



Governor Brad Little

Director Gary Spackman

July 15, 2022

John and Lindsey Andrus
15504 S 2990 W
Bluffdale, UT 84065

Keith and Judy Bitton Family Trust
397 Fish Hatchery Road
Grace, ID 83241

RE: Notices of Change in Water Right Ownership for Water Right 13-774 and 13-775

Dear Property Owners:

On May 17, 2022, Keith and Judy Bitton Family Trust (“Bitton”) filed a Notice of Change in Water Right Ownership, seeking to update the ownership records for water right 13-774 and John and Lindsey Andrus (“Andrus”) filed a similar notice seeking to update the ownership records for water right 13-775. These two water rights are currently combined over a 120-acre place of use. The owner of record for water rights 13-774 and 13-775 is James Elliot. The notices from Bitton and Andrus included deeds tracing ownership of their respective properties back to James Elliot. The notices filed by Bitton and Andrus are deficient and propose changes to the water rights that can only be made through an application for transfer (to update the place of use for the water rights). This letter is intended to provide a brief summary of the water rights, identify the deficiencies with the ownership change notices, and suggest a path forward.

Water rights 13-774 and 13-775 were described in the 1920 Dietrich Decree. The 1920 Decree identifies James C. Elliot as the owner of the water rights and states that the rights are used “for the irrigation of 120 acres in the Northeast quarter of the Southwest quarter, the South half of the Northeast quarter of Section 17, [T11S, R41E].” There are portions of the 120-acre place of use described in the 1920 decree that are not owned by Bitton or Andrus. For example, one of the deeds provided with the notices is a 2007 Quit Claim Deed from William P. Hansen to William P. Hansen Revocable Trust (“Hansen Trust”) that identifies certain areas of the NESW, SWNE and SENE of Section 17 excluded from the deed. Although Bitton owns some of this excluded ground, there are two parcels not owned by Bitton or Andrus, totaling approximately three acres. These parcels are held by Lowder Family LLC and E&H Land respectively. Another deed provided with the notices, a 1929 Warranty Deed from James Elliot to Lars Hansen, confirms that Elliot owned the three acres in question at the time of the 1920 Decree. Unless you can demonstrate ownership of the three acres associated with the Lowder and E&H properties, the water rights must be split. The filing fee to update ownership for a water right to be split is \$100 per water right. It may be possible for you to obtain a quit claim deed from Lowder and/or E&H conveying their interest in water right 13-774 to Bitton and their interest in water right 13-775 to Andrus. If so, the water rights would not be split.

The ownership change notices included a copy of a 2022 Warranty Deed from Hansen Trust to Bitton and a copy of a 2022 Warranty Deed from Hansen Trust to Andrus. The copies provided to the Department do not include a recorder's stamp from Caribou County. If you choose to refile your ownership change notices, please include a copy of the recorded deed from Caribou County.

The deeds from Hansen Trust to Andrus and Bitton state that water right 13-774 was conveyed to Bitton and water right 13-775 was conveyed to Andrus. Based on the maps provided with the ownership change notices, it appears that water right 13-774 should now only be appurtenant to the Bitton property and water right 13-775 should now only be appurtenant to the Andrus property. This would require changing the place of use for each of the water rights. Currently, each water right authorizes the irrigation of 120 acres. The rights are combined over the same 120 acres. To consolidate water right 13-774 onto the 40-acre parcel owned by Andrus will require an Application for Transfer (to change the place of use for water right 13-774). Similarly, to move water right 13-775 onto the parcel owned by Bitton (which includes acres in the NWSW and NWSE of Section 17), will require an Application for Transfer (to change the place of use for water right 13-775). The Application for Transfer form can be found on the Department's website (www.idwr.idaho.gov). The Department will not update ownership of the water rights unless transfer applications are filed with the ownership change notices to change the places of use for the rights consistent with the deeds.

Please be aware, the Department is required to evaluate water right validity when reviewing a transfer application. If you choose to file an application for transfer for water right 13-774 or 13-775, the Department would evaluate whether those water rights have been lost and forfeited for non-use. As I review aerial imagery, it does not appear that the place of use for water rights 13-774 and 13-775 has been consistently irrigated. You will likely be required to provide evidence of irrigation if you choose to file transfer applications.

Because the ownership issues with the Lowder and E&H properties could take some time to address, and Bitton and Andrus may need time to prepare transfer applications, I have decided to return the notices and refund the associated filing fee (\$50, Receipt No. E048195). The ownership change notices may be re-filed when you file the transfer applications. Feel free to contact me with any questions.

Sincerely,



James Cefalo
208-525-7161

Cc: William Hansen Revocable Trust
c/o Phillip Hansen
243 Lago Liberty Road
Grace, ID 83241

RECEIVED

MAY 17 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern Region

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #7 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
13-774	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: James Elliot
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Keith and Judy Bitton Family Trust
New owner(s) as listed on the conveyance document Name connector ☒ and ☐ or
- 397 Fish Hatchery Rd Grace Id 83241
Mailing address City State Zip
208-221-1128 None
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: 2-24-2022
6. Do you own the land identified as the water right place of use? Yes ☒ No ☐
o If no, attach evidence that written notice of the change of water right ownership has been delivered to the landowner of record.
7. This form must be signed and submitted with the following **REQUIRED** items:
☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
☒ Filing fee (see instructions for further explanation):
o \$25 per undivided water right.
o \$100 per split water right.
o No fee is required for pending adjudication claims.
☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: Keith Bitton Title, if applicable _____ Date 4/9/22
Signature of new owner/claimant
Keith Bitton
Print name

Signature: Judy Bitton Title, if applicable _____ Date 4/9/22
Signature of new owner/claimant
Judy Bitton
Print name

For IDWR Office Use Only: \$25 - for this app
Received by JB Date 5/17/2022 Receipt No. E048152 Receipt Amt. \$50.-
Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐
Name on W-9 JB Approved by 5/31/2022 Processed by E048195 Date \$50.- \$25.- for this app