

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

RECEIVED

DEC 11 2020

Department of Water Resources
Eastern Region

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 #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
22-13504 OK	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: Keith Kunz and Betty Kunz

Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Steven A. Coburn and Kristen K. Coburn

New owner(s) as listed on the conveyance document

Name connect

1. ☐ or ☒ and/or

391 N. 1st E.
Mailing address

Driggs
City

ID
State

83422
ZIP

208-313-1816
Telephone

Kristenc@silverstar.com
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: October 7, 2019

6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).

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):
- ☐ \$25 per *undivided* water right.
 - ☒ \$100 per *split* water right.
 - ☐ 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: [Signature]

Signature of new owner/claimant

Title, if applicable

Date 12/11/2020

Signature: _____

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by M. Pettis

Date 12-11-20

Receipt No. E046502

Receipt Amt. 100.00

Active in the Water Supply Bank? Yes ☐ No ☐

If yes, forward to the State Office for processing

W-9 received? Yes ☐ No ☐

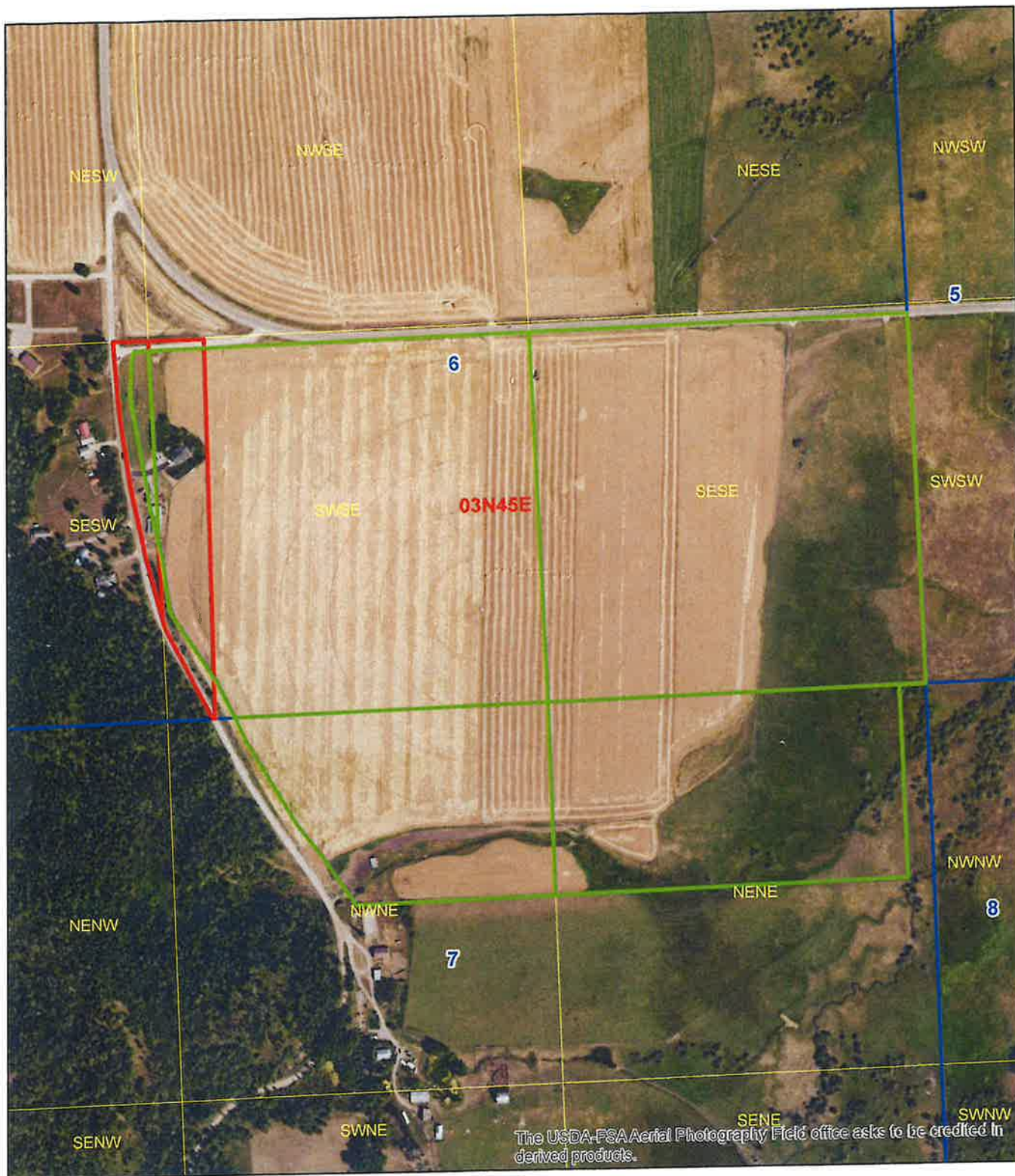
Name on W-9 _____

Approved by _____

Processed by _____

Date _____

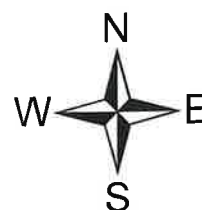
Returned Unprocessed/Refund Request Sent 4/5/22



Legend

- 22-13504 POU
- Coburn POU
- Township/Range
- Sections

0 0.05 0.1 0.2 Miles



WARRANTY DEED

Alliance Title & Escrow Corp. Order No.: 457085

FOR VALUE RECEIVED

Keith J Kunz, and Betty W Kunz, Husband and Wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Steven A Coburn and Kristen K. Coburn, Husband and Wife

whose current address is

391 North, 1st East, Driggs, Idaho, 83422

the grantee(s), the following described premises, in Teton County, Idaho, TO WIT:

Exhibit A

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: October 7, 2019

Keith J. Kunz 10/7/2019
Keith J. Kunz Date

Betty W. Kunz Oct 7, 2019
Betty W. Kunz Date

State of Idaho } ss
County of Teton }

