

MEMO

TO: Files for Water Rights 22-133D, 22-191, 22-526A, 22-527A, 22-554B and 22-555B

FROM: James Cefalo JRC

DATE: January 6, 2021

RE: Ownership Change filed by Lambrose-FitzSimmons Family Trust

On August 28, 2020, Lambrose-FitzSimmons Family Trust (L-FFT) filed a Notice of Change in Water Right Ownership, seeking to update the ownership records for water rights 22-133D, 22-191, 22-526A, 22-527A, 22-554B and 22-555B. The deed provided with the ownership change described a disproportionate split of the water rights. This memo is intended to summarize the elements of the water rights, the conveyances that have occurred since the time partial decrees were issued for the rights in the Snake River Basin Adjudication (SRBA), and the basis for the quantities listed in the split water rights.

Partial decrees for water rights 22-133D, 22-191, 22-526A, 22-527A, 22-554B and 22-555B were issued in the SRBA in August 2009. Richard Egbert was the decreed owner of record for all of the water rights. The rights, in combination, authorized 140.3 acres of irrigation. The irrigated acres were located in the NENE, SENE, NESE, NWSE, Section 32 and the SWNW, SENW, NESW, NWSW, Section 33, T06N, R45E. The partial decrees were based on adjudication claims filed in 1988. The six water rights, in combination, authorize the diversion of 6.7 cfs from Spring Creek for the irrigation of 140.3 acres. This equates to a diversion rate per acre of 0.048 cfs/acres, two and one-half times the standard rate per acre.

In November 1994, Richard Egbert conveyed part of the NESW and the NWSW of Section 33 to Byron and Diana Egbert. There is no evidence that Byron or Diana Egbert ever sought to update the ownership records for the water rights between November 1994 and August 2009. Consequently, the rights were decreed in the name of Richard Egbert. Based on recent decisions from the Idaho Supreme Court, Richard Egbert remains the owner of the portion of the water rights associated with the Byron and Diana Egbert property. Therefore, Richard Egbert was the owner of all of the water rights in 2016.

In August 2016, Richard Egbert Limited Partnership conveyed a portion of the SWNW, SENW, NESW and NWSW of Section 33 to L-FFT. Based on the legal description in the deed and the irrigation shapes in the Department's water right records, L-FFT acquired 24.3 acres of the 140.3 irrigated acres described in the partial decrees. The Egbert to L-FFT deed included the following provision about water rights:

Together with any and all water and water rights, ditches and ditch rights, storage and storage rights appurtenant to the above-described property, including but not limited to the following:

Water Right No. 22-133D	0.74 cubic feet per second ("cfs")
Water Right No. 22-191	0.53 cfs
Water Right No. 22-526A	0.16 cfs
Water Right No. 22-527A	0.03 cfs
Water Right No. 22-554B	0.02 cfs
Water Right No. 22-555B	0.13 cfs

In most cases, the rates described in the Egbert to L-FFT deed exceed the diversion rates that would be calculated for the L-FFT property, if the rights were divided proportional to irrigated acres. One right, however, shows a diversion rate that is less than the proportional split. The deed lists a rate of 0.02 cfs for water right 22-554B. If the rights were divided in proportion to irrigated acres, L-FFT's portion of water right 22-554B would actually be 0.12 cfs. Because the deed uses the phrase "including but not limited to", I will update the L-FFT portion of water right 22-554B to include the full 0.12 cfs, the rate based on a proportional division of the rights.

In total, the Egbert to L-FFT deed described 1.61 cfs of water rights. Accounting for the adjustment to water right 22-554B described above, there are 1.71 cfs of water rights associated with the L-FFT property. 1.71 cfs applied to 24.3 acres equates to a diversion rate per acre of 0.07 cfs/acre, three and one-half times the standard rate per acre.

On June 15, 2020 Richard Egbert Limited Partnership conveyed a portion of the NENE of Section 32, T06N, R45E to MEW3S LLC. The conveyance to MEW3S LLC occurred after the conveyance to L-FFT and has no effect on the division of water rights under the L-FFT ownership change.

On July 23, 2020, Richard Egbert Limited Partnership conveyed a portion of the SENE, NESE, and NWSE of Section 32, T06N, R45E to Adrian Curnow and Barbara Holt. The conveyance to Curnow and Holt occurred after the conveyance to L-FFT and has no effect on the division of water rights under the L-FFT ownership change.

