

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 05 2018

Department 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 #6](#) of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
13-53A	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
13-4098	Yes <input type="checkbox"/>	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>	Yes <input type="checkbox"/>

2. Previous Owner's Name: SILCOCK WARD PROPERTIES, LLC N/K/A SILCOCK FRANKLIN PROPERTIES, LLC
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): G & G FRANKLIN PROPERTIES, LLC
New owner(s) as listed on the conveyance document
- Mailing address: 3427 OVERLAND AVE City: BURLEY State: ID ZIP: 83318
- Telephone: 208 431 3030 Email: guyarnell@gmail.com

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: 1 DECEMBER 2017
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] Title, if applicable: Owner Date: 28 MAR 2018
Signature of new owner/claimant

Signature: _____ Title, if applicable: _____ Date: _____
Signature of new owner/claimant

For IDWR Office Use Only:

Received by: JB Date: 4/5/18 Receipt No.: E043860 Receipt Amt.: \$125.-

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: _____

SUPPORT DATA
IN FILE # 13-53A

Refund Requested 3/16/20 Returned
E043860

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

04/14/2006

WATER RIGHT NO. 13-53A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E M CHATTORTON
Current Owner	W B GIBSON
Current Owner	JAMES C LOURE
Current Owner	JOSEPH CHATTORTON

Priority Date: 04/01/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
DEEP CANYON CREEK	MAPLE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	/	/	11.08 CFS	
Total Diversion			11.08 CFS	

Location of Point(s) of Diversion:

DEEP CANYON CREEK	Sec.	Township	Range	County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16S	40E	11												
		12												
		13												
		14												

Conditions of Approval:

1.	P/D NOT SPECIFIED IN DECREE P/U IRRIGATED ACRES NOT SPECIFIED IN DECREE Lands of Joseph Chatterton: S1/2SW, S13, T16S, R40E. " " Elizabeth Chatterton: W1/2SE, S14, T16S, R40E. " " James G. Lowe: SWNE, S14, T16S, R40E. " " W. B. Gibson: 240 acres in S11-14, T16S, R40E.
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Dates:

Licensed Date:

Decreed Date: 10/16/1905

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 11

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

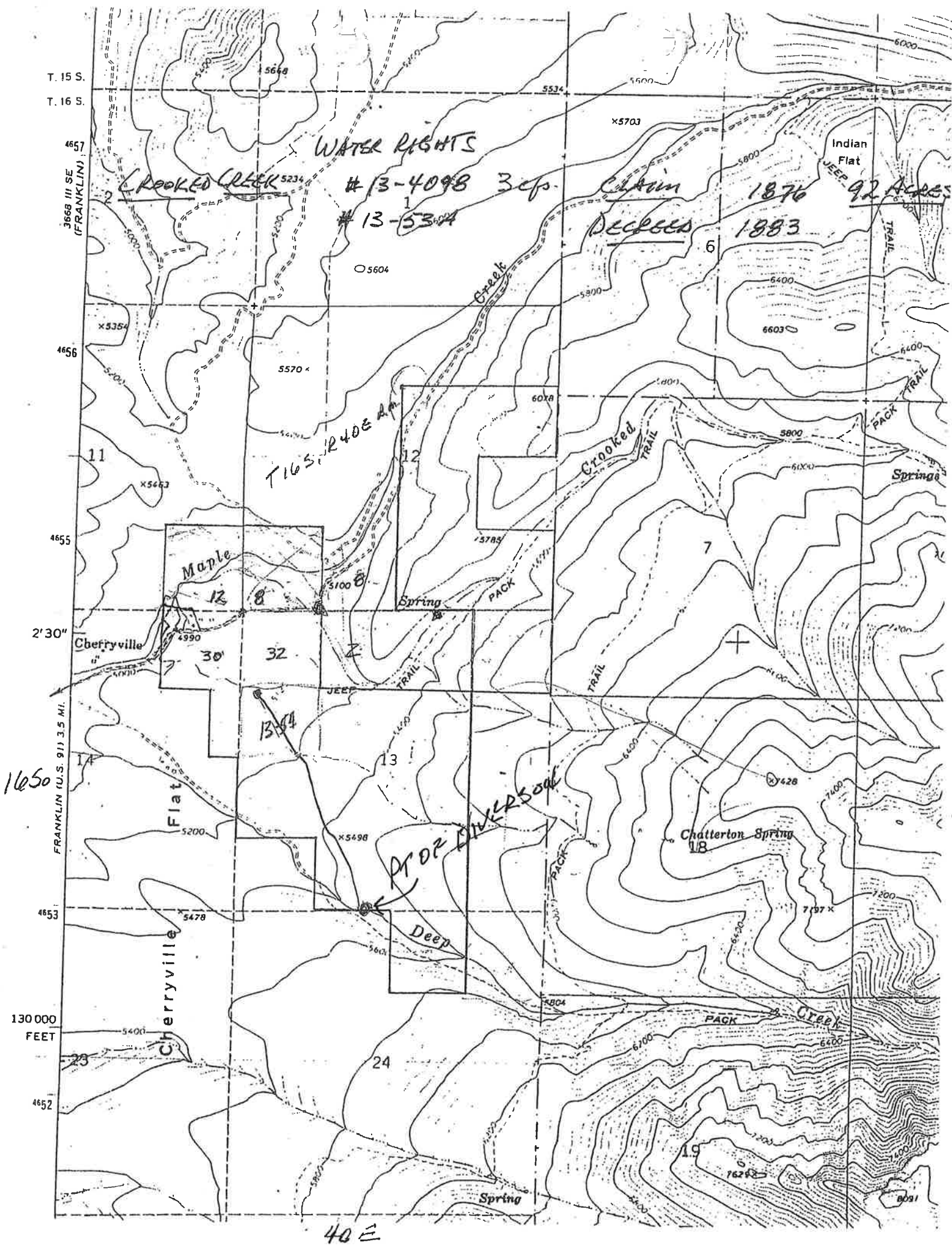
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close