On this 7 day of October, 2019, before me, Brian Gibson, a Notary Public in and for said state, personally appeared Keith J Kunz and Betty W Kunz, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Brian Gibson
Brian Gibson
Notary Public for the State of Idaho
Residing at: Driggs, Idaho
Commission Expires: 4/16/2025

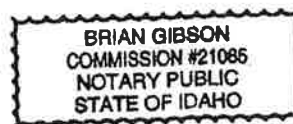


Exhibit A

A 6.56 acre parcel lying along County Road South 4500 West in the western part of the West half West half Southeast quarter of Section 6, Township 3 North, Range 45 East Boise Meridian, Teton County, Idaho, being further described as: From the South Quarter Corner of said Section 6, South $89^{\circ}37'42''$ East, 146.50 feet along the section line to the point of beginning; Thence North $25^{\circ}37'06''$ West, 356.05 feet along the East side of the county road to a point; Thence North $12^{\circ}59'14''$ West, 427.32 feet to a point; Thence 585.59 feet along the arc of a 4260 ft. radius curve to the right with a 585.13 foot chord bearing North $05^{\circ}26'00''$ West along the West side of County road South 4500 West; Thence South $89^{\circ}30'03''$ E, 314.30 feet to a point; Thence South, 1317.26 feet to a point; Thence North $89^{\circ}37'42''$ West, 8.91 feet to the point of beginning. Contains 6.56 acres more or less.

Subject to County road South 4500 West along the West side of the herein described property. Subject to and together with the following described pipeline easement located in the Southeast Quarter of Section 6, Township 3 North, Range 45 East, Boise Meridian, Teton County, Idaho being 10 feet each side of the existing pipe with the center of the pipeline being described as: From the South Quarter Corner of said Section 6, South $89^{\circ}37'42''$ East, 175.00 feet to the center of the pipeline, being the point of beginning; Thence North $27^{\circ}39'06''$ West, 326.51 feet to a point; Thence North $20^{\circ}10'54''$ West, 59.18 feet to a point; Thence North $16^{\circ}56'44''$ West, 59.85 feet to a point; Thence North $11^{\circ}41'33''$ West, 118.33 feet to a point; Thence North $13^{\circ}40'56''$ East, 246.09 feet to a point; Thence North $01^{\circ}04'41''$ West, 478.57 feet to the end of the pipeline.



