place of Use Boundary shown

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- 13E
- 07S
- 08S
- 14E
- 07S
- 08S
- 13E
- 14E
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



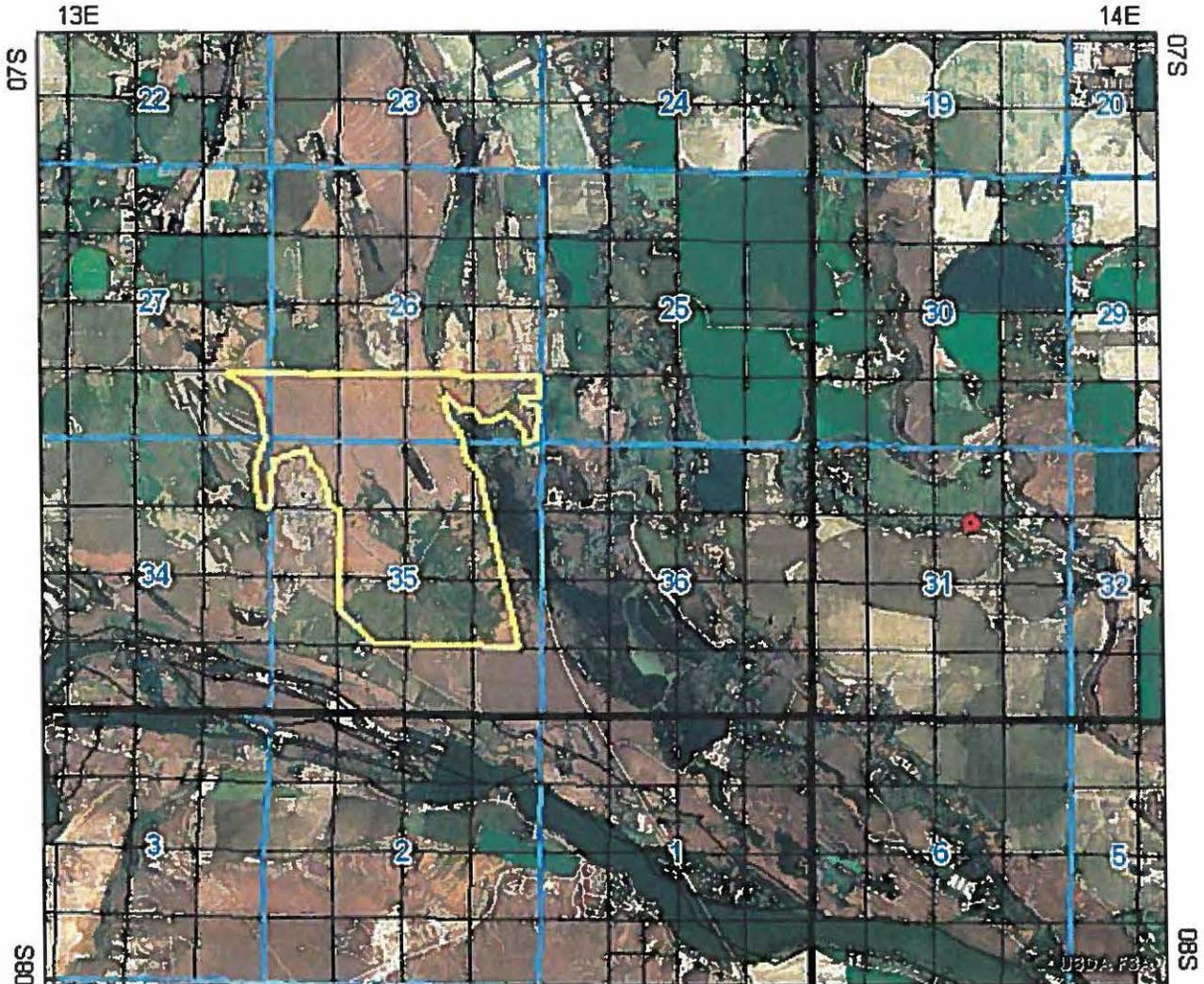
SCANNED

# Attachment To Transfer No. 78283 Final Order

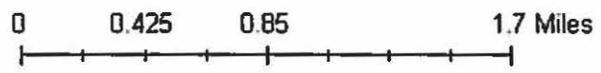
Right: 36-16988

Limited to 343 acres within 439.2 acre Place of Use Boundary shown

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- 13E
- 14E
- 07S
- 08S
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



SCANNED  
FEB 21 2014

## EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

### PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: The petition must be received by the Department within this fourteen (14) day period.** 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 67-5246(4), Idaho Code.

### REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.