



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

JUN 22 1995

WATER RESOURCES
WESTERN REGION

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 03N Range 02E
Section 13, 1/4 of SW 1/4 of NE 1/4, Govt. Lot _____, BM.

Lot _____, Block _____, Subdivision/Townsite _____.

If you have additional legal descriptions, please attach separate sheet.

- [] also SE 1/4 NE 1/4 SW 1/4; W 1/2 NE 1/4; E 1/2 NW 1/4 all in Sec. 13, T. 3N, R. 2E.
Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

RECEIVED

MAY 13 2004

WATER RESOURCES
WESTERN REGION

- [] Water Right Number(s) _____
Assigned by IDWR: A63-09661
- [] Name and Address of Former Owner/Claimant(s)(Seller): State of Idaho, Dept of Education, Idaho Historical Society
210 Main St., Boise, ID 83702
(Lessee: Idaho Botanical Garden, 2355 E. Old Penitentiary Rd)
- [] New Owner/Claimant (Purchaser): State of Idaho, Department of Lands
- [] New Mailing Address: 1215 W. State Street, Boise, ID 83702
- [] New Telephone Number: (208) 334-0200
- [] Does the change in ownership result in a splitting of the water right owned/claimed? yes X no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- [] Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- [] Signature of New Owner/Claimant(s) JAY G BILADEAU - ASST DIRECTOR, LMR Date 6/1/95
- [] Signature of Former Owner/Claimant(s) JOHN R HILL - DIRECTOR, IDAHO HISTORICAL SOCIETY Date 7/1/95

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

MAY 19 2004

Address <http://wenet/apps/appsmisc/infoSearch.asp>

B	Se...	S	Source Table	Basis	Status	Priority Date	DI...	Source List	Water Use ...	Owner List	Applic...
63	9661		wiAdjudicationClaim	Permit	Active	1981-01-16	2.20	GROUND WATER	IRRIGATION	STATE OF IDAHO (Current)	
63	9661		wiWaterApplication		Closed	1981-01-16	2.20	GROUND WATER	IRRIGATION		42949
63	9661		wiWaterPermit		Active	1981-01-16	2.20	GROUND WATER	IRRIGATION	STATE OF IDAHO (Current)	

The number of records is 3

View Documents

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Report

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Both of these water rights are in AJ.

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THIS OWNERSHIP
CHANGE WAS
COMPLETED IN
1995.
NO ACTION NEEDED.

MAY 13 2004

WATER RESOURCES
WESTERN REGION

AGREEMENT

This AGREEMENT, made this 21st day of February, 1995, by and between the City of Boise, hereinafter referred to as CITY, the Idaho Botanical Garden, hereinafter referred to as IBG and the Department of Lands, hereinafter referred to as STATE, sets forth the agreement for the establishment, operation, and maintenance of a Joint Irrigation Project.

WHEREAS, CITY is a municipal corporation organized under the laws of the State of Idaho and is a lessee of state lands, lease #M-2033, formerly number M-276, located within the Old Penitentiary site known as Quarry View park; and

WHEREAS, IBG is a private non-profit corporation organized under the laws of the State of Idaho and is a lessee of state lands, lease #M-6026, located at the Old Penitentiary site known as the Idaho Botanical Garden; and

WHEREAS, STATE is acting on behalf of the State of Idaho; and

WHEREAS, STATE has a permit, number 63-09661 and a license, number 63-10241, for the diversion of water from a well generally known as the Old Penitentiary Well No. 1, hereinafter referred to as Well #1; and

WHEREAS, IBG has existing rights to use water from Well #1 under the above noted STATE permit and license pursuant to long term lease #M-6040 between STATE and IBG and;

WHEREAS, CITY as lessee, has a permit, number 63-10022, for the diversion of water from a well located in CITY's Quarry View Park, hereinafter referred to as Quarry View Park Well; and

WHEREAS, the parties desire to enter into an agreement to establish a Joint Irrigation Project, hereinafter referred to as the PROJECT, as shown in Exhibit A hereof, and establish rights and responsibilities of the parties for funding, constructing, and operating the PROJECT; and

WHEREAS, an additional point of diversion for the existing water rights of STATE and CITY has been obtained for a well generally referred to as Old Penitentiary Well No. 2, hereinafter referred to as Well #2, which is located on CITY property at the Warm Springs Golf Course; and,

WHEREAS, the PROJECT will include the design, purchase, installation, and operation of an irrigation system to serve properties owned or leased by the parties, the estimated costs of such being set forth in Exhibit B hereof.

