

APR 16 2019

Department of Water Resources
Eastern Region

STATE OF IDAHO
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?
34-2401A	Yes ☐	Yes ☐		Yes ☐	Yes ☐
34-4015	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Leon D. Folkman and Marlene Folkman

3. New Owner(s)/Claimant(s): Michael Telford and Shannon Telford

<u>1450 W. Highway 24</u>	<u>Paul</u>	<u>ID</u>	☒ and	☐ or	☐ and/or
Mailing address	City	State	<u>83347</u>		
<u>(208) 431-5957</u>	<u>telfordsunvalley@gmail.com</u>		<u>ZIP</u>		
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: February 18, 2016

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: Robert L. Harris Attorney April 13, 2018
Signature of new owner/claimant Title, if applicable Date

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

For IDWR Office Use Only:

Received by JB Date 4/16/18 Receipt No. L043897 Receipt Amt. \$50. -

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by AL Processed by CR Date 1/8/19

WARRANTY DEED

FOR VALUE RECEIVED, the LEON FOLKMAN and MARLENE FOLKMAN, husband and wife, do hereby release, remise, grant, bargain, sell and convey unto the MIKE TELFORD and SHANNON TELFORD, husband and wife, whose present address is 1450 West Highway 24, Paul, Idaho 83347 the following described real property located in Butte County, Idaho, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO

TO HAVE AND TO HOLD the said premises, with appurtenances unto said Grantee, their successors and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees that the Grantors are the owners in fee of said premises, that said premises are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 18th day of February, 2016.

NO. 0053544
RECORDED

FEB 23 2016

AM 1:15 PM
BUTTE COUNTY RECORDER

Leon Folkman
Leon Folkman

Marlene Folkman
Marlene Folkman

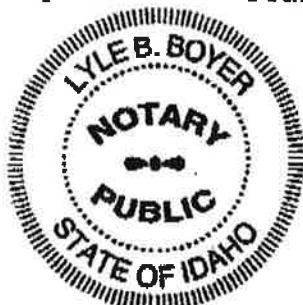
STATE OF IDAHO)

County of Butte) ss.

On this 18th day of February, 2016, before me the undersigned Notary Public in and for said state personally appeared Leon Folkman and Marlene Folkman, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me they executed the same.

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

(SEAL)



Lyle B. Boyer
Notary Public
Residing at: Arco, ID
Comm. Expires: 6-5-2021

EXHIBIT "A"

TRACT 1:

Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 9: All of the S1/2 lying South of U.S. Highway 93.

Section 10: All the SW1/4; and the W1/2SE1/4 lying South of U.S. Highway 93,
EXCEPT: A portion of the SW1/4SE1/4 and a portion of the SE1/4SE1/4 of said Section, more particularly described as follows:

Commencing at the S1/4 Corner of said Section 10; thence N. 89°54'00" E., 597 feet, along the Southern boundary of said Section 10, to the Point of Beginning;
thence N. 0°05'23" W., 208 feet;
thence N. 89°54'00" E., 835 feet to the center line of a county road;
thence S. 1°58'10" E., 208 feet, along the center line of a county road to the Southern boundary of said Section 10;
thence S. 89°54'00" W., 841.79 feet to the Point of Beginning.

ALSO EXCEPT: A parcel of land being a portion of the NW1/4SE1/4 and the NE1/4SW1/4 of Section 10, Township 3 North, Range 26 EBM, described as follows, to-wit:

Beginning at the Northeast corner of the NW1/4SE1/4 of Section 10, Township 3 North, Range 26 EBM, monumented with a 5/8 inch iron pin;
thence S. 0°00'01" E., along the Easterly boundary of said NW1/4SE1/4, a distance of 654.20 feet to a point;
thence leaving said Easterly boundary S. 70°16'24" W., a distance of 1,965.86 feet to a point on the Southerly boundary of said NE1/4SW1/4;
thence S. 89°53'33" W., along said Southerly boundary, a distance of 426.45 feet to a point;
thence leaving said Southerly boundary N. 19°43'36" W., a distance of 825.97 feet to a point on the Southerly right-of-way of State Highway 93;
thence N. 70°18'44" E., along said Southerly right-of-way, a distance of 1,604.12 feet to a point on the Northerly boundary of said NW1/4SE1/4;
thence leaving said Southerly right-of-way N. 89°57'57" E., along said Northerly boundary, a distance of 1,045.38 feet to the Point of Beginning.

