



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER - Governor
Gary Spackman - IDWR Interim Director

January 22, 2013

Sayad Family Trust 747-3686
c/o Sharon Sayad
3202 West 2000 North
Dayton, ID 83232

Dear Ms. Sayad:

I just completed ownership changes for Bosen Land & Livestock on three water rights from Deep Creek. When we spoke on the phone a couple of weeks ago, I promised to send you a summary of the ownership changes once they were completed. This letter is meant to describe the changes that were made and suggest steps that you could take to better define your portion of water right 13-2264.

Eldon Bingham had three water rights from Deep Creek that were used together on a 390-acre place of use: 13-945B, 13-2264, and 13-7033. A portion of your property was part of the original Eldon Bingham irrigated place of use. According to aerial photography and maps prepared in the 1970s, approximately 25 irrigated acres were located within your property boundary.

According to evidence available to the department at this time, your property includes 21 inches (0.42 cfs) of water right 13-2264. It appears the other two water rights, 13-945B and 13-7033, were not included in the conveyance of your property. In our conversation, you confirmed that there were 21 inches (0.42 cfs) of Deep Creek water associated with your property.

I have updated water right records 13-945B and 13-7033 to show Bosen Land & Livestock as the current owner of the entire rights. Water right 13-2264 was split into two pieces: 13-7874 (Bingham) and 13-7875 (Bosen). A copy of the updated water right records is enclosed. The elements of the water right were split as follows:

Number	Owner	Rate	Acres	Volume
13-7875	Bosen L&L	1.08 cfs	365 acres	460.6 af
13-7874	Bingham (Sayad)	0.42 cfs	25 acres	87.5 af

The diversion rate was split based on the language of the Sayad deed. It clearly states that 21 inches (0.42 cfs) of water right 13-2264 stay with the Sayad property. The irrigated acres were split using aerial photography and maps prepared when the water rights were originally developed. As stated, it appears that 25 acres of water right

13-2264 is associated with the Sayad property. Finally, the annual volume was split based on the total volume available to Bingham under all three of his Deep Creek rights. The three water rights, in combination, allowed for the diversion of 3.5 acre-feet per acre. Therefore, there would be 87.5 acre-feet associated with your 25 irrigated acres.

If you believe the water right split is an accurate reflection of water right ownership, you should proceed with an ownership change and water right transfer. An ownership change is needed to update the water right record to be in your name, rather than Eldon Bingham's name. An ownership change form is enclosed. Because the water right does not need to be split further, the fee associated with your ownership change will be \$25. Please complete the form and send it to our office in Idaho Falls with the appropriate filing fee.

A water right transfer is needed to consolidate the extra water conveyed in the Sayad deed onto your property. Based on the 25 acres on your property under the original water right, 13-2264, there would only be 0.1 cfs (5 inches) of water on your property. The actual conveyance ended up assigning a greater portion of water right 13-2264 to your property. This is known as a consolidation (placing a larger amount of water on a smaller number of acres). In order to consolidate water onto your property, a water right transfer application must be filed. A transfer application will also allow you to update the point of diversion for the right, possibly moving it to a point on Deep Creek closer to your property.

Please feel free to contact me with any questions or concerns. If you would like, we can also discuss the transfer application in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', written over a horizontal line.

James Cefalo
Water Resources Program Manager

Encl: Water right reports
Ownership change form

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 13-7874

WATER RIGHT NUMBER: 13-7874

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ELDON B BINGHAM RT 3 PRESTON, ID 83263

Priority Date: 02/23/1965

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
DEEP CREEK	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 11/01	0.420 CFS	87.50 AF
	<u>Total Diversion:</u>	0.420 CFS	87.50 AF

Location of Point(s) of Diversion

DEEP CREEK	NW1/4SE1/4	Sec. 7, Twp 15S, Rge 39E, B.M.
FRANKLIN County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
15S	39E	7	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
							18.0	1.7			2.5	2.8							25.0

Total Acres: 25

Comments:

1. jcefalo 1/22/2013 Ownership Change

Comment: This right is split from water right 13-2264. Diversion rate specified by deed. Number of acres based on acres described in license 13-2264 located within property boundary. Annual volume based on the total volume of all water rights on the property (3.5 acre-feet per acre).