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 26, 2021

STEVE COBURN
KRISTEN COBURN
391 N 1ST E
DRIGGS ID 83422

RE: Change in Ownership Water Right No. 22-13504

Dear Sir/Madam:

The Department of Water Resources acknowledges receipt of your Notice of Change in Water Right Ownership on December 11, 2020, for the above-mentioned water rights. The Notice could not be processed because there are some discrepancies between your application and a previous application filed in 2017.

Our review indicates there some discrepancies between this ownership change and a previous ownership change. The issues are as follows:

In November 2008, 22-13504 was partially decreed in the SRBA listing Keith Kunz as the owner.

In October 2014 Keith Kunz sold most of the irrigation place of use for water right number 22-13504 to Calvin and Jennifer Kunz. On July 28, 2017, the department received an ownership change for Calvin and Jennifer Kunz requesting an update of ownership for the entire place of use of water right number 22-13504. The department noticed the entire place of use of the water right was not sold to Calvin and Jennifer Kunz, therefore a request for additional information was sent. In August 2017 the department received a signed, notarized document giving all of water right number 22-13504 to Calvin and Jennifer Kunz, this included the portion of the place of use retained by Keith Kunz covering approximately 6.5 acres.

The entire place of use for water right number 22-13504, should have been consolidated to be solely on the property owned by Calvin and Jennifer Kunz, however the department has not received an application to complete that process.

On October 7, 2019, Keith Kunz sold the 6.5 acre parcel he had originally retained to Steven and Kristen Coburn. That Warranty Deed is silent about water rights. However, the department had already received evidence that the full water right was deeded to Calvin and Jennifer Kunz in 2017.

The Steven and Kristen Coburn application is being returned unprocessed; however it is still the responsibility of Calvin and Jennifer Kunz to file a transfer application to move that portion of the water right off the Coburn property.

Because the department is returning your application you are entitled to a full refund. The department has initiated the refund and it should arrive from the state office in couple of weeks.

Please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact the Department if you have any questions.

Sincerely,

Jonie Barg
Technical Records Specialist

cc: Calvin Kunz
Jennifer Kunz

Barg, Jonie

From: Barg, Jonie
Sent: Tuesday, April 5, 2022 12:30 PM
To: IdwrPayable
Subject: Refund Request
Attachments: Receipt.PDF

Good morning!

I have a refund request as follows:

Receipt number: E046502
Amount: \$100.00
Payable to STEVE & KRISTEN COBURN
391 N 1ST E
DRIGGS ID 83422

Reason: Ownership Change submitted for 1 water right \$100.00 (split fee). Water right previously deeded in full to someone else. . Therefore the application was returned unprocessed and they applicant is entitled to a full refund.

Thank you so much for your time. Let me know if you have any questions.

Have a great day!!!



IDAHO DEPARTMENT OF
WATER RESOURCES

Jonie Barg | Technical Records Specialist

900 N Skyline Drive Ste. A, Idaho Falls, ID 83402

Phone number: (208) 525-7161

Fax number: (208) 525-7177

Email: jonie.barg@idwr.idaho.gov

Website: www.idwr.idaho.gov

Barg, Jonie

From: Costello, Sean
Sent: Thursday, January 28, 2021 2:47 PM
To: Hersley, Jean; Baxter, Garrick
Cc: Barg, Jonie
Subject: RE: Ownership Change

Jean and Jonie - My analysis of the Kunz ownership issue:

Water rights are real property rights in Idaho (I.C. 55-101) and can properly be conveyed by an instrument in writing, subscribed by the party granting the property, or by that person's agent authorized in writing, and must include the name of the grantee. I.C. 55-601. In this case the 2017 Kunz to Kunz letter conveying the relevant portion of the water rights appears to be a proper conveyance - it doesn't take much. However, Calvin and Jennifer Kunz did not record the letter. In addition no transfer was made that might have publicly implemented the severance of the appurtenant water right intended by the 2017 Kunz to Kunz conveyance. Now there has been a subsequent conveyance that is silent as to the water rights.

