



State of Idaho

DEPARTMENT OF WATER RESOURCES

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September 26, 2013

LINDA D MOOERS
GERALD L MOOERS
JOHN R WYATT
SANDRA J HAENER
3457 ELKS DR
LEWISTON ID 83501

RE: Water Right 84-10636 (Split into 84-12251 and 84-12252)

Dear Water Right Holders,

I am contacting you to follow up on an issue related to processing a Notice of Change in Water Right Ownership in connection with domestic water right 84-10636. When the Notice of Change in Water Right Ownership for 84-10636 was submitted in 2007 (enclosed), the Idaho Department of Water Resources (IDWR) erroneously processed the requested change by splitting the original right 84-10636 into 84-12251 and 84-12252, and changing the name on the portion identified as 84-12252 to reflect ownership by Mooers, Whyatt, and Haener. IDWR should not have processed the ownership change because the deed submitted with the change of ownership request does not match the place of use (POU) and point of diversion (POD) authorized by right 84-10636.

Water Right Agent Monica VanBussum was in contact with Linda Moore in July of 2010, attempting to work toward resolution of this issue. However, I can't see in the file that a resolution was ever reached. Because it has been so long since Monica contacted you, I thought I would explain in more detail why the change of ownership request needs to be reversed and then discuss some options to establish a water right for your use.

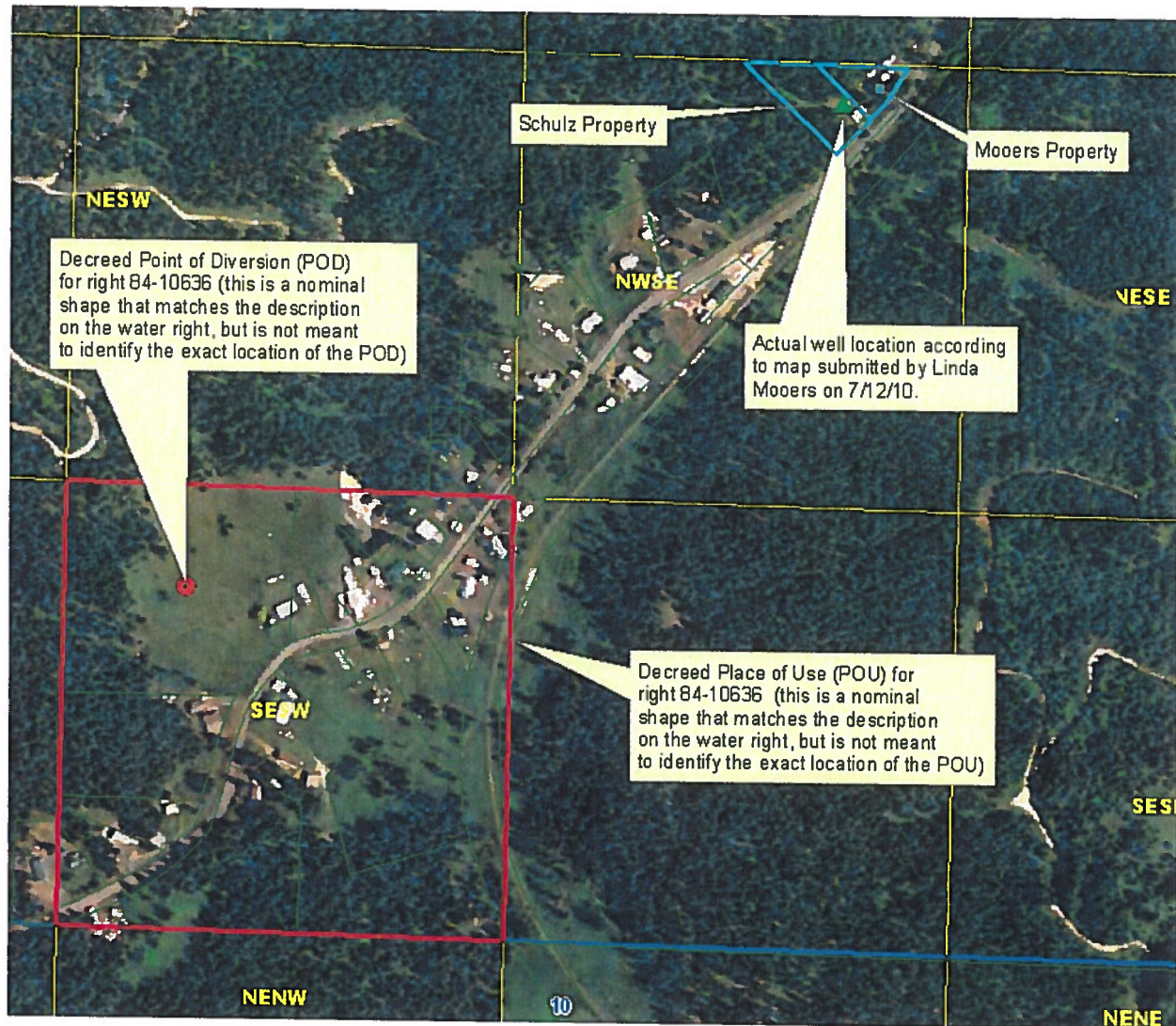
Background:

