

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 14 2020

DEPARTMENT OF
WATER RESOURCES

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?
75-14516	Yes <input checked="" type="checkbox"/>	75-14516 Split into 75-14516 & 75-14972 75-14517 Split into 75-14517 & 75-14973		Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
75-14517	Yes <input checked="" 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: Kord S. Smith
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): William Bernt, Peggy Jo Bernt
New owner(s) as listed on the conveyance document Name connector ☐ and ☒ or ☐ and/or
- P.O. Box 425 Salmon ID 83467
Mailing address City State ZIP
208-756-4167 bill@aggipah.com
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: Jan. 8, 2020
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):
 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: William Bernt N.A. 1-8-2020
Signature of new owner/claimant Title, if applicable Date

Signature: Peggy Jo Bernt N.A. 1-8-2020
Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by KM Date 1-14-2020 Receipt No. C-108226 Receipt Amt. 400.00

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 [Signature] Date 1-30-2020

Contract of Sale

Date: Jan. 8, 2020

I, the undersigned Seller, **Kord S. Smith**

for the sum of **\$30,000.00 and ten six-day adult river trips on the Main or Middle Fork of the Salmon River with Aggipah River Trips, LLC,**

sell to the undersigned Buyers, **William Bernt and Peggy Jo Bernt, Husband and Wife,**

the following two (2) properties:

(1) **approximately 18.23 acres of land** in North Tower Creek, Idaho, as conveyed in a **Warranty Deed**, dated Dec. 12, 2019,

(2) **A 0.270 fraction**, corresponding to 5.91 irrigated acres (of 18.23 acres purchased) relative to 21.9 irrigated acres, **of existing water rights 75-14516 and 75-14517** in North Tower Creek, Idaho, as conveyed in a **QuitClaim Deed**, dated Jan. 8, 2020.

The undersigned Seller affirms that the above information about this property is accurate to the best of his knowledge. The undersigned Buyers accepts receipt of this Bill of Sale, and understand that this property is sold in "as is" condition with no guarantees or warranties (either expressed or implied) aside from the guarantee that the properties have no outstanding liens or taxes/fees.

Seller's Name (print): **Kord S. Smith**

Seller's Signature: 

Address: **157 6th St.** Apt: **605**
City: **Cambridge** State: **MA** ZIP: **02142**

Buyer's Names (print): **William Bernt** **Peggy Jo Bernt**

Buyer's Signatures:  

Address: **P.O. Box 425**
City: **Salmon** State: **ID** ZIP: **83467**

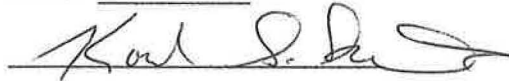
QUITCLAIM DEED

FOR VALUE RECEIVED, **Kord S. Smith (Grantor)** does hereby convey, release, remise and forever quit claim unto **William and Peggy Jo Bernt (Grantees)** whose current address is: **P.O. Box 425, Salmon, Idaho 83467**, the following described water rights:

Address: 319 Tower Creek Road, Carmen, ID, 83462
County: Lemhi County
Assessor's Parcel: T23N R22E S04 4803
Water Right: A 0.270 fraction, corresponding to 5.91 irrigated acres (of 18.23 acres purchased) relative to 21.9 irrigated acres, of existing water rights 75-14516 and 75-14517 in North Tower Creek, Idaho.

TO HAVE AND TO HOLD the said water rights, unto the said grantees, heirs and assigns forever.

Dated: 1-8-2020

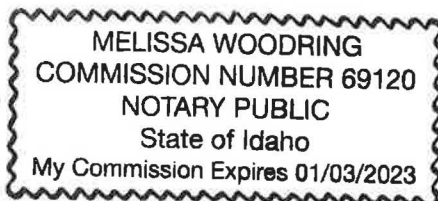


Kord S. Smith

State of Idaho)
) S.S.
County of Lemhi.)

On this 8 day of January, in the year 2020, before me, personally appeared Kord S. Smith, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same.