T. 15 S.
T. 16 S.

3668 III SE
(FRANKLIN)

WATER RIGHTS

#13-4098 3 cfs
#13-5304

CLAIM
DECEES

1876 92 ACRES
1883

Indian
Flat

JEEP

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NTF-83741

G&G Franklin Properties, LLC, an Idaho limited liability company
3427 Overland Ave
Burley, ID 83318

272794 1-6

Recorded at the request of
Northern Title
Time 2:29P Amount \$ 1500

DEC 01 2017

WARRANTY DEED SHAUNA T. GEDDES, RECORDER
By C. G. G. G. Deputy
Franklin County, Idaho

Silcock Ward Properties, L.L.C., an Idaho limited liability company n/k/a Silcock Franklin Properties, LLC

Grantor(s) of, County of Franklin State of Idaho,
hereby **CONVEY AND WARRANT** to

G&G Franklin Properties, LLC, an Idaho limited liability company

Grantee(s) of Burley, County of Franklin, State of ID for the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, the following described tract of land in Franklin County, State of ID:

See Attached Exhibit "A"

Subject to easements, declarations of covenants and restrictions, rights of way of record, and taxes for the current year and thereafter.

Witness, the hand(s) of said Grantor(s), this December 1, 2017.

Silcock Ward Properties, L.L.C., an Idaho Limited Liability Company
n/k/a Silcock Franklin Properties, LLC

Robert Silcock
By: Robert Silcock, Member

State of ID)
County of Franklin)

On December 1, 2017, personally appeared before me Robert Silcock who, being by me duly sworn, did say that he is the Member of Silcock Ward Properties, L.L.C., an Idaho Limited Liability Company n/k/a Silcock Franklin Properties, LLC and that the said instrument was signed on behalf of said Limited Liability Company by the authority of its Articles of Organization and Operating Agreement, and the aforesaid individual acknowledged to me that said Company executed the same.



Monique Bair
Notary Public
Resides: Preston, Idaho
Expires: 6/19/2018

Exhibit "A"

PARCEL 1:

TOWNSHIP 16 SOUTH, RANGE 40 EAST OF THE BOISE MERIDIAN, FRANKLIN COUNTY, IDAHO SECTION 11: SE 1/4 SE 1/4.

