



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

March 30, 2018

HIRSCHI FAMILY LIVING TRUST
1095 S ROUECHE LN
KAYSVILLE UT 84037

Re: Proposed Changes to Statutory Claim
Claim No. 11-7482

Dear Water Right Claimant:

On February 1, 2002, the Department received Claim to a Water Right No. 11-7482 to record the practice of diverting and using water from the Bear River for stock watering purposes from September 30 to December 31 each year. The claim was filed under the provisions of Idaho Code § 42-243. While filing a claim allows a water user to record a use of water and claim a priority date of when water was first used, it does not confirm that a water right was established. A general stream adjudication is necessary to confirm the right.

The Department received your ownership change notice for the claim in 2015, and on December 15, 2017, the Department received your Claim to a Water Right seeking to amend the claim. The amended claim has a different season of use and place of use than the original claim.

Idaho Code § 42-244 states that claims "may be corrected" by filing an amended claim. However, it is not clear from your filing whether it represents a correction to accurately reflect past practice or whether it seeks to change the season of use and place of use when compared to past practice. According to Idaho Code § 42-222(1), any changes proposed other than corrections of the historical use must be proposed in an Application for Transfer and approved by the Department. Idaho Code § 42-222(1) states:

Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. [Emphasis added.]

The requirement for a claimant to seek approval for a change through the transfer application process has been in law since 1969.

If your amended claim reflects past practice, then the amended claim is appropriate. We would only ask that you write IDWR a detailed letter of explanation. If you are seeking a change in your place of use or season of use, however, the transfer application is required.

I have enclosed a copy of the original claim, Application for Transfer of Water Rights and Transfer Instructions for your convenience. If you have questions, please contact me at (208) 287-4951.

Sincerely,

A handwritten signature in blue ink that reads "Pamela S. Skaggs". The signature is written in a cursive style with a large initial "P".

Pamela S. Skaggs
Water Rights Supervisor

Enclosures