



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

Edgewood LLC
1200 Queens Lane
Jackson, WY 83001

H. Spencer Warner and Linda Warner
PO Box 45
Swan Valley, ID 83449

RE: Notice of Change in Water Right Ownership for Right 23-61

Dear Claimants:

In April 2009, Edgewood LLC ("Edgewood") and H. Spencer and Linda Warner ("Warners") each filed a Notice of Change in Water Right Ownership ("ownership change") for portions of water right 23-61 from Palisades Creek. As evidence of ownership, Edgewood and the Warners provided quitclaim deeds. The Edgewood quitclaim deed was dated Nov 30, 2008 and purportedly conveyed 84.16 acres of right 23-61 from the last owner of record, South Fork Pines, to Edgewood. The Warner quitclaim deed was also dated Nov 30, 2008 and purportedly conveyed the remaining 17.24 acres of right 23-61 from South Fork Pines to the Warners.

An investigation of the property associated with right 23-61 revealed that, at some point, the property had been subdivided into 23 lots and sold to separate lot owners. Bonneville County taxlot data indicates that neither Edgemont nor the Warners own any of the individual lots. In Idaho, if a conveyance document (deed) is silent as to the inclusion of water rights, there is a presumption that a water right is conveyed with the underlying property. If a warranty deed does not specifically mention water rights, the department presumes that the water right was sold with the property, regardless of what the subdivision plat may state.

In this case, evidence suggests that the property was subdivided and the individual lots sold prior to the Quitclaim deeds being executed by South Fork Pines in November 2008. It is likely that the conveyance deeds for the individual lots did not refer to water rights. Therefore, water right 23-61 would have been included as part of the conveyances of the individual lots. South Fork Pines would not have had any interest in right 23-61 left to convey in November 2008. In short, it is not clear from the evidence provided that you are in fact the legal owners of right 23-61. The department will not complete your ownership changes until concrete evidence is provided showing water right 23-61 was specifically withheld in the deeds conveying the individual lots.

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Your ownership changes are being returned and your respective filing fees are being refunded (\$125 to Edgewood, \$125 to Warners). Checks from the state of Idaho should arrive within two weeks. Please feel free to re-file the ownership changes when you have obtained specific proof of ownership, establishing that right 23-61 was reserved/withheld in the warranty deeds to the individual lots owners in the subdivision. Another option would be to pursue a quiet title action, seeking a court order that you are the legal owner of the water right. Please contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', with a stylized, flowing script.

James Cefalo

Water Resources Program Manager

(208) 525-7161