SECTION 12: S 1/2 NE 1/4, W 1/2 SE 1/4, SE1/4SE1/4, SW1/4 SW1/4.

SECTION 13: NE 1/4 NE 1/4, NW1/4 NW 1/4, S 1/2 NW 1/4, N 1/2 SW 1/4, SW 1/4 NE 1/4, W 1/2 SE 1/4, SE 1/4 SW 1/4.

Subject to Boundary Line Agreement recorded August 25, 2009 under instrument number 246379

Subject to Boundary Line Agreement recorded September 23, 2010 under instrument number 249922

ALSO, Commencing at the Southeast corner of the SW1/4 thence running North 80 rods; thence West 98 rods; thence South 80 rods; thence East 98 rods to the Place of Beginning.

SECTION 14: NE1/4 NE 1/4.

ALSO, Commencing at the Northwest corner of the SE1/4NE1/4; thence running East 80 rods; thence South 6 rods; thence West 80 rods; thence North 6 rods to the Place of Beginning.

ALSO, Commencing at the Southeast corner of the SE1/4NE1/4; thence running North 74 rods; thence West 26-2/3 rods; thence South 74 rods; thence East 26-2/3 rods to the Place of Beginning.

ALSO, a right-of-way 1 rod wide, which will commence at a point 18 rods North of the Southwest corner of the NE1/4NE1/4, and running thence North 20 rods, more or less to the County road.

EXCEPTING THEREFROM: Commencing at a point 42 rods, more or less, South of the Northwest corner of the NE 1/4 NE 1/4 of Section 14; said point being on the Northerly boundary line of the County road right of way; thence North 450 feet; thence Southeasterly 230 feet; thence South 80 feet to the North boundary line of said county road right of way; thence Southwesterly following the County road right of way to the point of beginning.

ALSO EXCEPTING: A parcel of land being a portion of the Northeast one-quarter of the Northeast one-quarter of Section 14, and a portion of the Southeast one-quarter of the Southeast one-quarter of Section 11, Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho, and being more particularly described as follows:

Commencing at, the NE corner of said Section 14, being a rebar and cap bearing, the PLS NO. 4735, also being the SE corner of said Section 11; thence North 89° 41'38" West along the common line between said Sections 14 and 11 a distance of 650.40 feet to the POINT OF BEGINNING; thence South 09° 10'00" East a distance of 364.48 feet; thence along the Northerly edge of Maple Creek Road, a County Road, for the following three courses:

- 1.) South 73° 41'00" West a distance of 199.40 feet;
 - 2.) North 86° 04'30" West a distance of 84.30 feet;
 - 3.) North 78° 48'00" West a distance of 186.30 feet;
- thence North 46° 52'30" West a distance of 154.80 feet; thence North 23° 46'00" East a distance of 213.50 feet; thence North 62° 40'00" East a distance of 104.40 feet; thence North 48° 29'00" West a distance of

160.30 feet; thence South $88^{\circ} 32' 00''$ East a distance of 443.20 feet; thence South $09^{\circ} 10' 00''$ East a distance of 71.08 feet to the POINT OF BEGINNING.

ALSO EXCEPTING: A parcel of land being a portion of the NE1/4 of Section 14, and a portion of the SE1/4 of Section 11, Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho, and being more particularly described as follows:

Commencing at the NE corner of said Section 14, being a rebar and cap bearing the PLS No. 4735, also being the SE corner of said Section 11; thence North $89^{\circ} 41' 38''$ West along the common line between said Sections 14 and 11 a distance of 1358.15 feet to the Point of Beginning, also being a point in an existing boundary fence line; thence North $00^{\circ} 07' 30''$ East along said existing boundary fence line a distance of 169.16 feet; thence South $70^{\circ} 08' 00''$ East a distance of 269.00 feet; thence South $48^{\circ} 29' 00''$ East a distance of 160.30 feet; thence South $62^{\circ} 40' 00''$ West a distance of 104.40 feet; thence South $23^{\circ} 46' 00''$ West a distance of 213.50 feet; thence South $46^{\circ} 52' 00''$ East a distance of 154.80 feet; thence along the Northerly side of Maple Creek Road, a public road, for the following two courses:

- 1.) 142.22 feet along the arc of a curve to the left have a central angle of $47^{\circ} 50' 00''$, a radius of 170.36 feet, and a chord which bears South $68^{\circ} 55' 00''$ West 138.13 feet;
- 2.) South $45^{\circ} 00' 00''$ West a distance of 254.59 feet; thence North $00^{\circ} 07' 30''$ East along the above said existing boundary fence line a distance of 607.38 feet to the Point of Beginning.

