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

November 25, 2014

M3 EAGLE DEVELOPMENT PARTNERS LLC
4222 E CAMELBACK RD STE H100
PHOENIX AZ 85018

Re: Change in Water Right Ownership: Water Right Permit No. **63-32604** (split into 63-32604 and 63-33939), Water Right No(s): **63-3066** (split into 63-3066 and 63-34009), **63-3067** (split into 63-3067 and 63-34010), **63-32846** (split into 63-32846 and 63-34011), **63-32848** (split into 63-32848 and 63-34012 and **63-32850** (split into 63-32850 and 63-34013)

Dear Water Right Holder(s):

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

Your portion of these water rights has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form or you can find the forms at www.idwr.idaho.gov. If you do not plan on changing any items on your water right, then no further action is required at this time.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing an ownership change notice, the department does not review the history of water use to determine if the right has been forfeited 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 Sections 42-222 and 42-223, Idaho Code.

Please feel free to contact me at 208-287-4942 if you have any questions concerning the enclosed information or this letter.

Sincerely,

Jean Hersley

Jean Hersley
Technical Records Specialist II

Enclosure

c: Givens Pursley

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DEPARTMENT OF WATER RESOURCES
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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 25, 2014

BALL REAL ESTATE INVESTMENTS LLC
4350 E CAMELBACK RD STE E240
PHOENIX AZ 85018

Re: Change in Water Right Ownership: Change in Water Right Ownership: Water Right Permit No. **63-32604** (split into 63-32604 and 63-33939), Water Right No(s): **63-3066** (split into 63-3066 and 63-34009), **63-3067** (split into 63-3067 and 63-34010), **63-32846** (split into 63-32846 and 63-34011), **63-32848** (split into 63-32848 and 63-34012 and **63-32850** (split into 63-32850 and 63-34013)

Dear Water Right Holder(s):

We have received and processed a Change of Ownership for a portion of your original Water Right as referenced above. This change of ownership resulted in a split of your original water right.

When a portion of the original water right has been conveyed to another and the original right has been split, then the original water right number is renumbered by issuing a new water right number to represent each split. Each split contains only the portion of the original right for each separate owner. The above referenced new water right number reflects your remaining portion of the original water right, after the change of ownership. Enclosed is a copy of this new water right for your records. Please refer to your new water right number when corresponding with our office.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing an ownership change notice, the department does not review the history of water use to determine if the right has been forfeited 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 Sections 42-222 and 42-223, Idaho Code.

If you have any questions concerning this ownership change, or the enclosed information, please contact me at 208-287-4942.

Sincerely,

Jean Hersley

Jean Hersley
Technical Records Specialist II

Enclosure

c: Givens Pursley

GIVENS PURSLEY LLP
Attorneys and Counselors at Law

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November 12, 2014

Via Hand Delivery

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NOV 12 2014
DEPARTMENT OF
WATER RESOURCES

Jean Hersley
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Re: BREI-M3DP Second Amended Assignment and Second Correction Deed

Dear Jean:

On behalf of M3 Development Partners, LLC ("M3DP"), I am enclosing with this letter an original executed Second Amended Assignment of Permit No. 63-32604 ("Second Amended Assignment"), between Ball Real Estate Investments, LLC ("BREI"), and M3DP. The Second Amended Assignment supersedes and replaces the original Assignment of Permit ("Original Assignment") between BREI and M3DP that was filed with the Department on January 29, 2014, and the Amended Assignment of Permit between BREI and M3DP that was filed with the Department on April 8, 2014. The Second Amended Assignment reflects changes requested by the Department to the table in its Attachment A describing the portions of the mitigation rights associated with the portion of the permit being assigned.

Also enclosed with this letter is a copy of the recorded Second Correction Water Rights Quitclaim Deed and Bill of Sale ("Second Correction Deed") between BREI and M3DP, which reflects the same changes to the table in its Exhibit A describing the portions of the mitigation rights being conveyed. This Second Correction Deed supersedes and replaces the Correction Water Rights Quitclaim Deed and Bill of Sale submitted with M3DP's April 8, 2014 Notice of Change in Water Right Ownership ("Notice").