EXCEPTING THEREFROM: A parcel of land in the NW1/4SE1/4 of Section 10, Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho, described as follows:

Beginning at a point in the Southerly boundary line of the Arco/Butte County Airport, said point being located the following courses from the Center 1/4 Corner of said Section 10:

A) S. 00°01'41" E., 1,126.96 feet, along the center line of said Section 10, to the point of intersection of same with the Southerly boundary line of the Arco/Butte County Airport;
thence B) N. 70°16'24" E., 921.10 feet, along said Southerly boundary line to the Point of Beginning;
thence 1) N. 70°16'24" E., 466.42 feet, along said boundary line;
thence 2) S. 00°00'01" E., 609.78 feet;
thence 3) S. 89°33'48" W., 439.06 feet;
thence 4) N. 00°00'01" W., 455.70 feet to the Point of Beginning.

TRACT 2:

Township 5 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 15: A parcel of land in the NE1/4NW1/4 of Section 15, more particularly described as follows:

Beginning at the center of an existing well located near the Northwest corner of said NE1/4NW1/4,
thence North approximately 80 feet to a point on the North line of Section 15 above, which is the True Point of Beginning;
thence West 8 feet;
thence South 90 feet;
thence East 23 feet;
thence North 90 feet to a point on the North Section line;
thence West 15 feet to the True Point of Beginning.

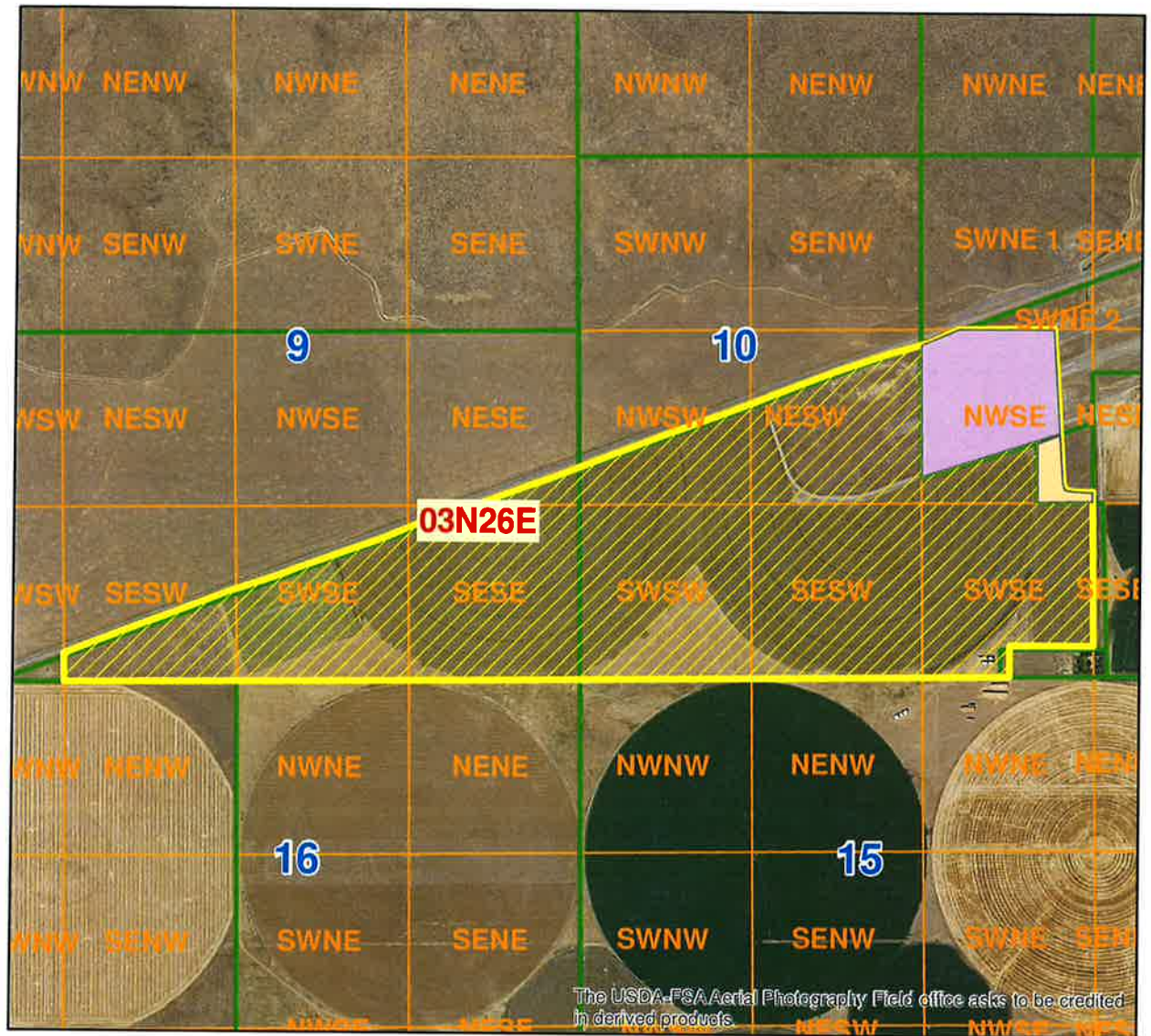
TRACT 3:

Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

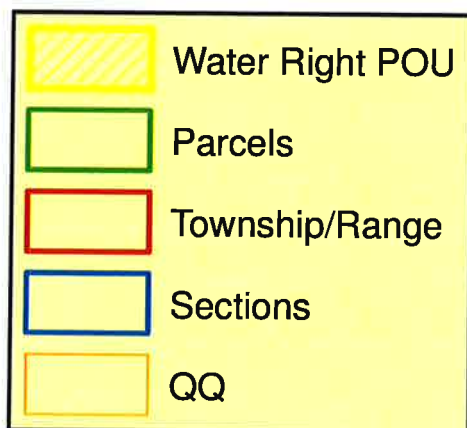
Section 10: A portion of the SE1/4SE1/4 of Section 10, more particularly described as follows:

Commencing at the Southeast corner of said Section 10, thence S. 89°54'00" W., 1,320.00 feet, along the Southern boundary of said Section 10;
thence N. 0°05'23" W., 208 feet to the Point of Beginning;
thence N. 0°05'23" W., 1,107.87 feet, along the Western boundary of the SE1/4SE1/4, said Section 10, to the Northwest corner of the SE1/4SE1/4, said Section 10;
thence N. 89°56'07" E., 75.61 feet to the center line of a county road;
thence S. 1°58'10" E., 1,108.52 feet, along the center line of a county road;
thence S. 89°54'00" W., 112 feet to the Point of Beginning.

Water Rights 34-2401A and 34-4015



2013 Aerial Photo



0 1,000 2,000 Feet





NO. 029633
RECORDED

NOV - 6 1995

WARRANTY DEED

AM 3:33 PM
BUTTE COUNTY RECORDER

FOR VALUE RECEIVED Leon Folkman and Marlene Folkman, husband and wife, the Grantors, do hereby grant, sell and convey unto the City of Arco, a Municipal Corporation and Butte County, a Political Subdivision of the State of Idaho, the Grantees, whose address is P.O. Box 737, Arco, Idaho 83213, the following described premises, to-wit:

A parcel of land in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 3 North, Range 26 East, Boise Meridian, Butte County, Idaho, described as follows:

BEGINNING AT A POINT in the southerly boundary line of the Arco/Butte County Airport, said point being located the following courses from the center $\frac{1}{4}$ corner of said Section 10:

A) South 00° 01' 41" East, 1126.96 feet along the centerline of said Section 10 to the point of intersection of same with the southerly boundary line of the Arco/Butte County Airport; thence,

B) North 70° 16' 24" East, 921.10 feet along said southerly boundary line to the POINT OF BEGINNING; thence,

- 1) North 70° 16' 24" East, 466.42 feet along said boundary line; thence,
- 2) South 00° 00' 01" East, 609.78 feet; thence,
- 3) South 89° 33' 48" West, 439.06 feet; thence,
- 4) North 00° 00' 01" West, 455.70 feet to the POINT OF BEGINNING.