If the L-FFT ownership change were completed as described in the Egbert to L-FFT deed (with the adjustment to the L-FFT share of water right 22-554B), the Department's records would be updated to show L-FFT as the owner of 1.71 cfs and 24.3 acres of the rights. 4.99 cfs and 116 acres would continue to be in the name of Richard Egbert (until Byron & Diana Egbert, MEW3S, or Adrian Curnow & Barbara Holt file notices to update their portions of the rights). This equates to 0.043 cfs/acre. Although the conveyance to L-FFT represents a concentration of the flow rate on the L-FFT property, the increase is smaller than the excess rate already authorized by the original water rights. Therefore, the ownership change for L-FFT will be completed without requiring a transfer application from L-FFT.

118616

Warranty Deed

DEC 23 1994

TETON Co. Id.
Clerk Recorder

For Value Received

RICHARD A. EGBERT LIMITED PARTNERSHIP, an Idaho Limited
Partnership

the grantor, do hereby grant, bargain, sell and convey unto

BYRON EGBERT and DIANA EGBERT, husband and wife

whose current address is

537 N. 300 W.
Tetonia, Idaho 83452

the grantee s, the following described premises, in Teton County Idaho, to wit:

Beginning at a point which is S 0° 07' West 565.0 feet from the West 1/4 corner of Section 33, Township 6 North, Range 45 East, Boise Meridian, thence North 82° 27' East 186.0 feet to the true point of beginning, thence East 2,454.0 feet, more or less, to the East 1/4 section line of the SW1/4, thence South 780.67 feet to the Southeast corner of the N1/2SW1/4, thence West 2,456.0 feet to a point which is South 0° 07' West 1,320.00 feet and South 89° 37' East 184.0 feet from the W1/4 corner of said Section, thence North 0° 08' 30" East 780.67 feet to the true point of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s, their heirs and assigns forever. And the said Grantor do hereby covenant to and with the said Grantee s, that he is the owner in fee simple of said premises; that they are free from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: November 22, 1994

Richard A. Egbert
Richard A. Egbert, partner



WARRANTY DEED

Alliance Title & Escrow Corp. Order No.:482339

FOR VALUE RECEIVED

Richard A. Egbert Limited Partnership, also shown of record as Richard A Egbert LP, an Idaho limited partnership

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

MEW3S, L.L.C., a Utah limited liability company

whose current address is

**1220 W Stewart Road
Midland, MI 48640**

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

Part of the East half of the Northeast quarter Section 32 lying North of Spring Creek in Township 6 North, Range 45 East of the Boise Meridian, Teton County, Idaho, being further described as:

Commencing at the Northeast corner of said Section 32;

thence South 00°37'04" West, 1180.34 feet along the East section line to a point on the Spring Creek centerline;

thence along Spring Creek the following: North 41°23'14" West, 92.27 feet;

(A) North 81°38'21" West, 41.14 feet;

(B) South 82°39'17" West, 85.36 feet;

(C) South 18°44'38" West, 51.32 feet;

(D) South 43°38'36" West, 23.06 feet;

(E) South 81°56'09" West, 57.87 feet;

(F) South 43°53'06" West, 115.66 feet;

(G) South 19°45'11" West, 18.00 feet;

(H) South 55°35'49" West, 34.90 feet;

(I) North 72°05'31" West, 44.64 feet;

(J) South 73°27'48" West, 54.54 feet;

(K) South 62°32'13" West, 19.52 feet;

(L) South 15°08'05" West, 72.40 feet;

(M) South 67°32'13" West, 35.21 feet;

(N) North 10°38'23" West, 55.84. feet;

(O) North 05°55'10" West, 84.50 feet;

(P) North 25°58'03" West, 33.37 feet;

(Q) North 49°55'29" West, 25.76 feet;

(AC) South 85°02'11" West, 55.08 feet;
 (AD) South 56°55'26" West, 57.27 feet;
 (AE) South 45°07'49" West, 26.11 feet;
 (AF) South 08°15'55" East, 30.75 feet;
 (AG) South 22°47'54" East, 48.78 feet;
 (AH) South 45°07'43" West, 56.69 feet;
 (AI) North 53°21'33" West, 65.72 feet;
 (AJ) North 78°07'26" West, 44.58 feet to the West line of the Northeast quarter of the Northeast quarter of Section 32;
 thence North 01°18'28" East, 1290.91 feet to the Northwest corner of the Northeast quarter of the Northeast 1/4 of said Section 32;
 thence South 89°56'48" East, 1318.81 feet to the point of beginning.