I am not including any filing fees with the enclosed Second Amended Assignment or the Second Correction Deed because appropriate fees were submitted with the Original Assignment and Notice.

Thank you for your attention to this matter. Please feel free to contact me if you have any questions.

Sincerely,

Michael P. Lawrence

MPL/la
cc: Mark Tate, M3DP
Enclosures
2238147_2

Hersley, Jean

From: Michael P. Lawrence [mpl@givenspursley.com]
Sent: Friday, August 15, 2014 2:24 PM
To: Saxton, Craig
Subject: RE: Assignment of permit 63-32604 and Split Mitigation Rights: BREI to M3 [IWOV-GPDMS.FID574241]

Craig,

Following up on our phone call the other day, please confirm that the "IDWR Proposed Split" in your June 2, 2014 email (table reproduced below) would result in sufficient mitigation for each of the M3DP and BREI portions Permit 63-32604 after processing the Assignment of Permit.

IDWR Proposed Split

	Parent Mitigation Acres	M3's Portion (acres)	BREI's Portion (acres)	% of Right Assigned to M3	Parent Mitigation Vol (AF)	M3's Portion (AF)	BREI's Portion (AF)	% of mitigation vol (AF)	Parent Mitigation Rate (cfs)	M3's Portion (cfs)	BREI's Portion (cfs)	m r
63-32846	45	30.6	14.4	68.0%	202.5	137.7	64.8	68.0%	0.62	0.42	0.20	
63-3066	16.6	11.3	5.3	68.0%	74.7	50.8	23.9	68.0%	0.33	0.22	0.11	
63-3067	68.4	46.5	21.9	68.0%	307.8	209.3	98.5	68.0%	1.36	0.92	0.44	
Totals =	**130**	**88.4**				**397.8**						
63-32848	40.5	33.2	7.3	82.0%	59	48.4	10.6	82.0%	0.15	0.12	0.03	
63-32850	40.5	33.2	7.3	82.0%	182.2	149.4	32.8	82.0%	0.52	0.43	0.09	
Totals =	**40.5**	**33.2**				**149.4**						

Thanks,
Mike

MICHAEL P. LAWRENCE
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From: Saxton, Craig [mailto:Craig.Saxton@idwr.idaho.gov]
Sent: Wednesday, June 18, 2014 12:37 PM
To: Michael P. Lawrence
Subject: RE: Assignment of permit 63-32604 and Split Mitigation Rights: BREI to M3 [IWOV-GPDMS.FID574241]

Thanks. Have a good break.

Later,
c

From: Michael P. Lawrence [mailto:mpl@givenspursley.com]
Sent: Tuesday, June 17, 2014 9:41 PM
To: Saxton, Craig
Cc: Hersley, Jean
Subject: RE: Assignment of permit 63-32604 and Split Mitigation Rights: BREI to M3 [IWOV-GPDMS.FID574241]

Craig,

I have communicated the substance of our last telephone call (which followed your email below) to my client. I still am waiting for a response as to how they want to proceed.

I am out of the office beginning tomorrow, returning July 7. I will be in touch with you after I return.

Mike

Michael P. Lawrence
Givens Pursley LLP
601 W. Bannock St., Boise, Idaho 83702
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From: Saxton, Craig [mailto:Craig.Saxton@idwr.idaho.gov]
Sent: Monday, June 02, 2014 10:12 AM
To: Michael P. Lawrence
Cc: Hersley, Jean
Subject: Assignment of permit 63-32604 and Split Mitigation Rights: BREI to M3

Happy Monday Mike,

When we last left off, regarding the BREI assignment to M3, I was going to look into why we didn't think we could split the rights disproportionately. Jean and I spoke to Shelley and looked over the splits and it comes down to splitting the rights disproportionally can result in an enlargement if the mitigation rights were ever to be converted back to the original use.

