



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 17, 2011

Clinton Aston
PO Box 35
Weston, ID 83286

RE: Notice of Change in Water Right Ownership for Right 13-2209

Dear Mr. Aston:

In November 2004, you filed a Notice of Change in Water Right Ownership ("ownership change") for a ground water right (13-2209) near Weston. The ownership change was filed in response to a transfer application filed by El Ray Balls (Transfer 70722), which sought to change certain elements of water right 13-2209 and update ownership of the right. You protested the transfer application. In January 2011, we held a meeting to discuss Transfer 70722 and the ownership issues associated with water right 13-2209. It became apparent that the ownership and history of the water right are in dispute. Jay Fannesbeck, who was also present at the meeting, asserted that water right 13-2209 is no longer associated with your property. He produced an agreement which he claimed confirms his assertion.

IDWR does not have the power to alter the ownership of existing water rights. A change in water right ownership occurs when legal conveyance documents are executed. IDWR simply updates its water rights database to match the conveyance documents. Because ownership of water right 13-2209 is in question and because the legal documents appear to be contradictory, IDWR has chosen not to update the ownership record for 13-2209 at this time. Rather than hold your ownership change indefinitely, **we have decided to return the ownership change and refund your filing fee (\$100).** A check from the state of Idaho should arrive within two weeks.

Resolving the existing ownership dispute may require a quiet title action in a civil court. If you choose to pursue such an action and are ultimately successful, you may re-file your ownership change at that time. IDWR will then update the water right record to agree with the court order. Another alternative would be to wait for a general adjudication of water rights in the Bear River basin. An adjudication court would have the power to resolve the ownership dispute. However, a Bear River basin adjudication may not occur for a number of years. Please feel free to contact me if you have any questions.

Sincerely,

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