NOW, THEREFORE, in consideration of the mutual benefits to the parties, it is agreed as follows:

1. CITY shall:
 - a. Provide all routine engineering, survey, inspection, legal and management services for the design of the PROJECT, without charge or reimbursement from the parties or from loans or grants obtained for the PROJECT.

- b. Prior to completion of construction of the PROJECT, prepare an annual operating budget and operating procedures for review and approval by all parties.
- c. Arrange for electric service for operating the PROJECT and receive the PROJECT electric service billing from the Idaho Power Company. The PROJECT shall have water meters to measure the water use by each party and such meters shall be read monthly by CITY personnel coincidentally to the reading of the electric meter for the water pump.
- d. Timely pay its proportionate share of debt service and loan repayment costs of the PROJECT.
- e. Operate and maintain the PROJECT in the best interest of all parties.
- f. Agree that water from the PROJECT shall be used only for irrigation.
- g. When the PROJECT is completed, and so long as it remains operational and provides an adequate supply of water, agree to use Well #2 for irrigation purposes in lieu of the Quarry View Park Well.
- h. In the event the CITY obtains the rights to use of Well #2, as a supplemental or secondary source of irrigation water for the Warm Springs Golf Course, the CITY may use Well #2 for such use provided such use does not unreasonably interfere

with use of Well #2 by IBG or the STATE and provided said use is metered and paid for in accordance with Section i below.

- i. Timely pay its proportionate share of the charge for electric service based upon the metered water usage plus fifty percent (50%) thereof, for deposit into a special reserve fund, hereinafter referred to as FUND, in accordance with Section 4(b) hereof.

2. IBG shall:

- a. File an application with the Department of Water Resources seeking a grant from the Water Management Account or other available sources. All grant monies issued by the Water Management Account or other sources shall be applied to funding costs of constructing the main water line and related improvements from Well #2 to Well #1 as shown in Exhibits A and B hereof.
- b. File an application with the Department of Water Resources seeking a loan from the Revolving Development Account or other sources. All monies from loans shall, after payment of the costs of the loan application, be applied to funding costs of constructing the main water line and related improvements from Well #2 to Well #1 as shown in Exhibit A hereof. Loan monies received in excess of those necessary to construct the main water line and related improvements between Well #1 and Well #2 may be applied toward the costs of constructing the branch service lines for

CITY's Quarry View Park and the STATE's Old Penitentiary. Any loan monies remaining after construction of the main and branch service lines shall be applied to repayment of the loan principal.

- c. Using the PROJECT drawings and specifications prepared by the CITY, arrange for and administer construction of the PROJECT and keep a detailed accounting of all costs associated with the PROJECT and provide CITY and STATE copies of such accounting records upon request.
- d. Timely pay its portion of debt service and loan repayment costs.
- e. Agree that water from the PROJECT shall be used only for irrigation.
- f. When the PROJECT is completed, and so long as it remains operational and provides an adequate supply of water, agree to use Well #2 for irrigation purposes in lieu of Well #1.
- g. Timely pay its proportionate share of the electric service bill based upon the metered water usage plus fifty percent (50%) thereof, for deposit into the FUND, in accordance with Section 4(b) hereof.
- h. Agree to permit the use of the current existing reservoir for the PROJECT.

- i. Agree to allow CITY use of water from Well #2 for irrigation of Warm Springs Golf Course, subject to CITY receipt of water rights for the Warm Springs Golf Course provided such use does not interfere with use of Well #2 by IBG or STATE.