When Permit 63-32604 was issued, the mitigation that was provided by the 5 other rights is mitigating for consumptive use that would occur under 63-32604. The surrogate to consumptive use is acreage and the volume associated with an acre of irrigation. The acreage has to be distributed so that the consumptive use of each split portion of the permit is fully mitigated for by the splits of the mitigation water rights.

Discussion:

Permit 63-32604 was approved because irrigated acreage was retired to mitigate for the consumptive losses that would occur under 63-32604. By retiring 1 acre of irrigation, the permit holder was also retiring the volume of water associated with that acre (4.5 AF).

If you split the acreage and volume of a right disproportionally, the split portions will have volume/acre value that no longer reflects the same consumptive use of the parent right before the split. Meaning one split will have a greater volume per acre value than required for mitigation and the other portion of the split will have less volume per acre required for a split.

Let's take the proposed split of 63-32486 for an example:

Parent: 63-32486 authorizes 45 acres and 202.5 acre feet. This comes to **4.5 acre-feet** per acre
M3 Portion: BREI assigned 2.3 acres and 35.3 acre-feet to M3. This comes to 12.6 acre-feet per acre
BREI Portion: BREI retained 42.2 acres and 167.2 acre-feet. This comes to 4.0 acre-feet per acre.

In a perfect world, this wouldn't matter because it is all being use for mitigation...forever. However, if for one reason or another, BREI's portion of the permit 63-32604 doesn't pan out, and they go to convert their portion of 63-32846 back to irrigation, they would end up enlarging the right because they would need 4.5 acre-feet per acre (AF/ac) and are only allocated 4.0 AF/ac.

Here is the review of the split as currently proposed by BREI's assignment:

BREI's Proposed Split by Assignment

	Mitigation Acres	M3's Portion (acres)	BREI's Portion (acres)	% of Mitigation Acres	Mitigation Vol (AF)	M3's Portion (AF)	BREI's Portion (AF)	% of mitigation vol (AF)	Mitigation Rate (cfs)	M3's Portion (cfs)	BREI's Portion (cfs)
63-32846	45	2.8	42.2	6.22%	202.5	35.3	167.2	17.4%	0.62	0	0.62
63-3066	16.6	16.6	0	100.00%	74.7	74.7	0	100.0%	0.33	0.2	0.13
63-3067	68.4	68.4	0	100.00%	307.8	307.8	0	100.0%	1.36	1.36	0
63-32848	40.5	33.2	7.3	81.98%	59	15.7	43.3	26.6%	0.15	0.03	0.12
63-32850	40.5	33.2	7.3	81.98%	182.2	182.2	0	100.0%	0.52	0.52	0

IDWR Proposed Split:

In Attachment A of the assignment, BREI assigned to M3:

68% of the primary use under the permit (represented by 82.4 acres)
(*98% of the pond surface area authorized under the permit (represented by 7.8 acres)
82% of the supplemental use under the permit (represented by 33.6 acres)

When 63-32604 was permitted, 8 acres of primary irrigation right was retired to mitigate for an 8 acre surface area pond. Therefore when we are splitting up the rights mitigating for **primary use, we are including the 8 acres identified as being retired for building the pond.*

Using these numbers, we should proportion our 68% of each of the primary rights, and 82% of the supplemental rights. Here is one proposal to split the rights using the percentages identified in the conditions of the assignment:

IDWR Proposed Split

	Parent Mitigation Acres	M3's Portion (acres)	BREI's Portion (acres)	% of Right Assigned to M3	Parent Mitigation Vol (AF)	M3's Portion (AF)	BREI's Portion (AF)	% of mitigation vol (AF)	Parent Mitigation Rate (cfs)	M3's Portion (cfs)	BREI's Portion (cfs)	m r
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63-3066	16.6	11.3	5.3	68.0%	74.7	50.8	23.9	68.0%	0.33	0.22	0.11	

63-3067	68.4	46.5	21.9	68.0%	307.8	209.3	98.5	68.0%	1.36	0.92	0.44
Totals =	**130**	**88.4**				**397.8**					
63-32848	40.5	33.2	7.3	82.0%	59	48.4	10.6	82.0%	0.15	0.12	0.03
63-32850	40.5	33.2	7.3	82.0%	182.2	149.4	32.8	82.0%	0.52	0.43	0.09
Totals =	**40.5**	**33.2**				**149.4**					

There probably is some room to split the diversion rate disproportionately to some degree as long as it can still provide the associated volume.