Said parcel containing 5.370 acres, more or less.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances except

29633

easements of record and taxes and assessments for the year 1995, not yet due and payable, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 6 day of ^{November}~~August~~, 1995.

GRANTORS:

Leon Folkman
Leon Folkman

Marlene K. Folkman
Marlene Folkman

STATE OF IDAHO)
)ss.
County of Butte)

On this 6th day of ^{Nov.}~~August~~, 1995, before me a notary public in and for said State, personally appeared **Leon Folkman and Marlene Folkman**, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Judith R. Bailey
Notary Public for Idaho
Residing in Butte County
Commission Expires 4-21-1999

PROJECT: Arco Airport
KEY: ---
PARCEL: D

No. 22972
FILED
DEC 19 1989
AM. 3:47 P.M.
BUTTE COUNTY RECORDER
[Signature]

WARRANTY DEED

THIS INDENTURE, Made this 17th day of November, 1989, between LEON FOLKMAN AND MARLENE FOLKMAN, husband and wife, Grantors, AND the CITY OF ARCO, a Municipal Corporation and BUTTE COUNTY, a Political Subdivision of the State of Idaho, P. O. Box 737, Arco, Idaho 83213, Grantee.

WITNESSETH, That the Grantors, for valuable consideration, paid to them, receipt whereof is acknowledged, have granted, bargained, sold, and conveyed, and by these presents do grant, bargain, sell and convey unto the Grantee, its successors and assigns forever, in Fee Simple, the following described real estate, situated in the County of Butte, State of Idaho.

A parcel of Land being a portion of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter of Section 10, Township 3 North, Range 26 East, Boise Meridian, described as follows, to-wit:

BEGINNING at the Northeast Corner of the Northwest Quarter of the Southeast Quarter of Section 10, Township 3 North, Range 26 East, Boise Meridian, monumented with a 5/8 inch iron pin;

Thence South 0° 00' 01" East along the Easterly boundary of said NW 1/4 SE 1/4 a distance of 654.20 feet to a point;

Thence leaving said Easterly boundary South 70° 16' 24" West, a distance of 1,965.86 feet to a point on the Southerly boundary of said NW 1/4 SE 1/4; *NE 1/4 SW 1/4* 2
Error

Thence South 89° 53' 33" West along said Southerly boundary a distance of 426.45 feet to a point;

Thence leaving said Southerly boundary North 19° 43' 36" West a distance of 825.97 feet to a point on the Southerly Right-of-Way of State Highway 93;

Thence North 70° 18' 44" East along said Southerly Right-of-Way a distance of 1,604.12 feet to a point on the Northerly boundary of said NW 1/4 SE 1/4;

Thence leaving said Southerly Right-of-Way North 89° 57' 57" East and along said Northerly boundary a distance of 1,045.38 feet to the POINT OF BEGINNING.

The area above described contains approximately 51.343 acres, none of which is acknowledged to be a portion of public roads.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantee, and its successors and assigns forever. And the Grantors do hereby covenant to and with the said Grantee, that they are the owners in Fee Simple of said premises; that the premises are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, Grantors have hereunto set their hands and seals the day and year first written.

GRANTORS' SIGNATURE

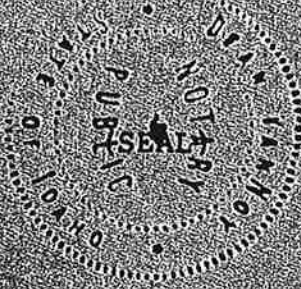

Marlene Folkman


Leon Folkman

STATE OF IDAHO
COUNTY OF BUTTE

On this 17th day of November, 1989, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Leon Folkman and Marlene Folkman, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the 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.




NOTARY PUBLIC FOR IDAHO
Residing at 11325 Edna, Boise
My Commissions Expires 10-15-92

22971

No.

FILED

PROJECT: Arco Airport
KEY: ---
PARCEL: D

DEC 19 1989

A.M. 3:40 P.M.