ALSO INCLUDING: Commencing at the Southeast corner of the SE 1/4 NE 1/4 of Section 14; thence North 80 rods; thence West 80 rods; thence South 6 rods; thence East $53\frac{1}{3}$ rods; thence South 74 rods; thence East $26\frac{2}{3}$ rods to the point of beginning.

SECTION 24: NW 1/4 NE 1/4.

EXCEPTING THEREFROM: (249920)

A parcel of land located in the Southwest quarter of the Southwest quarter (SW1/4SW1/4) of Section 12, Township 16 South, Range 40 East, Boise Meridian, Franklin County, Idaho more particularly described as follows:

Commencing at the South quarter corner of said Section 12, from which the Southwest corner of Section 12 bears North $89^{\circ} 48' 07''$ West

Thence North $89^{\circ} 48' 17''$ West 1310.17 feet to a 5/8" rebar and cap labeled "A.L.S., PLS 9163" at the Southeast corner of said SW1/4SW1/4;

Thence North $00^{\circ} 31' 05''$ East 153.66 feet along the east boundary line of said SW1/4SW1/4 to the Point of Beginning.

Thence North $83^{\circ} 06' 30''$ West 84.89 feet to a point at the centerline of Maple Creek Road; Thence North $12^{\circ} 08' 36''$ East 108.26 feet along said centerline;

Thence North $10^{\circ} 34' 16''$ East 145.53 feet along said centerline to the beginning of a 125.00 foot radius curve concave to the Southeast;

Thence Northeasterly along said curve (centerline) through a central angle of $36^{\circ} 30' 50''$ a distance of 79.66 feet to a point in the east boundary line of said SW1/4SW1/4 (chord = North $28^{\circ} 49' 41''$ East 78.32 feet);

Thence South $00^{\circ} 31' 05''$ West 327.71 feet along said east boundary line to the Point of Beginning.

EXCEPTING THEREFROM: (249921)

A parcel of land located in the Southwest quarter of the Southwest quarter (SW1/4SW1/4) of Section 12, Township 16 South, Range 40 East, Boise Meridian, Franklin County, Idaho more particularly described as follows:

Commencing at the South quarter corner of said Section 12, from which the Southwest corner of Section 12 bears North $89^{\circ} 48' 07''$ West

Thence North 89° 48' 17" West 1310.17 feet to a 5/8" rebar and cap labeled "A.L.S., PLS 9163" at the Southeast corner of said SW1/4SW1/4, the Point of Beginning.

Thence North 89° 48' 07" West 60.24 feet along the south boundary line of said SW1/4SW1/4 to an existing fence line;

Thence North 08° 08' 00" West 43.89 feet to a 5/8" rebar and cap at the south right of way line of Maple Creek Road, said point being on a 45.00 foot radius non-tangent curve concave to the Northwest, whose center bears North 08° 34' 48" West;

Thence northeasterly along said curve through a central angle of 137° 03' 48" a distance of 107.65 feet to a 5/8" rebar and cap (chord = North 12° 53' 18" East 83.76 feet) at the beginning of a 20.00 foot radius curve concave to the Northeast;

Thence Northwesterly along said curve through a central angle of 67° 47' 12" a distance of 23.66 feet to the point of tangency (chord = North 21° 45' 00" West 22.31 feet);

Thence North 12° 08' 36" East 14.53 feet along said right of way line to a 5/8" rebar and cap;

Thence South 83° 06' 30" East 54.76 feet to the east boundary line of said SW1/4SW1/4; Thence South 00° 31' 05" West 153.66 feet along said east boundary line to the Point of Beginning.