3. STATE or its designated representative shall:

- a. Pay all costs associated with the construction of any branch service line and/or water meter from the existing water line to the Old Penitentiary or other state land for state use.
- b. Agree that water from the PROJECT shall be used only for irrigation.
- c. When the PROJECT is completed, and so long as it remains operational and provides an adequate supply of water, agree to use Well #2 for irrigation purposes in lieu of Well #1.
- d. Timely pay its proportionate share of the electric service bill based upon the metered water usage plus fifty percent (50%) thereof, for deposit into the FUND, in accordance with Section 4(b) hereof.
- e. Agree to permit the use of the current existing reservoir for the PROJECT.

f. Agree to permit installation of the main water line and branch service lines and related improvements upon its property as shown in Exhibit A. Said main water line and branch service lines to be incorporated into Lease M-6026 and Lease M-2033.. No additional rent will be charged for these water lines.

g. Agree to allow CITY use of water from Well #2 for irrigation of Warm Springs Golf Course, subject to CITY receipt of water rights for the Warm Springs Golf Course provided such use does not interfere with use of Well #2 by IBG or STATE.

4. Proportionate sharing of costs:

a. All parties agree that costs for construction of the PROJECT, debt service and related costs of funds borrowed for development of the PROJECT shall be shared as follows:

1. Direct costs to third parties, debt service and loan expenses pertaining to construction of the main water line and related improvements from Well #1 to Well #2 to be shared as shown on Exhibit "B" between CITY and IBG.

2. All costs, debt service, and loan expenses pertaining to extending the branch service line and a meter to serve CITY's Quarry View Park shall be paid by CITY.

3. All costs, debt service, and loan expenses for extending the branch service line and a meter to the Old Penitentiary or other state property for state use shall be paid by STATE, if such is installed.
- b. Each shall pay its share of charges for PROJECT electric services as billed monthly by CITY in proportion to their metered water usage. In addition, each party shall pay an additional sum, an amount over and above their monthly charge for electric service, equal to fifty percent (50%) of said charges for electric service.
1. Said additional sum shall be deposited by CITY into an interest bearing account which shall be a special reserve fund referred to herein as FUND.
 2. FUND shall be used for the express purpose of paying expenses necessary to repair, replace or maintain PROJECT as agreed upon by all parties.
 3. At such time as the FUND shall equal five thousand dollars (\$5,000), no additional contribution of the parties to the FUND shall be required, except as provided below.
 4. When authorized FUND expenditures reduce the balance to less than five thousand dollars (\$5,000), all parties shall resume monthly contributions in the manner described in 4(b) until FUND is replenished to five thousand dollars (\$5,000).

5. CITY shall provide a detailed statement of expenditures annually and at other times upon reasonable request of the parties.

5. Additional terms:

- a. Costs of necessary easements, if any, to be acquired from third parties are to be included as a cost of constructing the main water line from Well #1 to Well #2.
- b. The parties may use water from the PROJECT in the quantities and for the uses permitted at any time their respective water right/permit allows.
- c. Any money received from the Boise Warm Springs Water District shall be applied to costs incurred for extending the water system from Well #1 to Well #2.
- d. If anticipated or quoted cost estimates exceed the projected costs, as described in Exhibit B hereof, the parties, by mutual agreement, may (1) make alternative financing arrangements to cover the additional costs; or (2) cancel the PROJECT if construction has not begun or if all parties consent by written agreement to do so.
- e. If significant expenditures are required to keep the PROJECT operational and there is not adequate money in the FUND, the parties shall have the option to (1) no longer use the PROJECT, provided that all other financial obligations required by this Agreement have been met or (2) secure additional funds to pay for repair,

replacement, and maintenance expenditures. Repair, replacement, and maintenance costs shall be split on a proportional basis based upon the metered water usage by the parties over the immediately preceding three year period.