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




Notary Public

My Commission Expires on 01-03-2023

WARRANTY DEED

FOR VALUE RECEIVED

Kord S. Smith, an unmarried person,

the Grantor, does hereby grant, bargain, sell, and convey unto

William and Peggy Jo Bernt, Husband and Wife,

the Grantees, whose current address is

P.O. Box 425, Salmon, Idaho 83467

the following described premises, in Lemhi County, Idaho, TO WIT:

SEE ATTACHED EXHIBIT PARCEL "B"

Subject to and together with a permanent Restrictive Covenant:

that neither the said party of the second part (i.e., the Grantees) nor their heirs, successors or assigns of the party of the second part shall or will erect, or cause or suffer to be erected, or use or cause or suffer to be used on any portion of said premises any domicile, dwelling, or residence. This covenant shall run with the land in perpetuity and shall be construed as a real covenant running with the land.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantees, that he is the owner in fee simple of said premises; that they are free from all encumbrances EXCEPT: Subject to all existing patent reservations, easements, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes, assessments, (including irrigation and utility easements) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated:

Kord S. Smith

State of Massachusetts)
) S.S.
County of Middlesex.)

On this 13th day of December, in the year 2019, before me, personally appeared Kord S. Smith, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same.

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

Notary Public

My Commission Expires on April 18, 2025

PARCEL "B"

A portion of the West 1/2 of Section 4, T. 23 N., R. 22 E., Boise Meridian, Lemhi County, Idaho further described as follows:

Beginning at the C1/4 Corner of said Section 4, from which the SW Corner of the SW1/4NW1/4SW1/4NE1/4 Corner of said Section 4 bears N00°13'29"E, 657.98 feet the Basis of Bearing of this description, run thence S00°10'15"W along the easterly line of the SW1/4 said Section 4, 792.65 feet ;

Thence leaving said easterly line N77°28'11"W, 661.55 feet;

Thence N11°58'48"E, 199.48 feet;

Thence N57°14'39"W, 21.67 feet;

Thence N21°31'36"E, 130.64 feet;

Thence N07°22'27"W, 78.23 feet;

Thence N14°53'22"E, 86.54 feet;

Thence N77°25'01"W, 95.32 feet;

Thence S71°24'34"W, 131.66 feet;

Thence N18°01'28"E, 738.31 feet;

Thence N89°55'38"E, 556.26 feet to a point on the easterly line of the NW1/4 said Section 4;

Thence S00°13'29"W, 522.06 feet to the **Point of Beginning**.

Together with a driveway ingress, egress and utility easement more particularly described as follows:

Commencing at the Point of Beginning of the above described parcel run thence N00°13'29"E along the easterly line of the NW1/4 said Section 4, 522.06 feet ; thence leaving said easterly line S89°55'38"W, 556.26 feet; thence S18°01'28"W, 738.31 feet to the **Point of Beginning of said easement**;

Thence S71°24'34"W, 217.17 feet to a point on the centerline of Tower Creek Road;

Thence along the centerline of said Tower Creek Road the following courses:

N17°42'02"E, 114.57 feet;

N08°40'52"E, 17.34 feet;

Thence leaving said centerline N90°E, 186.95 feet;

Thence S18°01'28"W, 60.00 feet to the **Point of Beginning**.

Also subject to and together with a utility and ditch easement along all existing utility lines and ditches.

Said Parcel contains 18.23 Acres
Zero (0) Splits Remain.



