



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 3, 2011

Wallace Cocroft
3715 Antelope Road
Moore, ID 83255

RE: Notice of Change in Water Right Ownership for Antelope Creek Rights

Dear Mr. Cocroft:

In December 2009, you filed a Notice of Change in Water Right Ownership ("ownership change") for six water rights from Antelope Creek (34-10026, 34-13802, 34-13804, 34-13806, 34-13808, and Permit 34-7589). Included with the ownership change was a copy of a warranty deed from R. Bruce Soelberg (the previous owner of the rights) to Wallace H. Cocroft. The deed stated that water rights 34-10026, 34-13802, 34-13804, 34-13806, 34-13808 were included in the conveyance, but did not reference Permit 34-7589.

Initially, the agent reviewing the ownership change discovered a discrepancy between the water rights and the property described in the deed. The irrigation water rights include 0.6 irrigated acres within the SWNE of Section 12, T05N, R25E. The domestic/stockwater right (34-10026) also described use only in the SWNE. The warranty deed, however, did not cover any property in the SWNE of Section 12.

Upon further review, because the warranty deed specifically identifies the irrigation water rights, and because the discrepancy is less than one acre, and because the 0.6 acres in the SWNE do not appear to be irrigated, I have decided to complete the ownership change for the irrigation rights (34-13802, 34-13804, 34-13806, and 34-13808). The records for these rights have been updated to list you as the current owner. You may want to consider filing a water right transfer to adjust the place of use of the irrigation rights to only be appurtenant to your property. You can contact an agent in our office to assist you with the transfer.

We cannot complete the ownership change for the domestic/stockwater right at this time. The domestic use is for two homes located within the SWNE of Section 12, which is not the home covered by the Soelberg>Cocroft warranty deed. We need additional evidence, showing that Mr. Soelberg still owned the homes located in the SWNE at the time the Soelberg>Cocroft deed was executed. There is a possibility that the domestic water right is still associated with the two homes in the SWNE of Section 12. If you are able to show that the conveyance of 34-10026 was valid, you would need to file a water right transfer to change the place of use for the right to your property.

We also cannot update the ownership of Permit 34-7589 without additional evidence. In Idaho, permits are considered personal property and are not presumptively conveyed with the underlying real estate. Permit 34-7589 was not specifically referenced in your warranty deed. In order to update ownership of the permit, we need a document showing the permit was assigned to you by Mr. Soelberg.

Therefore, the department is refunding the filing fee associated with the ownership changes for right 34-10026 and Permit 34-7589 (2 rights x \$25 per right = \$50). A refund check from the state of Idaho should arrive within a couple of weeks. You are free to re-file ownership changes for 34-10026 and 34-7589 when additional evidence of ownership is obtained. Please contact me with any questions you may have.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J Cefalo', is written over the printed name.

James Cefalo
Water Resources Program Manager
(208) 525-7161