

08/31/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: September 29, 2006

Water right number: 73-4106

ROBERT W CHEWNING
139 PAHSIMEROI RD
ELLIS ID 83235
Telephone Number: (208)876-4291

VIRGINIA H CHEWNING
139 PAHSIMEROI RD
ELLIS ID 83235
Telephone Number: (208)876-4291

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

We disagree with the priority date assigned.

2. Describe the changes you wish to make in the proposed recommendation:

We want the priority date changed to 12/14/1934, the date Boise H. Ellis acquired the property in Water Right 73-4106. This is the Boise Ellis referenced in the AFFIDAVIT by Jack B. Furey concerning this water right. The IDWR has a copy of this AFFIDAVIT on file.

3. Give a brief explanation as to why you disagree with these portions:

See attached statement and deed.

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

9/21/2006

SIGNATURE:

Virginia H. Chewning
Robert W. Chewning

Please print your name:

ROBERT W. & VIRGINIA H. CHEWNING

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

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We disagree with the priority date assigned.

2. Describe the changes you wish to make in the proposed recommendation:

We want the priority date changed to 12/14/1934, the date Boise H. Ellis acquired the property in water right 73-4106. This is the Boise Ellis referenced in the Affidavit by Jack B. Furey concerning this water right. The IDWR has a copy of this Affidavit on file. Give a brief explanation as to why you disagree with these portions:

See attached statement and deed.

_____ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

9/21/2006

SIGNATURE:

Virginia H. Chewning
Robert W. Chewning

Please print your name:

ROBERT W. & VIRGINIA H. CHEWNING

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

Attached Statement for water claim 73-4106

ROBERT W. & VIRGINIA H. CHEWNING
139 Pahsimeroi Rd.
Ellis, Idaho 83235
Telephone Nr. (208) 876-4291

3. Give a brief description as to why you disagree with these portions:

The date of priority being proposed by IDWR is the date that Jack B. Furey in his AFFIDAVIT concerning Water Right A73-04106 first saw the diversion facilities shown by Boise.

Ellis. Jack Furey was in the process of purchasing the surrounding lands at the time. Note that his AFFIDAVIT states "... these facilities had the appearance (as did the ditch and the field at the place of use) as being quite old. I know that the diversion and ditch (and water) were being used beneficially in the late season of 1948, but it is my best belief that use predated 1948 by many years."

We are attaching a copy of STATE OF IDAHO DEED Nr 8907 certificate Nr 15748 showing that Boise H. Ellis acquired the property in question on December 14, 1934.

STATE OF IDAHO DEED

Number 8907
Certificate No. 15718

To All to Whom These Presents Shall Come, Greetings:

Whereas, on the 22nd day of December 1919, all that tract or parcel of Public School land of the State of Idaho, hereinafter mentioned and particularly described, was sold in the manner provided by law to J. L. KIMMATHICK of PATTERSON, State of IDAHO, for the aggregate price of EIGHT HUNDRED and no/100 DOLLARS

And Whereas, the said sum of EIGHT HUNDRED and no/100 DOLLARS has been fully paid to the proper receiving officer for the State of Idaho, by POISE H. ELLIS, who acquired his equity by assignment from William and Roberta Kirkpatrick, husband and wife, dated December 14, 1934, recorded December 27, 1934; who acquired his equity by decree of distribution from J. L. Kirkpatrick, deceased, dated May 4, 1931, recorded December 27, 1934.

recorded December 27, 1934.
as shown by the records in the office of the State Board of Land Commissioners, the said sum being the whole amount of the purchase price for the said tract or parcel of land hereinafter described:

Now, Know Ye, That the said State of Idaho, in pursuance of law in such case made and provided, and in consideration of the premises aforesaid, and of the aforesaid sum of EIGHT HUNDRED and no/100 DOLLARS to the said State of Idaho paid, doth by these presents grant, bargain, sell, convey and confirm, in fee, unto the said BOISE-II. ELLIS his heirs and assigns, all of the said tract and parcel of land situated in the County of CUSTER and State of Idaho, and described as follows, to-wit:

The Northeast Quarter of the Northeast Quarter (NE¹/4NE¹/4), Section Thirty-six (36); Township Sixteen (16) North, Range Twenty (20) East Poise Meridian, containing 40 acres, more or less.

To have and to hold the said premises and parcel of land above particularly described, with the appurtenances thereon, unto the said ROISE H. ELLIS, his heirs and assigns, in fee simple forever, subject to the provisions of Section 50-604, Idaho Code, as amended by Chapter 44, 1951 Session Laws; which Grants cover all lands belonging to the State a right of way for ditches constructed by authority of the United States; and to the provisions of Section 47-701, Idaho Code, reserving to the State all Mineral rights in lands sold subsequent to the 8th day of May, 1923.

In Witness Whereof, I Robert E. Smylie, the Governor of the State of Idaho, have hereunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the Board of Land Commissioners to be hereunto affixed, this 12 day of November, 1958 A.D.

Countersigned:

Jas. H. Young

Secretary of State

(SUAL)

Robert E. Smylie

(SEAL) State Board of Land Commissioners
Governor of Idaho and President of
Robert R. Campbell

Countersigned:

Arthur Wilson

State Land Commissioner

STATE OF IDAHO,)

County of Ada,

On this 12 day of November, in the year 1953, A.D., before me, a Notary Public in and for said State, personally appeared Robert E. Smylie, known to me to be the Governor of the State of Idaho, and Jas. H. Young, known to me to be the Secretary of the State of Idaho, and Arthur Wilson, known to me to be the land Commissioner of the State of Idaho, who executed said instrument and acknowledged to me that such State of Idaho executed the same.

In Witness Whereof, I have hereunto set my hand and seal on the day and year last above written.

(TVS)

M C Hamblin

Notary Public residing at Boise, Idaho

State of Idaho) ss
County of Lemhi)

Recorded at the request of Boise Ellis December 3rd 1958 at 15 minutes past 11 o'clock A. M., in Book 47 of Deeds Page 89 Records of Lemhi County, Idaho

Fees, \$7.50 Paid

W.W. Simonds
County Recorder
By

Apal Redding
Deputy