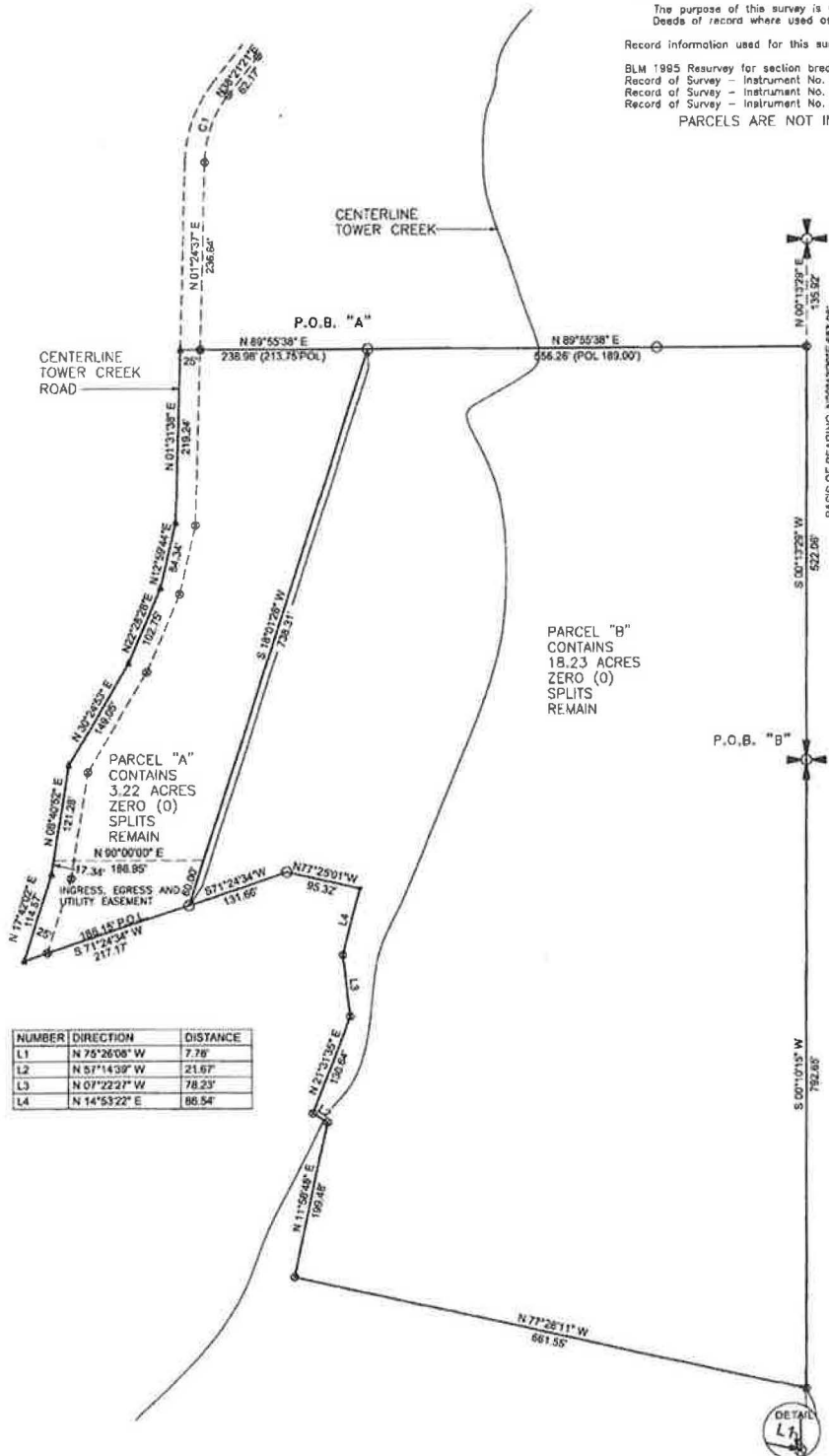
Part of Section 4, T 23 N, R 22 E, BM Lemhi County, Idaho.

Narrative

The purpose of this survey is to do a simple Lot Split, splitting the existing parcel into two parcels. Deeds of record where used as well as Records of Surveys listed below.

Record information used for this survey--

BLM 1995 Resurvey for section breakdown
Record of Survey - Instrument No. 247946, dated, Aug. 16, 2000.
Record of Survey - Instrument No. 244543, dated, June 15, 2000.
Record of Survey - Instrument No. 240253, dated, April 20, 1999.
PARCELS ARE NOT IN A FLOOD ZONE



NUMBER	DIRECTION	DISTANCE
L1	N 75°26'08" W	7.76'
L2	N 51°14'39" W	21.67'
L3	N 07°22'21" W	78.23'
L4	N 14°53'22" E	88.54'

NUMBER	DELTA ANGLE	RADIUS	TANGENT	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	36°56'44"	142.43	47.58	91.84	N 19°52'59" E	90.26

SW CORNER
SW 1/4 NW 1/4
SW 1/4 NE 1/4
C. P. & F. INST.
NO. 244076

C 1/4
SEC. 4
C. P. & F. INST.
NO. 244077

SURVEYORS CERTIFICATE

I, Thomas Taylor, a Registered Professional Land Surveyor in the State of Idaho do hereby certify that this plat is an accurate representation of the survey completed under my supervision.

Thomas Taylor, License No. 8348 Date



LEGEND

- Section corner control
- Placed 1/2" X 24" Rebar with a plastic cap marked "TMS LS 8348".
- Found 5/8" Rebar with a plastic cap marked "MADE P.L.S. 5080".
- Found 1/2" Rebar
- Calculated point nothing found or set.
- P.O.L. POINT OF LINE.
- P.O.B. POINT OF BEGINNING.