BUTTE COUNTY RECORDER

QUITCLAIM DEED

THIS INDENTURE, Made this 20th day of November, 1989, between EXIE SOELBERG, WINSTON J. SOELBERG, DEAN S. SOELBERG, RAY BRUCE SOELBERG, EILEEN MCKINNEY, MARILYN MARROW, BETTY LARSON, RENEE PAGE, KENT DAVID SOELBERG, BRADLEY DALE SOELBERG, JANICE PEDERSEN, CORNELL BRENT SOELBERG AND DOUGLAS EARL SOELBERG, Grantors, AND the CITY OF ARCO, a Municipal Corporation and BUTTE COUNTY, a Political Subdivision of the State of Idaho, P. O. Box 737, Arco, Idaho 83213, Grantee.

WITNESSETH, That the Grantors, for valuable consideration, paid to them, receipt whereof is acknowledged, do by these presents grant, remise, release, convey and forever QUITCLAIM, unto the Grantee, its successors and assigns, all present right, title and interest, and all right, title and interest that may hereinafter be acquired by the Grantors in and to the following described real estate, situated in the County of Butte, State of Idaho.

A parcel of Land being a portion of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter of Section 10, Township 3 North, Range 26 East, Boise Meridian, described as follows, to-wit:

BEGINNING at the Northeast Corner of the Northwest Quarter of the Southeast Quarter of Section 10, Township 3 North, Range 26 East, Boise Meridian, monumented with a 5/8 inch iron pin;

Thence South 0° 00' 01" East along the Easterly boundary of said NW 1/4 SE 1/4 a distance of 654.20 feet to a point;

Thence leaving said Easterly boundary South 70° 16' 24" West, a distance of 1,965.86 feet to a point on the Southerly boundary of said NW 1/4 SE 1/4;

Thence South 89° 53' 33" West along said Southerly boundary a distance of 426.45 feet to a point;

Thence leaving said Southerly boundary North 19° 43' 36" West a distance of 825.97 feet to a point on the Southerly Right-of-Way of State Highway 93;

Thence North 70° 18' 44" East along said Southerly Right-of-Way a distance of 1,604.12 feet to a point on the Northerly boundary of said NW 1/4 SE 1/4;

Thence leaving said Southerly Right-of-Way North 89° 57' 57" East and along said Northerly boundary a distance of 1,045.38 feet to the POINT OF BEGINNING.

The area above described contains approximately 51.343 acres, none of which is acknowledged to be a portion of public roads.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in otherwise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantors have hereunto set their hands and seals the day and year first written.

GRANTORS' SIGNATURE

*Power of attorney (on file and of record)
to Exie Soelberg*

Exie Soelberg
Exie Soelberg

Winston J. Soelberg By E.S.
Winston J. Soelberg

Dean S. Soelberg By E.S.
Dean S. Soelberg

Ray Bruce Soelberg By E.S.
Ray Bruce Soelberg

Eileen McKinney By E.S.
Eileen McKinney *Goldner*
SEE

Marilyn Morrow By E.S.
Marilyn Morrow

Betty Larsen By E.S.
Betty Larsen

Renee Page By E.S.
Renee Page

Kent David Soelberg By E.S.
Kent David Soelberg

Bradley Dale Soelberg By E.S.
Bradley Dale Soelberg

Janice Pedersen By E.S.
Janice Pedersen

Cornell Brent Soelberg By E.S.
Cornell Brent Soelberg

Douglas Earl Soelberg By E.S.
Douglas Earl Soelberg

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A34-10028A
Date Received: 6/18/92
Receipt No: E017524
Received By: ES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LEON FOLKMAN 208-527-8231
Address: PO BOX 823
ARCO ID 83213
OR
Name: MARLENE FOLKMAN 208-527-8231
Address: PO BOX 823
ARCO ID 83213

2. Date of Priority: APR 1, 1961

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	26E	26	NW	NW	NW	I	BUTTE
			NW	NW	NW	R	BUTTE
05N	26E	15	NW	NE	NW		BUTTE

5. Description of diverting works:
WELL & PUMP INTO ISLAND CANAL TO MUNSEY DITCH TO PLACE OF USE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	4.360		
			2.18	LF	

