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Idaho Department of Water Resources, Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

RECEIVED
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Department of Water Resources
Eastern Region

RE: *Notice of Change of Water Rights Ownership (13-7767)*

To Whom it May Concern:

Enclosed, please find a *Notice of Change in Water Rights*, filed on behalf of Miller Family Real Estate, L.L.C. ("Miller"). **Attachment 1.** Also included, you will find a check for \$25. This *Notice* and filing fee is to the ownership of water right 13-7767 to reflect Miller's ownership of the water right.

I have spoken about this water right at length with Monte Miles and there appears to be some confusion about the history of this right and the land on which it has historically been used. Mr. Miles informs me that he was asked to prepare a title history before the ownership records would be changed to reflect Miller's ownership. As I have reviewed the history of this water right, it appears that request for a title report is based on errors in the historical data entry for the right.

Water right 13-7767 represents approximately ½ of the water right historically numbered 13-2109, which was licensed on December 3, 1929 to West Cache State Bank.¹ **Attachment 2.** In 1929, West Cache State Bank owned land that is now owned by Monte Miles. Mr. Miles previously filed a *Notice of Change in Water Right Ownership* for water right 13-7768, and included a chain of title from West Cache State Bank to Mr. Miles. This land will be referred to as the "Bank Property."

The Bank, however, did not own the adjacent property, on which the point of diversion for water right 13-2109 was located. This property had separate owners, which included Larry and Sharyn Shappart, who conveyed the property to Miller. **Attachment 3.** This land will be referred to as the "Miller Property."

¹ The other half of the water right has been renumbered to 13-7768.

The confusion has arisen because, for some unknown reason, the Department has identified the place of use for water right 13-2109 as including both the Bank Property and the Miller Property. A review of the historical documents in the backfile, however, reveals that this was in error.

First, the Application for Permit for this water right did not identify a place of use. **Attachment 4.** Second, the license did not identify any actual place of use – rather, stating that the water would be used “at springs.” **Attachment 2.**

Historical documents, however, show that the water was not used on the Miller Property. In fact, West Cache State Bank did not own the Miller Property when the water right was developed. This is evident from the November 21, 1929 letter from West Cache State Bank, which stated: “The West Cache State Bank have used this water for the past several years and Said bank was entitled to it even though it *did not rise on their own property.*” **Attachment 5.** It should be noted that the point of diversion for the water right is located on the Miller Property.

The *Proof of Application of Water to Beneficial Use, Deposition of Holder*, dated October 11, 1928, in the name of C.B. Squires, further confirms that the water was used on the Bank Property – not the Miller Property. **Attachment 6.** That document confirms that (i) Water was diverted from a spring located about 175 yards north of the property boundary; (ii) Water was piped 75 yards from the point of diversion to the place of use; and (iii) Water was used “on the farming property of the bank.” *Id.* Again, as stated above, the point of diversion was not on the Bank Property. See **Attachment 5.**

The historical documents show that the place of use for water right 13-2109 should not have included the Miller Property. I have spoken about this with Mr. Miles, who confirms that as long as his family has owned the Bank Property, they have not used the water right on the Miller Property.

The incorrect place of use has resulted in some confusion in the ownership change process. What should have been a simple ownership change, has turned into a quest for a chain of title. However, since the water right should never have included the Miller Property, this process is unnecessary. This matter simply involves the sale of a portion of a water right to Miller and placing the split portion of that water right on the Miller Property.

The following has already been completed:

- Ownership of water right 13-2109 has been confirmed from West Cache State Bank to Mr. Miles. This is evidence by the completed change of ownership for water right 13-7768. Since 13-2109 was historically used on the Bank Property, the ownership records for 13-7768 will apply to 13-7767.
- Water right 13-2109 has already been split into two rights (13-7767 and 13-7768).

- The portion sold to Miller (13-7767) has already been put on the Miller Property.

Most of the work has already been completed. All that is left is to change the ownership records to reflect Miller's acquisition of the water right.²

Accordingly, please process the ownership change for water right 13-7767. If you have any further questions or concerns, please give me a call.

Yours truly,

Paul L. Arrington



PLA/jf

Encs.

cc: Client (via email)

² The water right deed is attached to the Notice of Change in Water Right Ownership. The original has been forwarded to Bannock County for recording.