LOT SPLIT PLAT

KORD SMITH
Sec. 4, T. 23 N., R. 22 E., B.M.

THOMAS TAYLOR
PROFESSIONAL LAND SURVEYING
313 N. MAIN STREET
SALMON, IDAHO 83421

DATE	12-12-11	SHEET	2
CHECK BY	TF	OF	2
SURVING	181821		

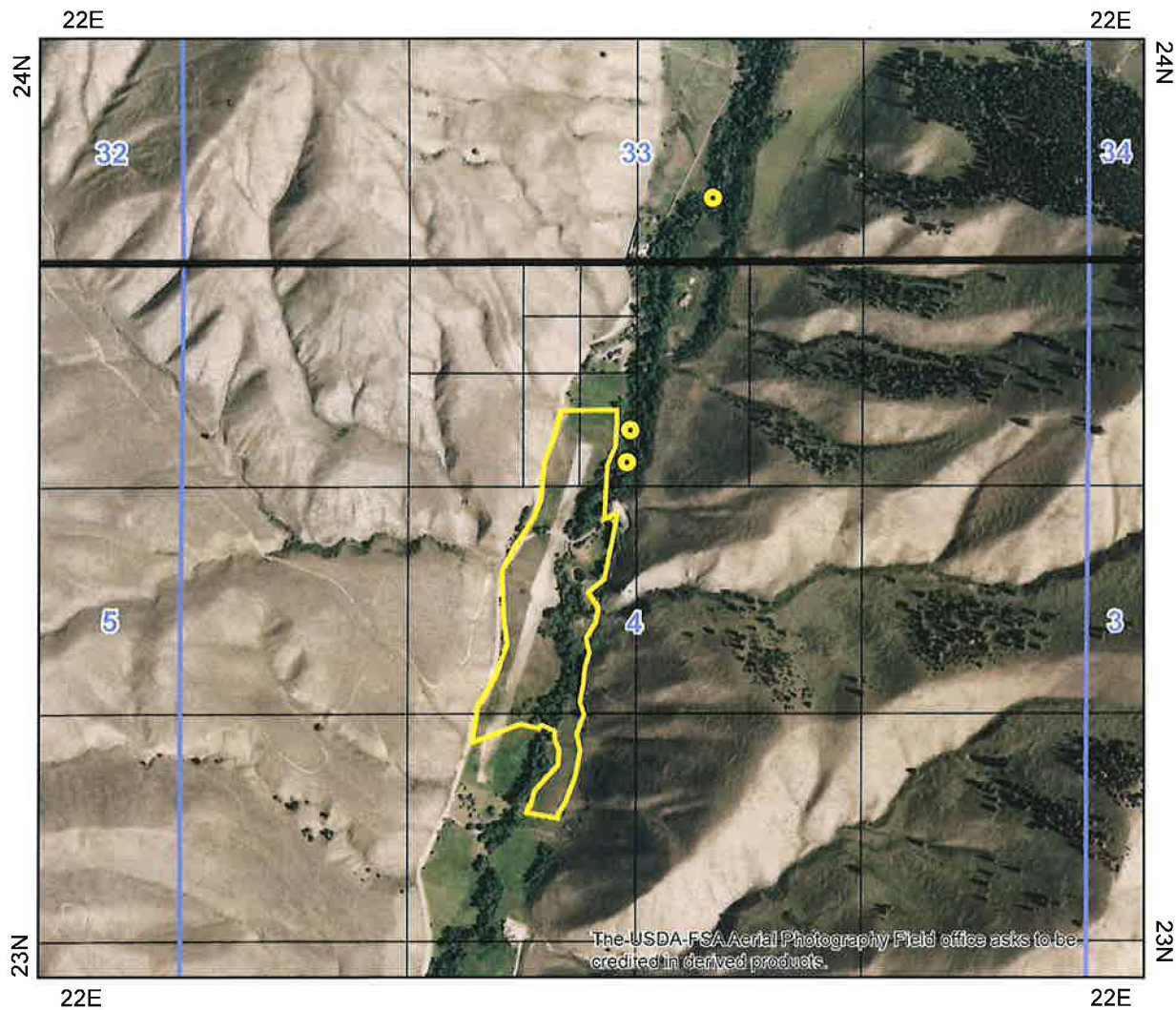
State of Idaho
Department of Water Resources






Water Right

75-14516

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.125 0.25 0.5 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

January 30, 2020

WILLIAM C BERNT
PEGGY JO BERNT
PO BOX 425
SALMON ID 83467-0425

Re: Change in Water Right Ownership: 75-14516 (Split into 75-14516 and **75-14972**), 75-14517 (Split into 75-14517 and **75-14973**)

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of a portion of the above referenced water right(s) to you. The Department has modified its records based on the information received and has enclosed a computer-generated report for you.