- f. All parties hereby grant mutual rights of access to all portions of the PROJECT for the operation, repair, and maintenance of the PROJECT. If any party chooses to forfeit their right to use the PROJECT, the remaining parties shall have the right to continue to repair, maintain, and operate the PROJECT and shall continue to have access to all properties, including the existing reservoir and piping, for said repair, maintenance, and operation. The forfeiting party shall be reimbursed any uncommitted monies in the FUND in the amount of its actual contribution of the then existing FUND balance.
- g. Should the parties, by written mutual agreement, consent to abandon the PROJECT, any costs relating thereto shall be first paid from the FUND balance, if any, and then shared by each party proportionate to metered water usage during the immediately preceding three (3) year period. If the PROJECT is to be abandoned, any party may, with the written approval of all other participants and at its own expense, salvage all or a portion of the PROJECT, and shall be entitled to retain the value of such salvaged portion.

- h. Should the parties fail to obtain adequate funding as described in 2(a) and (b) above, or the PROJECT system is not operational within five (5) years from the execution of this AGREEMENT, then any party may declare this agreement null and void.
- i. This AGREEMENT may be amended at any time by the agreement of all parties. Any party seeking an amendment shall provide thirty (30) days written notice to the other parties. All parties shall conduct negotiations for amendment terms in good faith.
- j. All parties shall meet annually, at the beginning of the irrigation season, to review payments, policies and procedures.

6. Insurance

Each party will maintain and keep in force and effect during the life of this AGREEMENT public liability and property damage insurance in the minimum amounts required by Idaho Code Section 6-924.

7. Termination - Default

IBG, STATE and CITY agree that in the event of a default by any party, the non-defaulting party(s) shall give sixty (60) days notice to the defaulting party(s) of the default. The defaulting party(s) shall have said sixty (60) days to correct the default. If the default is not

corrected within sixty (60) days, the non-defaulting party(s) may institute further proceedings due to the default, however, it is the intent and agreement of the parties that connection of water facilities shall occur, if at all possible, and any default shall be remedied by the defaulting party with the defaulting party paying any cost or expense of the non-defaulting party as a result of the default. The defaulting party shall pay, all reasonable costs and attorney's fees incurred in enforcing the provisions of this AGREEMENT.

8. Dispute Resolution

If a dispute between the parties arises out of or relates to this AGREEMENT, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation before resorting to litigation or other dispute resolution procedure. The parties shall share equally the mediator's fees and expenses.

9. Attorneys Fees and Engineers

IBG, STATE, and CITY agree that in the event of a default by any party, the non-defaulting party shall be entitled to recover and the defaulting party shall pay, all reasonable costs and attorney's fees incurred in enforcing the provisions of this Agreement. It is further agreed by IBG, STATE and CITY that each of them is represented by its own counsel and engineer; that neither party has relied on statements or representation by others counsel or engineer, and have been advised and counseled by its own attorney, engineer or other competent persons regarding all matters which pertain to this transaction.

10. Notices

Any notices required or allowed in this AGREEMENT shall be effectively given if placed in a sealed envelope, postage prepaid, and deposited in the mail, registered or certified, addressed as follows:

To the CITY: Boise City Department of Parks and Recreation
 Attn: Director
 1104 Royal Blvd.
 Boise, ID 83706-2898

To IBG: Idaho Botanical Garden
 P.O. Box 2140
 Boise, ID 83702

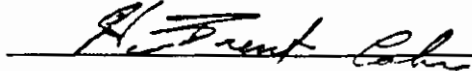
To The STATE: State of Idaho Department of Lands
 PO Box 83720
 Boise, ID 83720-0050

11. This AGREEMENT may not be assigned or transferred without the express written consent of all parties.

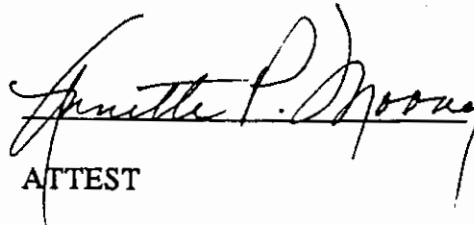
12. Term: This AGREEMENT shall be for a period of ten (10) years with automatic annual renewal, with approval of all parties.