7. Total Quantity Appropriated is:
2.180 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 272.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	26E	9	SE	SW		IRR	12.0
			NE	SE		IRR	2.0
			SW	SE		IRR	28.0
			SE	SE		IRR	38.0
			Section Acres				80.0
		10	NE	SW		IRR	32.0
			NW	SW		IRR	17.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
			NW	SE		IRR	30.0
			SW	SE		IRR	38.0
			Section Acres				197.0
		12	SW	SE		IRR	38.0
			SE	SE		IRR	34.0
			Section Acres				72.0
		13	NE	NE		IRR	38.0
			Section Acres				38.0
			Total Acres				387.0

11. Place of use in counties: BUTTE

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
34-10163, 34-10929, 34-00596

14. Remarks:

WATER RIGHT 34-10929 IS AN EXPANSION OF THIS RIGHT PURSUANT TO IDAHO CODE 42-1416(2).

USE OF THIS RIGHT WITH RIGHT NO. 34-10929 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.18 CFS.

RIGHT NOS. 34-02401A AND 34-10929 ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 109 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): *Leon J. Schuman* Date: 6/18/92
Date:

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 18 day
of June 19 92

[Signature]
Notary Public

Seal

Residing at Dakota Falls, Id.

My Commission Expires 22 Aug 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718

Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

January 08, 2019

MICHAEL & SHANNON TELFORD
1450 W HIGHWAY 24
PAUL ID 83347-8666

Re: Change in Ownership for Water Right No(s): 34-2401A, 34-4015

Dear Water Right Holder(s):

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

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) 525-7161.

Sincerely,

Cher Ramos
Technical Records Specialist 1

Enclosure(s)

cc: Robert Harris
Big Lost River Ground Water District
Water District 34



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED
DEC 28 2018
Department of Water Resources
Eastern Region

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

December 26, 2018

James Cefalo
Jonie Barg
Eastern Regional Office
Idaho Department of Water Resources
900 North Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

Re: Response to Letter Regarding Change in Ownership of Water Right Nos. 34-2401A and 34-4015.

Dear Jonie and James:

This letter is in response to a letter I received earlier this year and an email I received a few weeks ago regarding the same matter, which is the *Notice of Change in Water Right Ownership* we submitted on behalf of Michael Telford and Shannon Telford for the above water rights. In response, the Department provided a copy of the enclosed map which shows that part of the place of use shapefile of these water rights is covered by land owned by Butte County and the City of Arco. In reviewing your map, it is consistent with the enclosed map we have prepared that shows county tax parcel boundaries labeled with the names of the owners for those parcels. My understanding of what is being requested of Telford is information concerning the deeds associated with the parcels covered by the place of use shapefile of 34-2401A and 34-4015 and our position relative to whether IDWR can update ownership of these water rights as we have requested.

The commencement date for the Snake River Basin Adjudication was November 19, 1987. The predecessor owners of the above water rights, Leon and Marlene Folkman, would have submitted their claims in the Snake River Basin Adjudication a few years after that commencement date. As you know, not all of the original claim files for Basin 34 Water Rights are scanned and available on the Department's website but are primarily housed on microfiche at your office. I did find on the SRBA website that Water Right No. 34-4015 was renumbered from a prior claim number of 34-10028A. That claim was filed on June 18, 1992 and it contained a description of the property that Folkman (now the Telfords) owned in Sections 9 and 10, Township 3N., 26E. The date the *Notice of Claim* was submitted is relevant to the information contained in this letter.

First, relative to the City of Arco parcel, enclosed is a copy of the deed wherein the Folkmans conveyed title to the City of Arco for this 5.37-acre parcel. The Warranty Deed does

Established in 1896

not include an express reservation of water rights. However, as I review the shapefile for the water rights, the shapefile does not cover the entirety of the City of Arco parcel, and it appears that Folkmans' original intent was likely to not include this parcel as part of his claim. It is also possible that there could have been a slight projection error or other error in converting the hand-drawn map to the shapefile by Department staff.

