

Lester, Steve

From: Lester, Steve
Sent: Monday, September 26, 2011 12:03 PM
To: 'Tim Farrell'
Subject: RE: New well for Bittercreek Meadows Association

Tim:

Just left you a phone message & here is the email follow up.

I talked to IDWR legal staff about ownership documents for this case. That resulted in this advice: A Quitclaim deed is not the preferred conveyance document but can be effective in some cases. Here, IDWR presumes the license is appurtenant to the entire subdivision. Therefore, each lot represents a proportional amount of the water right. Deeding just the well lot to the association does not confirm the entire right is conveyed. Legal staff suggests a revised Quitclaim that specifically lists the water right number – specifying the right number beefs up the Quitclaim enough for IDWR to record an ownership change. A revised deed with the required \$25 fee would complete the ownership change.

Please let me know how you want to proceed.

Steve

From: Tim Farrell [<mailto:tfarrell@mountainwtr.com>]
Sent: Thursday, September 22, 2011 3:46 PM
To: Lester, Steve
Cc: 'Jim Jewett'
Subject: RE: New well for Bittercreek Meadows Association

Steve, Attached for your review are my comments and questions regarding your IDWR notes for the transfer application by Bittercreek Meadows Water and Sewer Users Association.

Mountain Waterworks, LLC

Tim Farrell, P.E.
Principal Engineer

3152 Bown Way
Boise, Idaho
(208) 850-9978
tfarrell@mountainwtr.com

From: Lester, Steve [<mailto:Steve.Lester@idwr.idaho.gov>]
Sent: Monday, September 19, 2011 11:45 AM
To: tfarrell@mountainwtr.com
Subject: New well for Bittercreek Meadows Association

Tim:

Received the transfer application to add a well to this right for the subdivision & would like to expedite it but need more information.

Please see attached notes and let me know which option the client prefers. Thanks.



TECHNICAL MEMORANDUM

DATE: September 22, 2011
TO: Steve Lester - IDWR
FROM: Tim Farrell, P.E.
RE: Transfer Application @63-31957
JOB NO.: 105.0010

Dear Steve,

I appreciated your quick response to our transfer application request to improve water quality at the Bittercreek Meadows subdivision. I have reviewed your IDWR notes and have the following comments.

1. If quick claim deed is deed not accepted by IDWR alone then what would be the appropriate documentation for the change of ownership? Would not the deed convey the water system including assets and transfer application would change IDWR records? Could you please point me in the right direction and I will work with the City of Meridian to get the appropriate documentation.
2. Option 1, will not work at this time as the City must transfer the ownership. Option 2 is the preferred alternative. Once we get guidance on the required change of ownership of the water system from you we will include this in the application.

Complications:

- This public water system will eventually be expanded to other vacant land in the area. The Bittercreek Meadows Water and Sewer Users Association is the owner of the water system but is not the HOA. No water rights were associated with this property prior to the subdivision of the property and therefore the CCR's did not include or exclude water right associated with the property. From my experience, the owner of water system would own the water rights as any other newly formed public water system. I do understand that if irrigation rights had been in place and not excluded from the property with the CCR's the rights would be connected to each lot and therefore owned by the lot owners. I do not believe this is the case for this PWS.
- The original permit held by JLJ Enterprises, was for domestic and fire protection uses. The water right was then licensed by the City of Meridian as a municipal

right. I have seen in the past either a municipal or domestic use associated with new water systems.

- Please provide guidance on adequate ownership documentation.
- As discussed above there was not a water right appurtenant to the place of use prior to land entitlement. This is evident by the new water right application and approved permit by JLJ enterprises and attached and part of the original transfer application.

Steve, Once again I do appreciate your quick response to this application and hope we can move forward in a timely manner. As you are aware, IDEQ will require a new facility plan, well site evaluation, engineered plans and specifications prior to giving us approval to drill the new well. The homeowners are waiting for this well to solve their water quality problems, so any help to speed up this process would be greatly appreciated.

Please call me with questions on my responses to your notes.

Thanks again, Tim

Lester, Steve

From: Lester, Steve
Sent: Monday, September 19, 2011 11:45 AM
To: 'Tim Farrell (tfarrell@mountainwtr.com)'
Subject: New well for Bittercreek Meadows Association
Attachments: 63-31957 transfer notes.docx; Transfer fees 7-1-2011.pdf

Contacts: Tim Farrell

Tim:

Received the transfer application to add a well to this right for the subdivision & would like to expedite it but need more information.

Please see attached notes and let me know which option the client prefers. Thanks.

Steve Lester
Water Rights Supervisor
IDWR Western Region
208-334-2190

TRANSFER APPLICATION @ 63-31957

IDWR NOTES

Cannot change ownership without ownership conveyance documents & \$25 ownership change fee (see attached fee schedule).