Your portion of each water right(s) has a specified point of diversion, nature of use and place of use. If you plan to change the authorized point of diversion, nature of use, or place of use, including adding a new point of diversion, you must file an Application for Transfer of Water Right. If you do not plan to change any elements of your water right, then no further action is required at this time.

The portion of the water right retained by the original right holder retains the original water right number. The Department is sending the original right holder a copy of this letter and a computer-generated report showing the changes to the original water right.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please note, water right owners are required to report any change of water right ownership and any change of mailing address to the Department within 120 days of the change. Reporting forms are available from any office of the Department, or from the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4942.

Sincerely,


Jean Hersley
Technical Records Specialist 2

Enclosure(s)

c: KORD S SMITH

William Bernt
P.O. Box 425
Salmon, ID 83467

Jan. 7, 2020

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED

JAN 14 2020

DEPARTMENT OF
WATER RESOURCES

SUBJECT: Change of Ownership and a new Point of Diversion for Idaho water rights 75-14516 and 75-14517

Dear Sir,

I have recently acquired 18.23 acres of land in North Tower Creek (near Salmon, Idaho) from my neighbor, Kord Smith. The packet of information accompanying this letter provides the information needed to implement an ownership change for my newly acquired fraction of existing water rights 75-14516 and 75-14517 and to change the point of diversion to my existing pump diversion of water right 75-14521.

Following discussions that Kord has had with Bob Peck (Idaho Falls IDWR) and Kord and I have had with Cindy Yenter (Salmon IDWR), Bob suggested that I send this cover letter to outline the basis for the fractional ownership change that Kord and I have agreed upon.

I acquired 18.23 acres of Kord's southern 22.45 acre parcel (one portion of Kord's two-parcel 56 acres tract) that currently have associated "stacked" water rights for 21.9 acres of Kord's irrigated land with priority dates of 6/29/1899 (75-14516) and 12/10/1909 (75-14517). The 21.9 acres was estimated by IDWR as part of the Snake River Basin Adjudication, and I attach the Split Memo (from the IDWR website) to this letter. As one can see, **the irrigated acreage was estimated by IDWR by not including the riparian lands of North Tower Creek.**

Kord and I have similarly used GIS to estimate that 5.91 acres of my newly acquired land falls into the 21.9 acres of Kord's irrigated lands, and I attach two GIS-generated plats that show how we estimated the 5.91 acres of irrigated non-riparian land on my new 18.23 acres. Using this data, we computed that **my fraction of the water right is 0.270** (i.e., 5.91 acres / 21.9 acres). Based on this fraction, I am submitting the Change in Water Right Ownership form to move a 0.270 fraction of water rights 75-14516 and 75-14517 to my (and my wife's) name. This transfer will provide me with 0.11 cfs (0.270×0.41 cfs) of 75-14516 and 0.04 cfs (0.270×0.15 cfs) of 75-14517, for a total of 0.15 cfs on my new 5.91 acres of irrigated land. I also attach, later in this letter, a copy of the Excel spreadsheet that was

used to compute my fractional water rights. When my new water rights have been implemented by IDWR, **Kord will retain 0.30 cfs on 75-14516 and 0.11 cfs on 75-14517, for a total of 0.41 cfs of water diversion for his 15.99 acres (21.9 acres - 5.91 acres) of irrigated land.** All of my newly-acquired irrigated land falls within Kord's original 21.9 irrigated acres, so there are no enlargement-of-acreage issues. I include the corresponding water-right-transfer **QuitClaim Deed** and the land-transfer **Warranty Deed** to you as part of my transfer documentation, along with the land survey map that accompanied the Deeds as filed with Lemhi County.


It is interesting to note that the net effect of this water right transfer is nearly identical in water diversion cfs to Kord's original proposal to avoid splitting of water rights - by having Kord retain all of 75-14516 and transferring all of 75-14517 to me. While Kord's proposal for water rights transfer is much easier for naïve laymen to understand, we have chosen to follow IDWR staff's recommendation that we avoid the complexity of "unstacking" the two water rights, as would be needed by IDWR to implement Kord's original proposal.