EXCEPTING THEREFROM: (255011)

A parcel of land located in the East One-half of the Northwest Quarter (E1/2NW1/4) and the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of Section 13, Township 16 South, Range 40 East, Boise Meridian, Franklin County, Idaho, and more particularly described as follows:

Commencing at the North quarter corner of said Section 13, from which the Northwest corner of Section 13 bears North 89° 48' 07" West;

Thence South 00° 21' 35" West 1331.88 feet to a 5/8" rebar and cap (PLS 9163) at the northwest corner of said SW1/4NE1/4, the Point of Beginning.

Thence North 88° 35' 34" East 135.41 feet along the north boundary line of said SW1/4NE1/4 to a 5/8" rebar and cap;

Thence South 80.22 feet to a 5/8" rebar and cap;

Thence South 12° 01' 41" East 360.67 feet to a 5/8" rebar and cap;

Thence North 89° 02' 57" West 349.25 feet to a 5/8" rebar and cap at a point on a 155.00 foot radius non-tangent curve concave to the southwest, whose center bears North 65° 29' 57" West;

Thence northerly and northwesterly along said curve through a central angle of 100° 08' 42" a distance of 270.92 feet to a 5/8" rebar and cap (chord = North 25° 34' 18" West 237.73 feet);

Thence North 24° 23' 14" East 146.50 feet to a 5/8" rebar and cap;

Thence North 79.83 feet to a 5/8" rebar and cap at the south boundary line of the parcel of land depicted and described on Record of Survey instrument number 250410;

Thence South 88° 46' 48" East 180.84 feet along said south boundary line to the Point of Beginning.

SUBJECT TO AND Together with a thirty (30) foot wide access easement being fifteen (15) feet on each side of the following described centerline:

Commencing at the southeast corner of Maple Creek Ranches, Phase 1 Subdivision, recorded as instrument number 227134 in the official records of Franklin County, Idaho, said point being South 43° 39' 13" East 1825.97 feet from the Northwest corner of Section 13, Township 16 South, Range 40 East, Boise Meridian, Franklin County, Idaho;

Thence South 85° 46' 06" West 435.28 feet along the south boundary line of said Subdivision to a point in the centerline of Mountain Meadow Drive, the Point of Beginning of this easement.

Thence South 12° 24' 31" East 198.10 feet to the beginning of a 200.00 foot radius curve concave to the northeast;

Thence southeasterly along said curve through a central angle of 101° 51' 51" a distance of 355.57 feet to the point of tangency (chord = South 63° 20' 26" East 310.56 feet);

Thence North 65° 43' 38" East 354.05 feet to the beginning of a 300.00 foot radius curve concave to the southeast;

Thence northeasterly along said curve through a central angle of $39^{\circ} 34' 13''$ a distance of 207.19 feet to the point of tangency (chord = North $85^{\circ} 30' 44''$ East 203.10 feet); Thence South $74^{\circ} 42' 09''$ East 464.41 feet to the beginning of a 125.00 foot radius curve concave to the northwest;

Thence northeasterly along said curve through a central angle of $61^{\circ} 13' 23''$ a distance of 133.57 feet (chord = North $74^{\circ} 41' 09''$ East 127.30 feet);

Thence North $68^{\circ} 38' 49''$ East 133.69 feet to a 140.00 foot radius non-tangent curve concave to the southwest, whose center bears South $14^{\circ} 21' 21''$ West;

Thence southeasterly along said curve through a central angle of $100^{\circ} 08' 42''$ a distance of 244.7 feet (chord = South $25^{\circ} 34' 18''$ East 214.72 feet);

Subject to Maple Creek Ranches Conservation Project Phase 2 Declaration, recorded October 6, 2009 under Instrument no. 246803

EXCEPTING THEREFROM: (260224)

A parcel of land located in the Southeast Quarter of the Southeast Quarter of Section 11, Township 16 South, Range 40 East, Boise Meridian, Franklin County, Idaho, and more particularly described as follows:

Commencing at the Southeast corner of said Section 11, from which the Southwest corner of Section 11 bears North $89^{\circ} 45' 50''$ West;

Thence North $89^{\circ} 45' 50''$ West 1358.15 feet along the south boundary of said Section 11 to the west boundary of the parcel of land described in instrument number 254725;

Thence North $00^{\circ} 03' 18''$ East 169.16 feet to a 1/2" rebar and cap (PLS 7381) at the northwest corner of said parcel, the Point of Beginning.