Quitclaim Deed by itself typically not accepted by IDWR to record ownership change in dept. records.

2 options to expedite transfer application.

Option #1 - faster

Revise transfer just to add diversion point, no ownership change yet.

Confirm either:

- City still operates system; or
- Association authorized to operate system under PWS approval from IDEQ or some other type of approval from IPUC.

IDWR can approve transfer, Association can complete ownership change soon after that as required by IC §42-248.

Option #2 - slower

Include ownership change in transfer application.

Provide ownership documents & \$25 ownership change fee.

Complications:

- Most other water rights for a limited place of use (such as this subdivision) typically assumed to be appurtenant to place of use in the rights & therefore owned by land owners.
- This municipal right held by City but for use only in subdivision: not clear if right is considered severed from land, allowing City to transfer ownership to Association without land owners' consent. Would guess that is the case but don't know without adequate documentation.
- Ownership change: IDWR is not the arbiter of who owns right, instead IDWR records ownership change in water right records, assuming adequate documents provided in this process.
- Association should provide documentation confirming legal ownership of the right.
 - Possible: water deed from City plus evidence that right is not appurtenant to place of use & does not require land owners' consent?

APPLICATION FEE AND SUBMITTING THE APPLICATION

FEE

The application fee is based on the total amount of water proposed for transfer in Part 1B.2 and any additional fees related to change in nature of use or ownership as noted in the fee schedule. For applications involving a rate of flow and a storage volume, the fee is the greater of the two associated with the rate or the volume.

Example:

Total amount of water being transferred is 2.5 cfs (\$660) and 150 af of storage (\$580).

The application fee would be \$660.

Checks or money orders should be payable to **IDWR**.

Application for Transfer or Exchange Fee Schedule									
(CFS = cubic feet per second; AF = Acre-feet per year)									
CFS			AF			FEE			
0.00	-	0.20	0	-	20	\$200.00			
0.21	-	1.00	21	-	100	\$500.00			
1.01	-	2.00	101	-	200	\$580.00			
2.01	-	3.00	201	-	300	\$660.00			
3.01	-	4.00	301	-	400	\$740.00			
4.01	-	5.00	401	-	500	\$820.00			
5.01	-	6.00	501	-	600	\$900.00			
6.01	-	7.00	601	-	700	\$980.00			
7.01	-	8.00	701	-	800	\$1,060.00			
8.01	-	9.00	801	-	900	\$1,140.00			
9.01	-	10.00	901	-	1,000	\$1,220.00			
10.01	-	11.00	1,001	-	1,100	\$1,300.00			
11.01	-	12.00	1,101	-	1,200	\$1,380.00			
12.01	-	13.00	1,201	-	1,300	\$1,460.00			
13.01	-	14.00	1,301	-	1,400	\$1,540.00			
14.01	-	15.00	1,401	-	1,500	\$1,620.00			
15.01	-	16.00	1,501	-	1,600	\$1,700.00			
16.01	-	17.00	1,601	-	1,700	\$1,780.00			
17.01	-	18.00	1,701	-	1,800	\$1,860.00			
18.01	-	19.00	1,801	-	1,900	\$1,940.00			
19.01	-	20.00	1,901	-	2,000	\$2,020.00			
20.01	-	100.00	2,001	-	10,000	*			
101.01	-	500.00	10,001	-	50,000	**			
500.01	&	over	50,001	&	over	***			

For an application including a **change in nature of use** of water under one (1) or more right(s):
Additional fee of \$250 per application.

For any application including a **change in ownership** of water right(s) as required per § 42-248, Idaho Code:
Additional fee of \$25.00 per undivided right requiring an ownership change and/or
Additional fee of \$100.00 per divided right requiring an ownership change.

* **\$2,020.00 plus \$40.00** for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 20.0 cfs or 2,000 acre-feet.

** **\$5,220.00 plus \$20.00** for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 100.0 cfs or 10,000 acre-feet.

*** **\$13,220.00 plus \$4.00** for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 500.0 cfs or 50,000 acre-feet.

SUBMITTING THE APPLICATION

Submit your completed and signed application with the fee to one of the following Regional Offices:

IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402
Telephone 208-525-7161
Fax 208-525-7177

IDWR Southern Region
1341 Fillmore St., Suite 200
Twin Falls, ID 83301
Telephone 208-736-3033
Fax 208-736-3037

IDWR Northern Region
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815
Telephone 208-762-2800
Fax 208-762-2819

IDWR Western Region
2735 Airport Way
Boise, ID 83705
Telephone 208-334-2190
Fax 208-334-2348

fees effective 7/1/2011