Idaho is a "race/notice" state for purposes of determining who "wins" when the recordation of title of real property is at issue, as it is here. Legally this means "[e]very conveyance of real property other than a lease for a term not exceeding one (1) year, is void as against any subsequent purchaser or mortgagee of the same property, or any part thereof, in good faith and for valuable consideration, whose conveyance is first duly recorded." I.C. 55-812. In plain language this means a subsequent purchaser "wins" right to the property if: (1) at the time of the conveyance the subsequent purchaser had no actual *or* constructive notice of the prior conveyance, and (2) the subsequent purchaser records before the prior purchaser.

In this case, IDWR knows Coburn had no constructive notice of the 2017 Kunz to Kunz letter conveyance because it was never recorded (also no transfer proceeding). However, IDWR *does not know* whether Coburn had *actual* knowledge of the 2017 Kunz to Kunz letter conveyance (e.g., Kunz told the about it, etc.). Therefore, at this time IDWR cannot know who owns the water right and has the authority to refuse to process the change for a lack of evidence. I.C. 42-248(5).

To clear this up, especially in light of the fact that the water rights were not specifically addressed in the Kunz to Coburn deed, Coburn could simply disclaim any right to the water and a change of ownership could be processed? On the other hand, if Coburn bought the land with an understanding that the water rights were included (appurtenant) and had no actual knowledge of the 2017 Kunz to Kunz letter conveyance, Coburn may "win" and have the right to claim ownership of the water rights as still appurtenant to the underlying land because Coburn had no actual knowledge *and* recorded first.

Let me know what you questions you have.

Sean

From: Hersley, Jean
Sent: Thursday, January 14, 2021 12:56 PM
To: Baxter, Garrick; Costello, Sean
Cc: Barg, Jonie
Subject: FW: Ownership Change

Please see Jonie's email below for the details of this ownership change.

My feeling is we should return the OC from Coburn because Calvin and Jennifer Kunz were conveyed the entire water right which severed it from the land now owned by the Coburn's. The question is, is the letter from Keith Kunz to Calvin & Jennifer a proper "conveyance" document?

The deed from Kunz to Coburn states:
TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said

Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

From: Barg, Jonie
Sent: Thursday, January 14, 2021 12:02 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: Ownership Change

Jean:

Good morning!

I am working on an ownership change, James did an additional review and determined the ownership change could not be complete. As we discussed this ownership change we decided it might be best to run this unique situation past the state office before we return the application. If you think I should send this legal let me know. So I am hoping you can share of your wisdom and help me determine how to handle this application. I have attached the new ownership change and a copy of the ownership change filed and complete in 2017.

November 2008 SRBA partial decree 22-13504 Keith Kunz owner.

In October 2014 Keith Kunz sold most of the irrigation POU to Calvin and Jennifer Kunz. The exception was a 6.5 acre parcel retained by Keith Kunz.

In 2017 Calvin and Jennifer Kunz filed an ownership change for 22-13504. During our review we found they did not purchase the entire place of use of the water right and requested additional information and/or fees. In August 2017 the department received a signed and notarized (Not Recorded) documents conveying all the water right 22-13504 to Calvin and Jennifer Kunz signed by Keith Kunz.

Calvin and Jennifer Kunz were supposed to file a transfer to consolidate the entire place of use for 22-13504 on their property only, but a transfer was never filed.

In October 2019 Keith Kunz sold his remaining property, approx. 6.5 acres, to Steven and Kristen Coburn. Deed is silent regarding water rights. Deed is recorded, where the other document from 2017 was not.

The concern is do we return the application unprocessed because Keith Kunz signed a document giving the entire water right to Calvin and Jennifer Kunz, the documents is not an official documents nor is it recorded but it is notarized. Or does the deed signed by Keith Kunz, notarized and recorded supersede the other documents, where the water right was never consolidated and the place of use is still on the Coburn property.

If you can let me know your thoughts I would appreciate it. Thank you for your time.

Jonie Barg

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Protect your Enthusiasm from the Negativity of others. ~ H Jackson Brown Jr. ~