Thence North $00^{\circ} 16' 17''$ East 146.00 feet along the west boundary fence line of the parcel of land described in instrument number 223997 to a 5/8" rebar and cap labeled "A.L.S., PLS 9163"; Thence South $46^{\circ} 47' 27''$ East 346.31 feet to a 1/2" rebar and cap (PLS 7381) at the northeast corner of the parcel of land described in instrument number 254725;

Thence North $70^{\circ} 12' 12''$ West 269.00 feet along the north boundary of said parcel to the Point of Beginning.

EXCEPTING THEREFROM

MAPLE CREEK RANCHES, PHASE 1

A parcel of land located in the Northeast quarter of Section 14, and the Southwest quarter of Section 12, and the Northwest quarter of Section 13, all in Township 16 South, Range 40 East, Boise Meridian, Franklin County, Idaho, and more particularly described as follows;

Commencing at the Northeast corner of said Section 14, from which the East quarter corner of Section 14 bears South $00^{\circ} 20' 24''$ West;

Thence South $65^{\circ} 17' 33''$ West 1496.74 feet to a 5/8" rebar and cap labeled "ALLEN LAND SURVEYING, PLS 9163" set in the centerline of the Maple Creek road, the POINT OF BEGINNING.

Thence along said centerline the following thirteen (13) courses:

Thence North $44^{\circ} 45' 54''$ East 278.08 feet to the beginning of a 140.00 foot radius curve concave to the Southeast;

Thence Northeasterly along said curve through a central angle of $56^{\circ} 40' 55''$ a distance of 138.50 feet to the point of tangency (chord = North $73^{\circ} 06' 21''$ East 132.92 feet);

Thence South $78^{\circ} 33' 11''$ East 155.65 feet to the beginning of a 350.00 foot radius curve concave to the North;

Thence Northeasterly along said curve through a central angle of $29^{\circ} 32' 45''$ a distance of 180.49 feet to the point of tangency (chord = North $86^{\circ} 40' 26''$ East 178.49 feet);

Thence North $71^{\circ} 54' 04''$ East 297.92 feet to the beginning of a 700.00 foot radius curve concave to the Northwest;

Thence Northeasterly along said curve through a central angle of $18^{\circ} 01' 54''$ a distance of 220.30 feet to the point of tangency (chord = North $62^{\circ} 53' 07''$ East 219.39 feet);

Thence North $53^{\circ} 52' 10''$ East 222.34 feet to the beginning of a 225.00 foot radius curve concave to the Southeast;

Thence Northeasterly along said curve through a central angle of $30^{\circ} 31' 47''$ a distance of 119.89 feet to the point of tangency (chord = North $69^{\circ} 08' 03''$ East 118.48 feet);

Thence North $84^{\circ} 23' 57''$ East 188.27 feet to a 5/8" rebar and cap;

Thence North $82^{\circ} 05' 20''$ East 439.88 feet to the beginning of a 1000.00 foot radius curve concave to the South;

Thence Northeasterly along said curve through a central angle of $06^{\circ} 06' 51''$ a distance of 109.62 feet to the point of tangency (chord = North $85^{\circ} 13' 46''$ East 109.57 feet);

Thence North $88^{\circ} 22' 12''$ East 231.55 feet to a 5/8" rebar and cap;

Thence North $85^{\circ} 03' 43''$ East 212.59 feet to a 5/8" rebar and cap;

Thence South $16^{\circ} 16' 26''$ West 32.18 feet to a 5/8" rebar and cap set at a fence corner;

Thence along said fence line the following five (5) courses:

Thence South $03^{\circ} 28' 52''$ East 450.75 feet to a 5/8" rebar and cap;

Thence South $00^{\circ} 47' 53''$ East 171.28 feet to a 5/8" rebar and cap;