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: June 15, 2020

Richard A. Egbert Limited Partnership

Monica G. Hobley
Monica Hobley, General Partner

State of Idaho } ss.
County of Teton }

On this 16th day of June, 2020, before me, Jeanne Atkinson, a Notary Public in and for said state, personally appeared Monica Hobley known or identified to me to be the partner(s) that executed the foregoing instrument, and acknowledged to me that he/she/they executed the same in said Partnership name.

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

Jeanne Atkinson
Jeanne Atkinson
Notary Public for the State of Idaho
Residing at: Teton County, ID
Commission Expires: March 21, 025

JEANNE ATKINSON
 COMMISSION NO. 61308
 NOTARY PUBLIC
 STATE OF IDAHO

(AC) South 85°02'11" West, 55.08 feet;
 (AD) South 56°55'26" West, 57.27 feet;
 (AE) South 45°07'49" West, 26.11 feet;
 (AF) South 08°15'55" East, 30.75 feet;
 (AG) South 22°47'54" East, 48.78 feet;
 (AH) South 45°07'43" West, 56.69 feet;
 (AI) North 53°21'33" West, 65.72 feet;
 (AJ) North 78°07'26" West, 44.58 feet to the West line of the Northeast quarter of the Northeast quarter of Section 32;
 thence North 01°18'28" East, 1290.91 feet to the Northwest corner of the Northeast quarter of the Northeast 1/4 of said Section 32;
 thence South 89°56'48" East, 1318.81 feet to the point of beginning.

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: June 15, 2020

Richard A. Egbert Limited Partnership

David Wilson, General Partner

State of MI ss.
 County of MIDLAND

On this 15th day of June, 2020, before me, the Undersigned, a Notary Public in and for said state, personally appeared David Wilson known or identified to me to be the partner(s) that executed the foregoing instrument, and acknowledged to me that he/she/they executed the same in said Partnership name.

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

Ann Elise [Signature]

Notary Public for the State of MICHIGAN

Residing at: 2014 N SAGINAW RD, MIDLAND MI 48640

Commission Expires 03-24-2022

**WARRANTY DEED**

Alliance Title & Escrow Corp. Order No. 489311

FOR VALUE RECEIVED

Richard A. Egbert, L.P., an Idaho limited partnership

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

Adrian J Curnow and Barbara J Holt, husband and wife

whose current address is

**3285 Shadow Hills Drive
Eagle, ID 83616**

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

Part of the East half of Section 32 lying South of Spring Creek in Township 6 North, Range 45 East of the Boise Meridian, Teton County, Idaho, being further described as:

Commencing at the East quarter corner of said Section 32;

thence South 03°30'25" West, 2466.24 feet along the East section line;

thence North 89°52'05" West, 208.71 feet to a point;

thence South 03°30'25" West, 208.71 feet to a point on the South section line;

thence North 89°52'05" West, 1106.51 feet to the Southwest corner of the East half of the East half of said Section 32;

thence North 02°45'12" East, 1334.03 feet to a point;

thence North 89°58'35" West, 1332.95 feet to a point;

thence North 01°59'45" East, 1330.82 feet to a point;

thence North 89°55'06" East, 1350.69 feet to a point;

thence North 01°18'28" East, 1352.47 feet to point;

thence along Spring creek the following:

(nj) South 78°07'26" East, 44.58 feet;

(ai) South 53°21'33" East, 65.72 feet;

(ah) North 45°07'43" East, 56.69 feet;

(ag) North 22°47'54" West, 48.78 feet;

(af) North 08°15'55" West, 30.75 feet;

(ae) North 45°07'49" East, 26.11 feet;

(ad) North 56°55'26" East, 57.27 feet;

(ac) North 85°02'11" East, 55.08 feet;

(ab) South 66°03'04" East, 46.66 feet;

(aa) South 32°21'38" East, 102.03 feet;

(z) South 64°49'50" East, 73.37 feet;