Please take a look and give me a call if you have questions and we can talk it through some more.

Thanks for your patience.

Craig
(208)287-4916

Hersley, Jean

From: Hersley, Jean
Sent: Friday, May 09, 2014 11:02 AM
To: Michael P. Lawrence
Cc: Saxton, Craig
Subject: change of ownership for M3 Development

Michael,

I have had some help in trying to figure out how to split the mitigation portions of the water rights for M3 Development. And this is what we've come up with.

- We need to split out all elements of the mitigation portion of a right at equal amounts. Meaning, you can't take 0% of the rate and 17% of the volume of 63-32846. For example, if we are taking 17% of the volume, we need to take 17% of the rate and acreage as well.
- Is the intent for all 5 rights to be proportioned the same. Meaning, Is the intent to take 100% of 63-32846, 100% of 63-3066, 100% of 63-3067, etc.
- If the intent isn't to assign the same proportioned amounts of each of the mitigation rights, then what is the intent.
- We/I would be happy to help determine the proportioned amounts, but we need to know what the basis is.

	Mitigation Rate (cfs)	Assigned Rate (cfs)	% of mitigation rate (cfs)	Mitigation Vol (AF)	Assigned Vol (AF)	% of mitigation vol (AF)	Mitigation Acres	Assigned Acres	% of Mitigation Acres
63-32846	0.62	0	0%	202.5	35.3	17%	45	2.8	6%
63-3066	0.33	0.2	61%	74.7	74.7	100%	16.6	16.6	100%
63-3067	1.36	1.36	100%	307.8	307.8	100%	68.4	68.4	100%
63-32848	0.15	0.03	20%	59	15.7	27%	40.5	33.2	82%
63-32850	0.52	0.52	100%	182.2	182.2	100%	40.5	33.2	82%

Regarding Water right 63-3066, the mitigated amount of volume was listed wrong on permit 63-32604. It should be 74.7 af not 4.7. It looks like a number was missed when it was data entered. I have Steve Lester's notes on how he figured that out and they are in the Memo under that permit no.available online. So the volume amount will be figured from 74.7 af.
If you have any questions, please contact me or Craig Saxton at 287-4916.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

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DEPARTMENT OF
WATER RESOURCES

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*Licensed in Virginia

Retired:
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Raymond D. Givens (1917-2008)

April 8, 2014

Via Hand Delivery

Jean Hersley
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Re: Notice of Change in Water Right Ownership and Amended Assignment of Permit

Dear Jean:

On behalf of M3 Development Partners, LLC ("M3DP"), I am enclosing with this letter an Amended Assignment of Permit No. 63-32604 ("Amended Assignment"), between Ball Real Estate Investments, LLC ("BREI"), and M3DP. The Amended Assignment completely supersedes and replaces the Assignment of Permit between BREI and M3DP that was filed with the Department on January 29, 2014 (the "Original Assignment"). The Amended Assignment corrects a clerical error that was discovered in the Original Assignment's Attachment A—specifically, in the table describing the portions of the mitigation rights associated with the portion of the permit being assigned.

Also enclosed with this letter for filing with the Department is one original executed Notice of Change in Water Right Ownership ("Notice"). The Notice reflects M3DP's ownership of the portions of decreed water right nos. 63-3066, 63-3067, 63-32846, 63-32848, and licensed water right no. 63-32850, that are dedicated to mitigation of M3DP's portion of Permit No. 63-32604, as reflected in the Amended Assignment.

I have enclosed a check from this firm in the amount of $500.00 for the Notice's filing fee. As we discussed on the phone today, I am not including a filing fee for the Amended Assignment because that fee was submitted with the Original Assignment.

Thank you for your attention to this matter. Please feel free to contact me if you have any questions.

Sincerely,

Michael P. Lawrence

MPL/la
cc: Mark Tate
Enclosures
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