

Fawcett, Trish

From: Homan, John
Sent: Tuesday, March 29, 2016 3:44 PM
To: Paul Arrington
Cc: Chris Bromley; Baxter, Garrick; Jones, Doug; Fawcett, Trish
Subject: Belle Ranch & First Security Corporation Water Rights originally decreed as South County Estates LLC

Paul,

Trish Fawcett forwarded your letter dated March 17, 2016 to the legal staff at the State Office for review and reconsideration. I told her I would review the materials you submitted and materials previously submitted with the change in ownership in 2015. I have completed my review and have advised Idaho Department of Water Resources ("Department" or "IDWR") to change its records for the 7.5/289th portion of the water rights into the name of South County LLC., the name listed on the partial decree dated August 31, 2010.

As you are aware IDWR does not possess the legal authority to quiet title in ownership disputes. Disputes over title to real property can only be resolved by a quiet title action brought before a district court. Idaho Code § 6-401; *see also Rural Kootenai Organization, Inc. v. Board of Com'rs*, 133 Idaho 833, 842, 993 P.2d 596, 605 (1999)(Kootenai County Board of Commissioners lacks jurisdiction to determine who owns title to submerged lands.); *see also Bonner Bldg. Supply, Inc. v. Standard Forest Products, Inc.*, 106 Idaho 682, 685, 682 P.2d 635, 638 (Ct. App. 1984)(A district court has jurisdiction in action to quiet title.). IDWR only maintains and updates water right ownership records pursuant to Idaho Code Section 42-248. The Department elected to process the First Security Corporation's change in ownership based upon the materials submitted at the time with the application. Despite providing notice of the change to Belle Ranch on January 13, 2015, IDWR did not receive any communication from you expressing a concern with this change until your March 17, 2016 letter. Review of earlier materials and consideration of your recent arguments and submitted materials indicate there is a dispute over current ownership of the 7.5/289th portion of these water rights. Because ownership is disputed, I have advised IDWR to change its records for the 7.5/289th portion of the water rights into the name of South County LLC consistent with the partial decrees.^[1] Should you or anyone else disagree with the characterization of the ownership in the Department's records, you have the option to quiet title to the water right in district court. The Department will then alter its water right ownership records, should it become necessary, to comport with the district court judgment.

^[1] Regarding the larger 281/289 portion of the water right, IDWR intends to leave that water rights in the name of Belle Ranch as there does not appear to be a dispute involving that portion of the water rights at this time.

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