I also include an **Application for Transfer of Water Right-Point of Diversion** form to move the diversion for my new water rights to my existing pump station (the West-most diversion point of water right 75-14521), so I will not need access to Kord's land to utilize my new water rights.

I include a check for \$400.00 to cover the \$200.00 transfer fee (i.e., transfers <0.20 cfs), as well as the \$100.00 change of ownership fee for each of the two split water rights.

I hope that we have successfully filled out the forms needed for these transfers, and we would be happy to answer any questions that might arise. Feel free to contact me at 208-756-7468 (cell) and 208-756-4167 (home) or Kord at 208-757-8103 (cell) and 208-756-2338 (home).

Thanks for your assistance in this matter,


William (Bill) Bernt

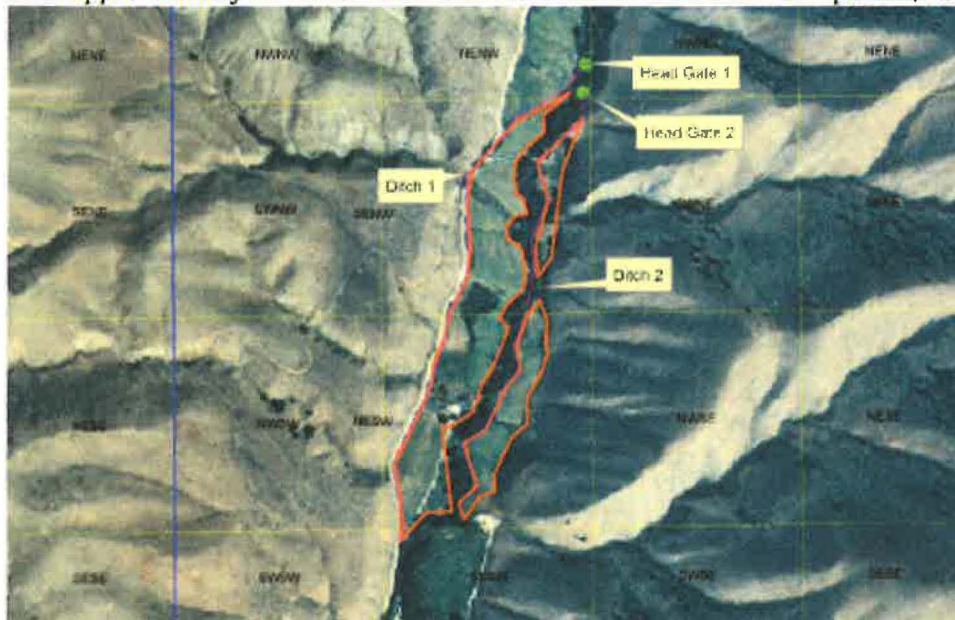
CC: Kord Smith
kord@mit.edu

Bob Peck
robert.peck@idwr.idaho.gov

Cindy Yenter
cindy.yenter@idwr.idaho.gov

Split Memo

Water right 75-14036 was split into water rights 75-14516 and 75-14517. The purpose of this split is to partition the two water rights between an 1899 priority and a 1909 priority. The 1909 is based upon a land patent which describes the acres irrigated in 1909. Submitted with this patent were three affidavits, and in these documents there are statements regarding irrigated acres and hay produced. Specifically that 2-2 ½ tons of hay per acre were produced with an average of 40 tons per year. From this information I deduced that the approximate irrigated acres during the initial season of settlement would be approximately 20 acres. I met with Kord Smith at 8:30 am on April 29, 2008.