Thence South $00^{\circ} 31' 25''$ West 68.83 feet to a 5/8" rebar and cap;

Thence South $01^{\circ} 56' 28''$ West 229.26 feet to a 5/8" rebar and cap;

Thence South $01^{\circ} 16' 48''$ East 439.88 feet to a 5/8" rebar and cap set at a fence corner;

Thence South $85^{\circ} 46' 06''$ West 1713.70 feet to a 5/8" rebar and cap;

Thence North $00^{\circ} 20' 24''$ East 30.01 feet to a 5/8" rebar and cap;

Thence South $89^{\circ} 55' 00''$ West 903.92 feet to a 5/8" rebar and cap set at a fence line;

Thence North $00^{\circ} 32' 08''$ West 793.31 feet along said fence line and its northerly extension to the Point of Beginning.



State of 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

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 17, 2020

Chatterton Land & Livestock
5203 E Maple Creek Road
Franklin, ID 83237

G & G Franklin Properties LLC
3427 Overland Avenue
Burley, ID 83318

Rallison Family Trust
5228 E Maple Creek Road
Franklin, ID 83237

RE: Notices of Change in Water Right Ownership
Water Right 13-53 (Deep Canyon Creek)

Dear Water Users:

On April 5, 2018, G&G Franklin Properties LLC ("G&G") filed a Notice of Change in Water Right Ownership ("ownership change"), proposing to update the ownership records for a portion of water right 13-53. On May 23, 2019, Chatterton Land & Livestock LLC ("Chatterton") and Rallison Family Trust ("Rallison") filed separate ownership changes proposing to update the ownership records for portions of water right 13-53. This letter is meant to notify you that I have decided to return all three of the ownership changes and refund the associated filing fees. A refund check from the state should arrive in a couple of weeks. As described below, the Department is unable to complete the ownership changes in the manner requested by Chatterton and Rallison. Further, G&G has never provided historical deeds or other conveyance documents to support its ownership change.

Water right 13-53 was described in a decree issued in 1905 (*Flack v. Franklin Maple Creek Pioneer Irrigation Company*). The 1905 Decree identified the following elements for water right 13-53:

Priority Date: 1883
Source: Deep Canyon Creek
Diversion Rate: 11.40 cfs
Point of Diversion: Not defined
Owners: Joseph Chatterton
E.M. (Elizabeth) Chatterton
James G. Lowe
W.B. Gibson

Place of Use: 440 acres

80 acres S1/2 of the SW1/4, Section 13, T16S, R40E (Joseph Chatterton)

80 acres W1/2 of the SE1/4, Section 14, T16S, R40E (E.M. Chatterton)

40 acres SWNE, Section 14, T16S, R40E (Lowe)

240 acres Parts of Sections 11, 12, 13 and 14, T16S, R40E (Gibson)

Condition: Water "to be equally divided among them, share and share alike"

In 2018, I organized a meeting with the water users on Deep Canyon Creek to see if the group could come to an agreement about how water right 13-53 should be configured and how water right 13-53 should be divided. If the current owners of the subject properties were able to reach an agreement about the ownership division and the proper place of use, then the water right could be updated accordingly.

Unfortunately, the group was not able to reach a consensus about dividing the water right. In the absence of an agreement, the Department is bound by the existing elements of the water right and the relevant historical deeds.

Debbie Chatterton has spent numerous hours collecting deeds for the subject properties and tracing the ownership of the subject properties from the decreed owners to the current owners. Debbie has kindly provided a copy of her work to the Department to support the Chatterton and Rallison ownership changes.

In October 2019, after carefully reviewing the deeds provided by Chatterton and Rallison, I prepared a draft memo describing how water right 13-53 would be divided given the decreed elements of the water right and the provisions of the relevant deeds. Prior to completing the ownership changes for Chatterton and Rallison, I sent a copy of the draft memo to Chatterton.