END OF AGREEMENT

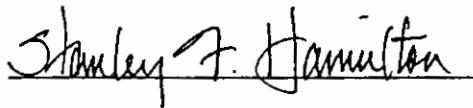
Executed this day and year above written.



CITY OF BOISE



ATTEST

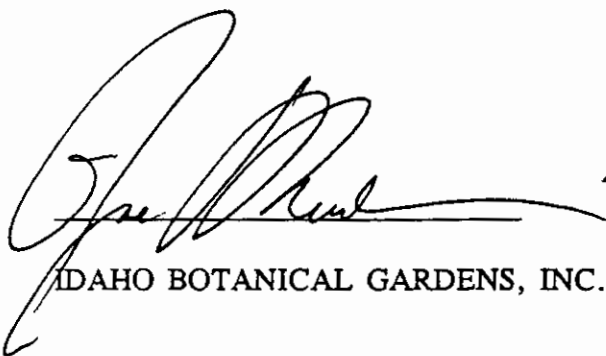


STATE OF IDAHO

DEPARTMENT OF LANDS



ATTEST



IDAHO BOTANICAL GARDENS, INC.

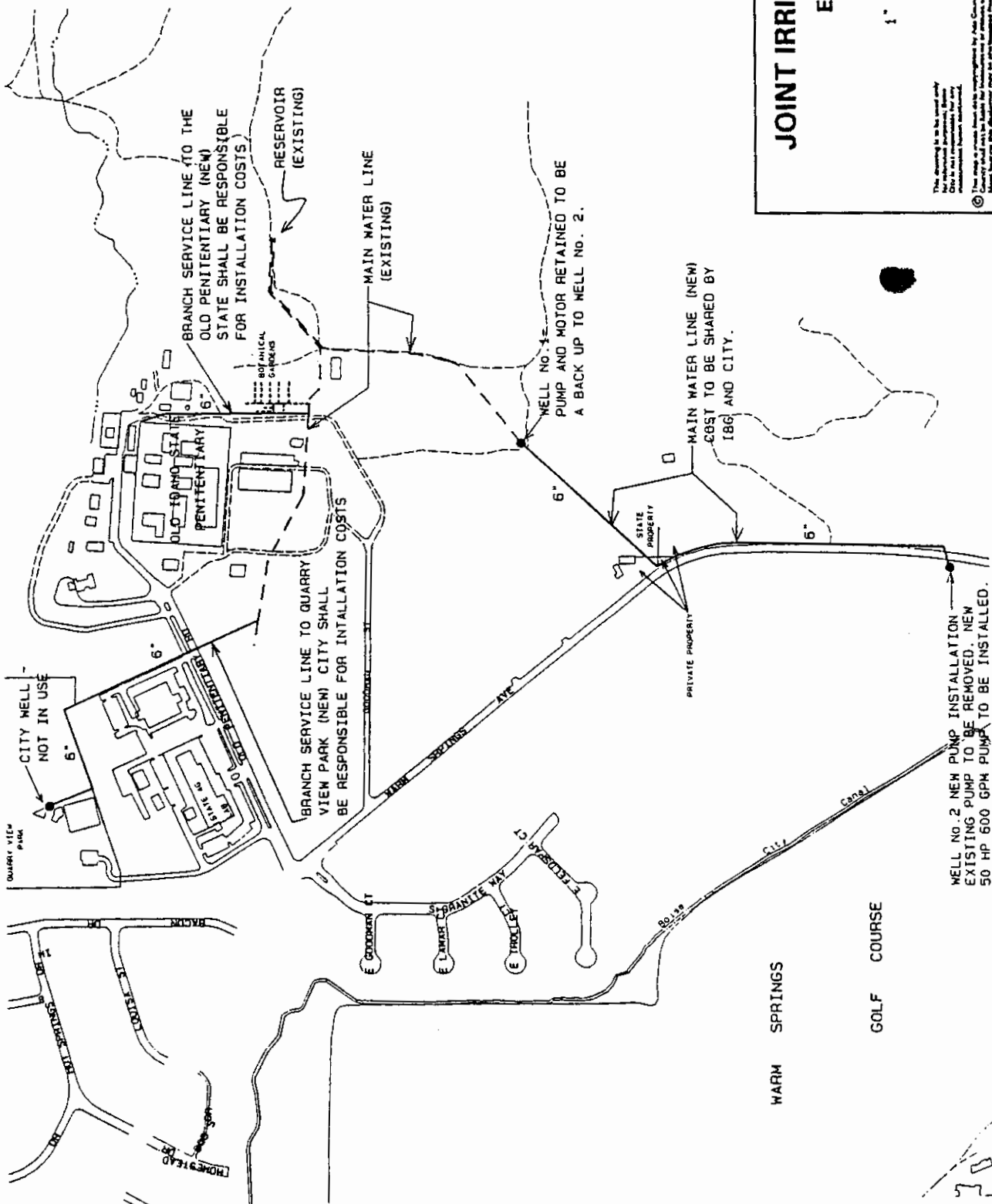


ATTEST

Exhibit "A" - PROJECT Map

Exhibit "B" - PROJECT Cost Estimate

2WP/4WP/AL/GEO-91.Agr



JOINT IRRIGATION PROJECT EXHIBIT "A"

1" = 400 Feet



100 S. EAST ST. 3RD FL.
BOISE, IDAHO 83721
JAN 1968

CNO19302

This drawing is to be used only for the project indicated. It is not to be used for any other project without the written consent of the City of Boise.

This map is made from data supplied by the City of Boise and the Idaho Bureau of Reclamation. The City of Boise is not responsible for the accuracy of the data supplied by the Idaho Bureau of Reclamation. The Idaho Bureau of Reclamation is not responsible for the accuracy of the data supplied by the City of Boise.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

JULY 3, 1995

RECEIVED

PHILIP E. BATT
GOVERNOR

STATE OF IDAHO
DEPARTMENT OF LANDS
1215 W STATE STREET
BOISE ID 83702

MAY 13 2004

KARL J. DREHER
DIRECTOR

WATER RESOURCES
WESTERN REGION

Dear Wateruser(s):

This office has reviewed the Notice of Change of Water Right Ownership form submitted to our office. However, due to the items checked below, we cannot continue to process this ownership change. We are returning the Notice of Change of Ownership to you to COMPLETE OR RESEARCH ONLY THE FOLLOWING ITEM(S) SHOWING A CHECKMARK IN THE BLANK FOR THAT ITEM(S). SEE PAGE 2.

There is no existing water right in our records either under the former owner's name or for the legal description given. If, after contacting the former owner, you find more information concerning a water right, please contact us.

Legal description of property. Please complete showing the legal description by 1/41/4 (40-acre tract), section, township and range for the property changing ownership. If you only have a subdivision lot & block legal description, please send us a copy of your subdivision plat map.

It appears you receive your water from an irrigation district, ditch company, municipality or community water company. If this is the case, then the water right remains in the name of this entity and you should contact them concerning the ownership change.

Name and address of former owner (seller). This will clarify the original owner of the water right.

Name, address and phone number of new owner (purchaser).

This change in ownership appears to result in a splitting of the water right. A split of the water right occurs when the ownership change affects only a portion of the original right. In order to accurately split this right we must know what portion of the right was sold. The amount of water in CFS, the place of use by 1/4 1/4 with the number of acres in each 1/41/4 (if applicable) and the point of diversion by 1/41/4, Section, Township and Range is needed. If this right is not being split, please submit proof of ownership for the remaining portion. Enclosed is a computer copy of this right for your review.

Proof of ownership is needed. This proof can be a copy of the warranty deed, sales contract or tax assessment in your name which includes a description of this property by 1/41/4, Section, Township and Range.