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S	39E	7			12.0	40.0				0.3	10.5	18.2	30.0	37.0	35.0	3.0	16.0		202
15S	39E	17							9.0			11.0							20
15S	39E	18		39.0	20.0	25.0	26.0	29.0		4.0									143
Total Acres:																			365.0
Acre Limit:																			365.0

01-22-2013

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 13-945 B

WATER RIGHT NUMBER: 13-945 B

Owner Type: Name and Address
Security Interest AXA EQUITABLE LIFE INSURANCE CO
10100 TRINITY PARKWAY STE 400
STOCKTON, CA 95219

Current Owner BOSEN LAND & LIVESTOCK, LLC
2545 W 2400 N
PRESTON, ID 83263

Priority Date: 6/1/1882

Basis: Decreed

Status: Active

Tributary:

Source:
DEEP CREEK

BEAR RIVER

<u>Beneficial Use:</u>	<u>From / To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/20 to 09/30	2.570 CFS	
	<u>Total Diversion</u>	2.570 CFS	

Location of Point(s) of Diversion:

DEEP CREEK NWSE Sec. 7, Twp 15S, Rge 39E B.M. FRANKLIN County

Place of Use:

IRRIGATION within FRANKLIN County

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S	39E	7		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	560
								L1	L2				L3	L4					
15S	39E	18		40.0			40.0	40.0											120
								L1											
15S	39E	20			40.0					26.0	34.0					34.0			134
																			Total Acres: 814.0
																			Acre Limit: 150.5

Conditions of Approval:

- Points of diversion and place of use defined in Transfer No. 958. Irrigated acres = 150.5. Irrigated acres based on proportionate share of total Loren Mendenhall rights. Points of diversion described as West Cache Supplemental Canal and a pump located 200 feet above the West Cache Canal.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 13-7033

WATER RIGHT NUMBER: 13-7033

<u>Owner Type</u>	<u>Name and Address</u>
Security Interest	AXA EQUITABLE LIFE INSURANCE CO C/O RABO AGRIFINANCE INC 10100 TRINITY PARKWAY STE 400 STOCKTON, CA 95219
Current Owner	BOSEN LAND & LIVESTOCK, LLC 2545 W 2400 N PRESTON, ID 83263

Priority Date: 01/19/1973

Basis: License

Status: Active

Source

DEEP CREEK

Tributary

BEAR RIVER

Beneficial Use

IRRIGATION

From To

04/01 to 11/01

Diversion Rate

0.750 CFS

Annual VolumeTotal Diversion:

0.750 CFS

Location of Point(s) of Diversion

DEEP CREEK

NW1/4SE1/4

Sec. 7, Twp 15S, Rge 39E, B.M.

FRANKLIN County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
15S 39E 7	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	216.0
			11.0	36.0			16.0	1.0	11.0	26.0	27.0	37.0	31.0		20.0		
15S 39E 17							10.0			11.0							21.0
15S 39E 18			36.0	25.0	21.0	33.0	20.0	6.0									141.0

Total Acres: 378

Conditions of Approval:

1. X35 Rights 13-945B, 13-7033, and 13-7875 when combined shall not exceed a total annual maximum diversion volume of 1235.5 af at the field headgate.
2. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: _____

Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): _____

Name of each new owner as listed on the conveyance document

New owner continued

Name connector ☐ and ☐ or ☐ and/or

Mailing address

City

State

ZIP

Telephone

Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
 - ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: _____.
6. This form must be signed and submitted with the following **REQUIRED** items:
- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
 - Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
 - Filing fee (see instructions for further explanation):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

7. Signature: _____

Signature of new owner/claimant

Title, if applicable

Date

Signature: _____

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by _____

Date _____

Receipt No. _____

Receipt Amt. _____

Approved by _____

Processed by _____

Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**INSTRUCTIONS FOR FILING A
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

This form has been prepared to assist all claimants and owners of water rights to comply with the requirements of Sections 42-248 and 42-1409(6), Idaho Code. All persons owning or claiming ownership of a water right or claim are required to provide notice to the Department of Water Resources (IDWR) of any change in ownership of any part of the water right or claim or of any change in the owner's mailing address within 120 days of the change. Forms to report ownership changes and/or to update an address are available on IDWR's website at www.idwr.idaho.gov. In addition, all new owners of water rights within a pending general adjudication area must inquire whether a notice of claim has been filed and, if not, shall file a notice of claim if necessary.

A notice is required for changes in ownership from one individual to another, from an individual to a business entity (even if the business is owned by the individual), or from one business entity to another (even if both businesses are owned by the same individual). Adding or removing a name is considered an ownership change which requires the submission of evidence to support the change and the filing fee.

Separate brochures describing the adjudication of water rights and the ownership change notice requirement are available from IDWR. Please contact your nearest IDWR office if you would like more information or need help completing this form. A list of IDWR offices is on page 2 of these instructions, or you can call 1-800-451-4129. Water right information can be found on the department's website using the "Search Tools" and "Water Right & Adjudication Search" links at www.idwr.idaho.gov.