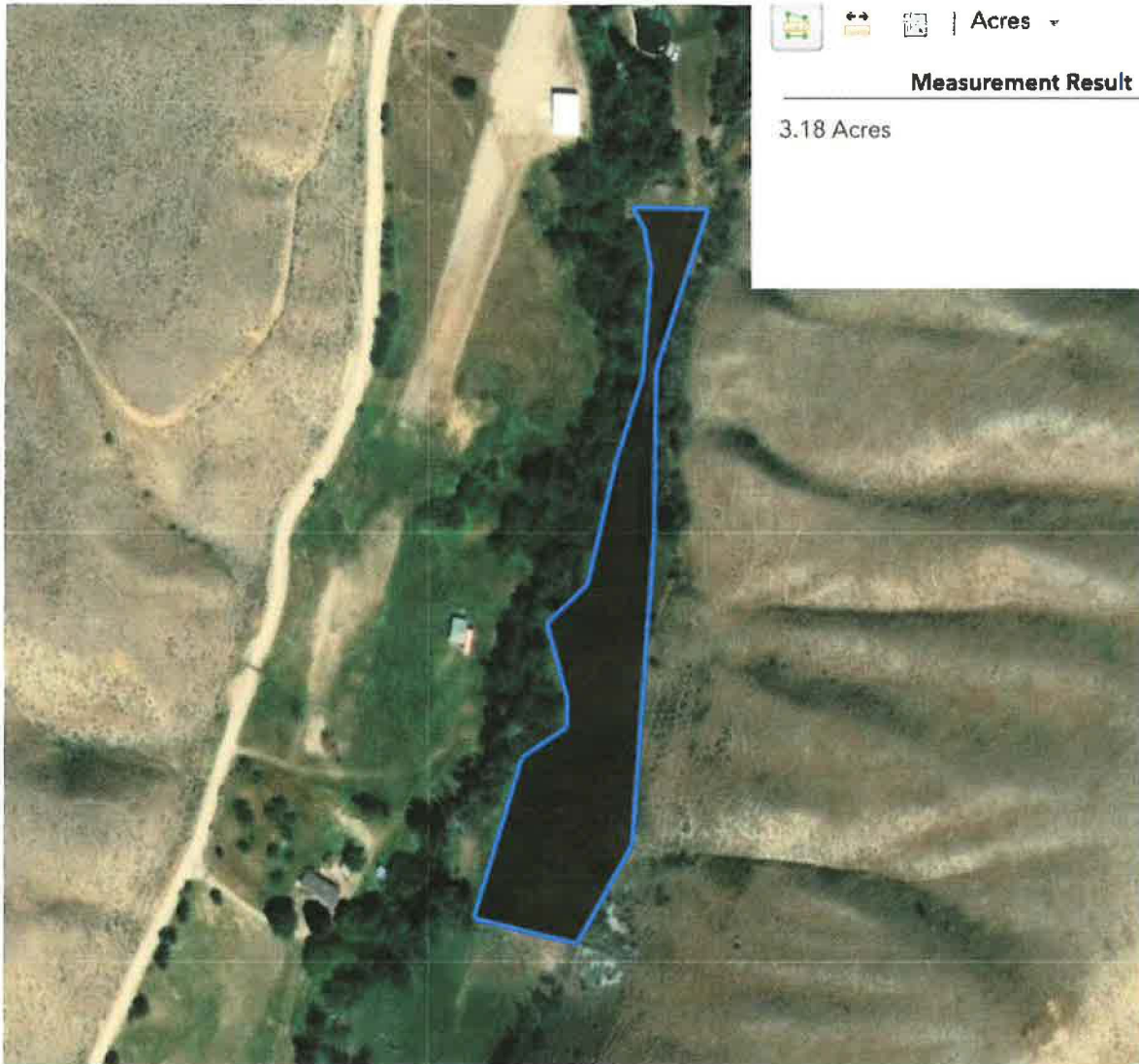
During this meeting Mr. Smith assisted me diagramming the place of use for the original homestead based upon the location of the original ditches. The original ditches were inferred base upon the topography of the land being irrigated as well as the maturity of the vegetation lining the ditches. This Place of Use is shown in the Figure Above. The resulting acreage was 24.5 acres. In 1899 the only method of irrigation used on this location was flood. The duty of water required to irrigate sandy loam soil with flood irrigation is 0.03 cfs/acre. Thus a total diversion of $(0.03 \text{ cfs/acre} * 24.5 \text{ acres}) = 0.72 \text{ cfs}$ would have been diverted in 1899. During the following 10 years the remainder of the land described in the patent was developed. This additional development would constitute the 1909 priority date. The place of use reported in the land patent was for 49 acres. Through the utilization of GIS I was able to determine that this acreage was actually 46.4 acres. Water right 75-14036 has a place of use for 21.9 acres within the original 46.4 acre place of use or 47.2% and thus is entitled to this same quantity of the 1899 water. As a result water right 75-14516 has a priority of 1899 and a diversion rate of 0.34 cfs, and water right 75-14517 has a priority of 1909 and a priority of 1909. It should be noted that existing water rights on the ditch have a priority date of 6-28-1899; water right 75-14516 was given a priority of 6-29-1899 in order to make this right junior to prior established rights.