(y) South 33°44'26" East, 111.37 feet;

(x) South 79°14'45" East, 92.68 feet;

(w) North 36°48'58" East, 20.65 feet;

(v) North 05°53'23" West, 41.98 feet;

(u) North 17°24'38" East, 46.37 feet;

(t) North 49°40'19" East, 75.51 feet;

(s) North 34°21'31" East, 29.78 feet;

(r) North 75°54'21" East, 82.59 feet;

(q) South 49°55'29" East, 25.76 feet;

(p) South 25°58'03" East, 33.37 feet;

(o) South 05°55'10" East, 84.50 feet;
 (n) South 10°38'23" East, 55.84 feet;
 (m) North 67°32'13" East, 35.21 feet;
 (l) North 15°08'05" East, 72.40 feet;
 (k) North 62°32'13" East, 19.52 feet;
 (j) North 73°27'48" East, 54.54 feet;
 (i) South 72°05'31" East, 44.64 feet;
 (h) North 55°35'49" East, 34.90 feet;
 (g) North 19°45'11" East, 18.00 feet;
 (f) North 43°53'06" East, 115.66 feet;
 (e) North 81°56'09" East, 57.87 feet;
 (d) North 43°38'36" East, 23.06 feet;
 (c) North 18°44'38" East, 51.32 feet;
 (b) North 82°39'17" East, 85.36 feet;
 (a) South 81°38'21" East, 41.14 feet;
 thence South 41°23'14" East, 92.27 feet to a point on the East section line of said
 Section 32;
 thence South 00°37'04" West, 529.29 feet to a point;
 thence West, 241.95 feet to a point;
 thence South, 181.00 feet to a point;
 thence East, 240.00 feet to the East line of said Section 32;
 thence South 00°37'04" West, 749.06 feet to the point of beginning.

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: July 23, 2020

Richard A. Egbert Limited Partnership

Monica Hobley
Monica Hobley, General Partner

State of Idaho ss
County of Madison

On this 27th day of July, 2020, before me, the Undersigned, a Notary Public in and for said state, personally appeared Monica Hobley known or identified to me to be the partner(s) that executed the foregoing instrument, and acknowledged to me that he/she/they executed the same in said Partnership name.

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

[Signature]
Notary Public for the State of Idaho
Residing at: _____
Commission Expires _____

Residing in Idaho Falls, ID
Commission Expires 06-11-2025

HEATHER LEA ERICKSON
Notary Public
State of Idaho
Commission #50139

(O) South 05°55'10" East, 84.50 feet;
 (n) South 10°38'23" East, 55.84 feet;
 (m) North 67°32'13" East, 35.21 feet;
 (l) North 15°08'05" East, 72.40 feet;
 (k) North 62°32'13" East, 19.52 feet;
 (j) North 73°27'48" East, 54.54 feet;
 (i) South 72°05'31" East, 44.64 feet;
 (h) North 55°35'49" East, 34.90 feet;
 (g) North 19°45'11" East, 18.00 feet;
 (f) North 43°53'06" East, 115.66 feet;
 (e) North 81°56'09" East, 57.87 feet;
 (d) North 43°38'36" East, 23.06 feet;
 (c) North 18°44'38" East, 51.32 feet;
 (b) North 82°39'17" East, 85.36 feet;
 (a) South 81°38'21" East, 41.14 feet;
 thence South 41°23'14" East, 92.27 feet to a point on the East section line of said
 Section 32;
 thence South 00°37'04" West, 529.29 feet to a point;
 thence West, 241.95 feet to a point;
 thence South, 181.00 feet to a point;
 thence East, 240.00 feet to the East line of said Section 32;
 thence South 00°37'04" West, 749.06 feet to the point of beginning.

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: July 23, 2020

Richard A. Egbert Limited Partnership

David Wilson, General Partner
 David Wilson, General Partner

State of MI ss
 County of Midland

On this 23 day of July, 2020, before me, the Undersigned, a Notary Public in and for said state, personally appeared David Wilson known or identified to me to be the partner(s) that executed the foregoing instrument, and acknowledged to me that he/she/they executed the same in said Partnership name.

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

Carla A. Thomas
 Notary Public for the State of Michigan
 Residing at 2014 N. Saginaw St. Midland, MI 48640
 Commission Expires Nov 2, 2025