Please note:

- Unlike licensed or decreed water rights, which are real property, water right permits, applications for new water rights, and applications to transfer existing water rights are considered the personal property of the permit holders/applicants. Permit holders and applicants must assign their interest in a permit and/or application to the new owner. Assignment forms are available on the department's website at www.idwr.idaho.gov, or from any IDWR office. The fee for an assignment of permit is \$25. There is no charge for an assignment of application for permit or application for transfer.
- If you want to change or add a point of diversion, place of use, season of use, or purpose of use of a water right, you must file an Application for Transfer. The ownership of a water right can also be updated through the transfer process.
- The combined portions of a divided ("split") water right cannot exceed the total flow rate, volume, or period of use of the original right.
- IDWR has no jurisdiction concerning easements, rights-of-way, and zoning matters. The buyer and seller must make these provisions where necessary.

LINE INSTRUCTIONS:

1. If there are water rights associated with the property, the seller should be able to provide you with the water right or adjudication claim number(s). You may have purchased only a portion of the water right(s) held by the seller. If so, the water right(s) held by the seller may need to be divided ("split") to provide you your share of each right. Mark the box "Yes" if a division of the water right is required.

If you receive water from a municipal provider, an irrigation district or other water delivery organization, and the water rights are held by the organization, please do not use this form to record a change. Please contact the water delivery organization to determine if any action is necessary.

If you or the seller believes there are water rights for the property but you do not know the numbers, you may contact IDWR for assistance in identifying the water rights for the property in question. If adjudication claims for the rights are required and have not been filed, IDWR will so advise you.

2. Fill in the name of the current water right holder/claimant.
3. Fill in each name as listed on the conveyance document and complete the current contact information. For water rights, IDWR will update the ownership to the individual(s)/entities listed on the conveyance document. For active adjudication claims, IDWR will update the claimant information to match the conveyance document unless the new claimant provides good cause for the variance.

4. You may have acquired only a portion of the water right(s) held by the seller. If you did not acquire the entire water right/property, please check the appropriate box. Water rights are often conveyed as an appurtenance to the land where they are used, and the conveyance document for the land often does not have specific language regarding the water right. Please read your deed or other conveyance document carefully to be sure. When the conveyance document does not specifically address water rights, it will be assumed that the water rights are to be split proportionate to the amount of land acquired.
5. Indicate the date the water rights and/or adjudication claims were conveyed to you. This may be the date of closing in the case of a real estate transaction, the date a contract was signed, or the date of a court order.

6. **ATTACHMENTS:**

IDWR cannot process this change without **documentation of ownership**. The documentation may be in the form of a deed, court decree or other conveyance document. If you are submitting a quitclaim deed and the grantor's name does not match the water right holder of record, you will need to provide a chain of title that goes back to the water right holder/claimant of record. You may obtain this information from the assessor's office in the county where the property is located. Items that are **not** conveyance documents are deeds of trust, mortgages, purchase and sales agreements, and property tax notices.

Submit a **plat map, survey map, or aerial photograph** of the place of use for each water right or claim listed in item #1 (if necessary to clarify division of water rights or complex property descriptions). If your right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent aerial photograph with the irrigated acres outlined and point(s) of diversion clearly marked. You also have the option of printing a map using the Create a Map tool on IDWR's website at: www.idwr.idaho.gov. It is not necessary to obtain a new survey for purposes of this form before contacting IDWR.

The Idaho Legislature has waived the fee to file a Notice of Change in Water Right Ownership for any water right pending in a general water right adjudication such as the Snake River Basin Adjudication or the Northern Idaho Adjudication. This waiver ends when a partial decree is issued for the water right that has been claimed. For water rights not pending in a general adjudication, the **filing fee** is \$25 per water right, except for those water rights that will be divided as a result of the change in ownership. The filing fee for division of a water right is \$100 per water right.

7. One of the new owner(s) must sign the form in the space(s) provided. If someone other than the owner signs the notice, evidence of authority to sign for the owner must be attached. If the new owner is a corporation or other organization, the person signing the notice must be an officer of the corporation or otherwise have authority to sign for the organization and must include their title with the signature.

When you have completed the Notice of Change in Water Right Ownership, retain a copy and **file the original form, necessary attachments, and filing fee with the IDWR office nearest you.**

IDWR Northern Region
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815-7763
(208) 762-2800

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190

IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161

IDWR Southern Region
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

~ OR ~

IDWR State Office
322 East Front St, 6th Floor
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4800