On March 13, 2020, I received a letter from Chatterton, expressing concerns with water right division proposed in the draft memo. Chatterton asserts that the 1905 Decree was incomplete and did not accurately describe how water right 13-53 has been historically used. According to Chatterton, James Lowe used his share of the water right to irrigate 120 acres, even though the 1905 Decree only described 40 irrigated acres for James Lowe. Similarly, Chatterton asserts that Elizabeth Chatterton and Joseph Chatterton each irrigated 120 acres, even though the decree only described 80 irrigated acres for each of these individuals. Further, Chatterton asserts that some of the Sections associated with the Gibson portion of the water right (located on the G&G property) have never been irrigated with water from Deep Canyon Creek.

Idaho Code § 42-248 describes the role of the Department in updating the ownership records for water rights. Section 42-248 does not grant the Department the authority to change or expand the elements of a water right as part of an ownership change. The Department can only divide a water right as it is currently defined. Any proposal to change the elements of a water right (for example, to change the place of use) must be accomplished through an Application for Transfer (Idaho Code § 42-222). In this case, in the absence of a private agreement dividing the water right and a

transfer rearranging the place of use, the Department is bound by the elements set forth in the 1905 Decree and the relevant historical deeds.

The proposed division described in the draft memo is based on the elements set forth in the 1905 Decree and the historical deeds for the subject properties. According to the letter from Chatterton, the proposed water right division is not acceptable. If Chatterton believes water right 13-53 should be divided based on historical use, they have a couple of options. Chatterton could initiate a quiet title action in district court, asking a judge to quiet title for its portions of water right 13-53. A district court judge has the authority to declare a person the owner of a water right, even if the water right is not currently appurtenant to that person's land. Or, Chatterton could pursue claims for a portion of water right 13-53 in a general adjudication. An adjudication claim could describe whatever portion of water right 13-53 Chatterton believes it owns. An adjudication court has the authority to quiet title to water rights. The legislature and governor recently approved the Bear River Basin Adjudication. It is still unclear when the adjudication will be funded or when claims can be filed.

I know this letter will likely come as a disappointment for you. Debbie Chatterton, in particular, has spent a significant amount of time researching the history of water right 13-53. Unfortunately, the water right division proposed by Chatterton requires the Department to ignore certain elements of water right 13-53 as set forth in the 1905 Decree. I hope that the time spent on reviewing deeds has not been wasted. The information collected and organized may still be used in a quiet title action or may be used to support a claim in the adjudication process. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Cefalo', written in a cursive style.

James Cefalo

Encl: Returned Notices

Cc: Luke Marchant, Holden Kidwell Hahn & Crapo (w/o encl)

Barg, Jonie

From: Barg, Jonie
Sent: Monday, March 16, 2020 4:13 PM
To: Marston, Sascha; Pline, Treva
Subject: Refund Request
Attachments: Receipt

Treva & Sascha,

Good afternoon!!

I have a refund request as follows:

Receipt number: E043860
Amount: \$125.00
Payable to: Guy Arnel
3427 Overland Ave
Burley ID 83318

Reason: Total filing fee received \$125.00 for an ownership change in a Water Right. We did not receive sufficient evidence to update ownership. Therefore the applicant is entitled to a full refund (\$125.00).

Let me know if you need additional information.

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

Have a great day!!!

Jonie Barg

Jonie Barg
Technical Records Specialist
Idaho Department of Water Resources
900 N Skyline Ste A
Idaho Falls ID 83402
phone: (208) 525-7161
fax: (208) 525-7177
email: jonie.barg@idwr.idaho.gov

RECEIVED
APR 05 2018
Department of Water Resources
Eastern Region

IDWR Eastern Region
900 N Skyline Dr., Ste A
Idaho Falls, Idaho 83402-1718

RE: Change of Water Right Ownership

To Wit:

Enclosed please find a Notice of Change of Water Right Ownership for Water Right/Claim Nos. 13-53A and 13-4098 with the following attachments:

Warranty Deed Conveyance document with legal description

A plat map illustrating the Point of Diversion in Deep Creek and the Place of Use (described as 240 acres in sections 11,12,13 and 14 in T16SR40EBM

A copy of Water Right No. 13-53A

A check for \$125 for one split right (13-53A) and one non-split right (13-4098)

If you have any questions, please contact:

Guy Arnell
3427 Overland Ave
Burley, Idaho 83318
208.431.3030

Thank You,


Guy E. Arnell