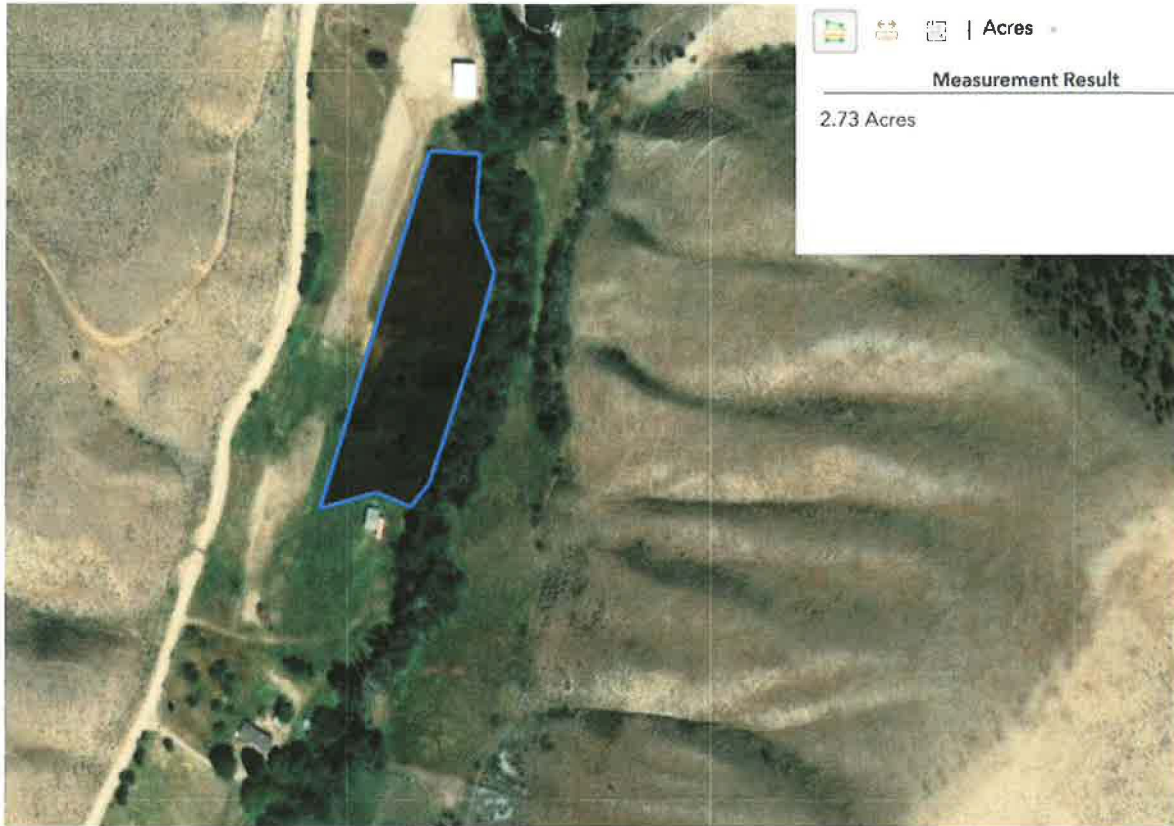
Notes

Approximate irrigated land transferred from Kord Smith to Bill Bernt (depicted in [Blue](#)) laid on the IDWR Split Memo (GIS estimated) plat of original homestead irrigated acres.



GIS Notes





Excel Spreadsheet

2020 Split of Water Rights 75-14516 and 75-14517							
Acres Irrigated			Water Right	cfs old	cfs to Bill	cfs Kord	
21.9	Kord's original		75-14516	0.4100	0.1106	0.2994	
2.73	Bill's west		75-14517	0.1500	0.0405	0.1095	
3.18	Bill's east	Bill's fraction					
5.91	Bill's total	0.270			0.151	0.409	total

Part of
Section 4, T 23 N, R 22 E, BM
Lemhi County, Idaho.

PARCELS ARE NOT IN A FLOOD ZONE

JOB NO:	18221	SHEET 2 OF 2
DATE:	09-12-10	
DOWN BY:	PT	
CRICK BY:	DM	
MARKING:	18-011	

NUMBER	DELTA ANGLE	RADIUS	TANGENT	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	30°55'44"	142.43	47.58	81.84	N 19°52'59" E	80.28