Additionally, it does not appear that the intent of the parties was to convey any water rights. After obtaining the 5.37-acre parcel, the City of Arco did not submit a *Notice of Change in Water Right Ownership* in 1995 and has not yet made such a submission (a period of over 23 years). Perhaps most importantly, Arco did not submit an ownership change request prior to partial decrees being entered in the SRBA for the above water rights, nor did it submit any objection or other document in the SRBA alleging an ownership interest of a portion of the above water rights.

Furthermore, these water rights are diverted from a ground water well and primarily delivered through the canal system of the Big Lost River Irrigation District, costs for the operation, maintenance, and transportation of which have never been paid by the City of Arco. Had the Folkmans believed they were conveying a portion of their water rights to Arco, and conversely had Arco believed it was entitled to a portion of the water rights, neither party requested of the other to share payment of expenses associated with operation of the well and delivery of water through the Big Lost River Irrigation District canal system.

We are aware that a Department Administrator's Memorandum (Records No. 9, *Processing Notice of Change in Water Right Ownership and Associated Updates to Water Right Records*, May 21, 2015) provides that the Department staff can look at pre-decree deeds to update ownership. However, James is familiar with decisions from the *Cash v. Cash* case (Camas County Case No CV-2016-02) from Judge Wildman wherein he determined that ownership was an element decreed in the Snake River Basin Adjudication, and that the failure to submit a *Notice of Change of Water Right Ownership* or other timely objection prevents a person or entity from claiming ownership after the partial decree for the water rights is entered. ("If a party to the SRBA disagreed with another parties' assertion of ownership to a water right, he was statutorily required to file an objection to that effect with the SRBA District Court. I.C. § 42-1412(1)." *Order Denying Petitioner's Second Motion for Reconsideration* at 4).

While the *Cash* decision was not appealed, we believe there is legal authority from the SRBA judge for the Department to rely upon to update ownership the entirety of 34-2401A and 34-4015 in the name of the Telfords, particularly when you also consider the evidence provided in this letter relative to lack of any payment from the City of Arco or any action from them relative to diversion and delivery of the water after obtaining title to this property in 1995. Taken as a whole, this is sufficient evidence to indicate that neither the City of Arco nor the Folkmans believed any water rights were being conveyed when this parcel was sold.

Relative to the parcel owned by the county and Arco that is now part of a portion of the runway at Arco Butte County Airport, we have included copies of two instruments recorded as Instrument Nos. 22971 and 22972 in the records of Butte County, Idaho. While I do not have anything in writing to confirm this, my understanding after visiting with Lyle Boyer of the local title company office is that in the late 1980s the Federal Aviation Administration required Butte County to have additional runway space for the airport. If you look at both deeds, they both contain the same legal description. However, the Folkman deed, Instrument No. 22972, is dated November 17, 1989, while Instrument No. 22971 is dated November 30, 1989. The recording dates suggest that in order to clean up title for the purposes of closing, there needed to be an instrument cleaning up an estate issue relating to the Soelbergs. This deed conveyed, by quitclaim deed, any right, title or interest that they may have had (or stated another way, the quitclaim deed released any interest they may have had in the property). Conversely, the Folkmans conveyed by warranty deed the parcels to Arco and Butte County for the airport (the handwritten notes on the warranty deed are from Lyle Boyer of Title One who has identified a typographical error but that is not consequential for purposes of this letter). The deed does not contain any reservation of water rights. However, for all the same reasons described above relative to the City of Arco parcel, viewing the evidence as a whole does not suggest in any way that the City of Arco or Butte County intended to obtain water rights or to use water rights associated with the parcel that it had just purchased. A review of aerial photography shows the extended runways on the parcels, and it is evident that the intent of the transaction was simply to extend the airport.

Finally, it is worth noting that in the Telford transfer that is currently being contested (Transfer No. 82318), the shapefile associated with these properties is being removed, and the overall acreage under these water rights is being reduced. This is being done in an effort to simply clean up the shapefile to ensure that it now is consistent with the property as it has been historically irrigated since the late 1980s.