On December 20, 2000, the Snake River Basin Adjudication (SRBA) court decreed water right 84-10636 to Don Imel authorizing domestic use for 1 home (enclosed). The decree record for 84-10636 listed the place of use as being in the **SE¼ SW¼** of section 3 and the POD as being in the NW¼ **SE¼ SW¼** of section 3, Township 37N, Range 5 E (Figure 1).

However, the deed submitted with the change of ownership describes the property as being in the **NW¼SE¼** of section 3 Township 37N, Range 5 E.

Because a water right is applicable to the land, in order to change ownership of a water right, you must show ownership of the land that the water right is applicable too. The deed you supplied with the change

of ownership describes property that doesn't match the place of use authorized under water right 84-10636. Therefore IDWR shouldn't have split right 84-10636 and changed ownership of the split portions.



Because the warranty deed submitted with the change of ownership in 2007 specifically identifies that a portion of water right 84-10636 is conveyed to Mooers, Wyatt, and Haener, it would appear that water right 84-10636 was simply decreed in the wrong place. I looked into the history of the right to see if where the discrepancy started and if there was an easy way to resolve the issue.

Don Imel filed a water right claim in the Snake River Basin Adjudication (SRBA) on September 27, 1988. At that time, he claimed that the location of the POD and POU were in the ~~SE~~~~SW~~ of section 3 (wrong location). The claim was then recommended to the SRBA court with the same legal description as claimed and subsequently the court issued a decree describing the POD and POU in the ~~SE~~~~SW~~ of section 3. Therefore, the discrepancy in the POU descriptions stem back to the original claim filed in 1988.

What's next:

IDWR has had to recombine rights 84-12251 and 84-12252 back into right 84-10636.

Since the property that Don Imel developed water right 84-10636 has been split, the water right is applicable to the original domestic structure. I should re-emphasize that water right 84-10636 states that its use is for 1 domestic home. The records in the file don't clearly tell me who the owner of the original home currently is. The next steps to be taken depend on if you are the owner of the original domestic residence or if you are the owner of the domestic residence(s) to which domestic use was established later in time:

- 1) If you are not the owner of the original domestic residence that Don Imel developed 84-10636 in connection with, you need to file a new application for permit for a new water right. This will secure a water right for your home(s). A new application for permit will cost \$100. For your convenience, I have enclosed an application for permit, or you can download a digital form at www.idwr.idaho.gov.
- 2) If you are the owner of Don Imel's original domestic structure that water right 84-10636 was developed in connection with, you have a couple of options:
 - a. File an application for transfer with IDWR to change the legal description of the POD and POU to accurately describe the original home that the water right is applicable to. The transfer filing fee is \$200. An application for transfer can be obtained at the IDWR website: www.idwr.idaho.gov
 - b. File a new application for permit to develop a new water right for your home(s) that accurately describe the place of use and point of diversion. A new application for permit will cost \$100.

I know this is a lot of information coming to you out of the blue. Please look over the information and then contact me with any questions and I will be more than happy to talk it through with you. I apologize for the confusion. This issue should have been discussed with you in 2007 when you originally submitted the change of ownership. Fortunately, you are in an area where you can still get a new permit to establish a new water right.

Respectfully submitted,



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