As you know, the law in Idaho is that “Unless they are expressly reserved in the deed **or it is clearly shown that the parties intended that the grantor would reserve them**, appurtenant water rights pass with the land even though they are not mentioned in the deed and the deed does not mention ‘appurtenances.’” *Bagley v. Thomason*, 149 Idaho 799, 803, 241 P.3d 972, 976 (2010) (quoting *Joyce Livestock Co. v. United States*, 144 Idaho 1, 14, 156 P.3d 502, 515 (2007)) (emphasis added). Our position is that the conduct of the parties clearly shows that the parties intended for Folkman to reserve whatever water right may have been associated with conveyance of these parcels. As a practical matter, this clearly was the case because given the significant travel distances for ground water to be conveyed to these parcels, Folkman concentrated his water supply on the farmground he continued to farm, and did not use water to irrigate the Arco/Butte County parcel any longer.

James Cefalo and Jonie Barg
December 26, 2018
Page 4 of 4

Based on the foregoing, we request that the Department process the ownership change as we submitted it. If you have any additional questions, please let me know.

Best regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

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Cefalo, James

From: Cefalo, James
Sent: Thursday, December 13, 2018 9:35 AM
To: 'Rob Harris'
Cc: 'James Speck'; why@atcnet.net; andersenangus@gmail.com
Subject: Application for Transfer 82318 (Telford Lands) - Ownership Split for Folkman Rights
Attachments: Folkman Rights - Parcel Ownership Map.pdf

Rob,

Jonie Barg in our office just handed me a Notice of Ownership Change that you filed for Telford Lands in May 2018. The notice proposes to update the ownership records for water rights 34-2401A and 34-4015 which were previously held by Leon & Marlene Folkman. We have not been able to complete the ownership change because, according to Butte County's parcel map, Telford Lands does not own all of the irrigated acres under the Folkman rights. I intended to raise this issue at the contested case conferences but I forgot. The attached map shows the two areas of concern. Water rights 34-2401A and 34-4015 in combination authorize 277 acres of irrigation. The current place of use for the water rights matches the acres that were irrigated in 1987. 22.2 acres of the irrigation place of use is now owned by Butte County (highlighted in purple). 2.5 acres of the irrigation place of use is now owned by the City of Arco (highlighted in light orange). We don't have a copy of the deeds from Folkman to the City or Folkman to the County. It's possible that Folkman withheld the water rights from those conveyances. I just wanted to keep this on your radar. It may be worthwhile to address any water right ownership issues prior to the hearing.

James Cefalo
Water Resources Program Manager
IDWR Eastern Region
(208) 525-7161



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 18, 2018

Attn: Rob Harris
Holden Kidwell Hahn & Crapo
1000 Riverwalk Dr
PO Box 50130
Idaho Falls ID 83405

RE: Change in Ownership Water Right No. 34-2401A & 34-4015

Dear Sir/Madam:

The Department of Water Resources acknowledges receipt of your Notice of Change in Water Right Ownership.

Our review of your notice indicates that additional information is required before we can process the change. The information required is indicated below:

**** **Evidence of Ownership:** According to our review of the documentation a split of the water rights listed above may be required. On April 17, 2018 the department contact you and you were going to do some additional research. The department has not received any additional evidence of ownership or split filing fee. Please submit evidence indicating the Telford's ownership in the entire place of use of the water rights or water rights themselves or submit the additional fee in order for the department to split the water right.

Because the Department cannot process the ownership change without proper documentation/fees, we will hold any action on your notice pending receipt of the necessary information/fees. If we do not receive the necessary information/fees within 30 days we will return your notice and all attachments and your notice will not be processed.

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

Enclosure(s)

SCANNED

MAY 17 2018



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED

APR 16 2018

Department of Water Resources
Eastern Region

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

April 13, 2018

Jonie Barg
Idaho Dept. of Water Resources
900 N Skyline Dr., Ste. A
Idaho Falls, ID 83402-1718

Re: Notice of Change in Water Right Ownership for Water Right Nos. 34-2401A and 34-4015.

Dear Jonie:

Enclosed for processing is a *Notice of Change in Water Right Ownership* for the above described water rights. We have also included a copy of the *Warranty Deed* conveying title to the property to which these water rights are appurtenant, along with the required \$50 filing fee.

If you have any questions or concerns, please let me know.

Best regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

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