



State of Idaho

COPY

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

September 16, 2011

Marc Hanselman
PO Box 5024
Ketchum, ID 83340

RE: Notice of Ownership Change for Water Rights 34-780I, 34-644F, and 34-2323E

Dear Mr. Hanselman:

In June 2004, you filed a Notice of Change in Water Right Ownership ("ownership change") for three water rights near Darlington, Idaho. As part of your ownership change, you provided a copy of a warranty deed from Mark and Peggy Schluter to Marc Hanselman. The warranty deed describes a 5.7 acre parcel of land in Section 7, T06N, R25E. Only the first page of the warranty deed was provided. The second page and/or signature page was not included. Your ownership change sought to update the water right records for a 5.7 acre portion of the three water rights listed above.

Unfortunately, we cannot complete the ownership change based on the information available at this time. This letter is meant to offer a brief explanation of the problem. Water right 34-644D was reviewed by IDWR and the Snake River Basin Adjudication (SRBA) Court and was officially decreed in 1998. One of the critical elements of a water right decree is the description of the irrigated place of use. The 1998 SRBA decree stated that water right 34-644D only included 2.5 acres of irrigation in the SESW of Section 7, T06N, R24E.

Water right 34-644D was split through an ownership change into an "F" portion and a "G" portion. The G portion is located to the north and has no impact on the validity of your ownership change or the amount of irrigated acres associated with your property. The F portion was kept in the name of Mark Schluter

Most of your property (5.0 acres) is located in the SESW of Section 7. The remaining 0.7 acres is located in the NESW of Section 7. Based on the place of use description from the 1998 decree, the maximum amount of acres under water right 34-644F available in the SESW of Section 7 is 2.5 acres. It is not clear from our records or from your warranty deed that the 2.5 acres of irrigation in the SESW of Section 7 is associated with your particular property. The other two water rights included in your ownership change (34-780I and 34-2323E) cover the exact same place of use and also are limited to 2.5 acres in the SESW of Section 7.

When we completed the initial review of your ownership change, we found that there was a potential problem. Aerial photography suggests that nearly 10 acres of the SESW of Section 7 have been historically irrigated under 34-644F, including your entire parcel, even

SUPPORT DATA

IN FILE # 34-644F

though the SRBA water right decrees only listed 2.5 acres of irrigation. We have contacted Mr. Mark Schluter multiple times asking him to correct the place of use element of the water rights in order to give you a full water supply to irrigate your 5.7 acre parcel. We have never received a response from Mr. Schluter.

Rather than holding your ownership change indefinitely, we have decided to return your ownership change with a refund of the filing fees and encourage you to contact Mr. Schluter to work out an agreement regarding the amount of water that should have been included in the real estate transaction.

To summarize, given the information available to us at this time and the irrigated acre limits described in the relevant water rights, we cannot determine what portion of the water rights should be in your name. You are free to re-file your ownership change in the future as more information comes available or if you are able to work out a water right agreement with Mr. Schluter. A refund of your filing fee (\$300) will be issued by the State of Idaho in a couple of weeks. If you have questions, or would like a more-detailed explanation of the situation, please feel free to contact me.

Sincerely,



James Cefalo
Water Resources Program Manager
IDWR Eastern Regional Office
(208) 525-7161



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James Cefalo
Water Resources Program Manager
IDWR Eastern Regional Office
(208) 525-7161

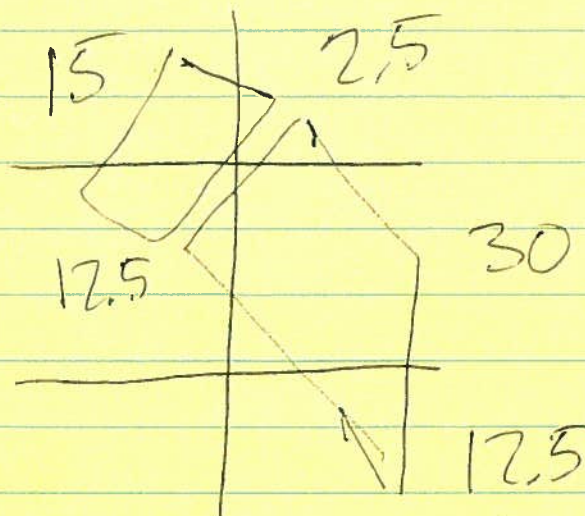
9/16/11

Original claim (Jan 10 1990)

6N 25E Sec 7	SWNW	12.0
	SE NW	12.0
	NE SW	35.0
	NW SW	5.0
	SE SW	9.0

1991 split into A & C

Field Exam 9/18/1990 for total right
Section 7 = 72.5 acres



644E 1993 Hutzze → Peterson ¹⁹⁹⁶ → Williams

644D 1994 Hutzze → Schluter

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

JUN 29 2004

Department of Water Resources
Eastern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
WE 34-00780I		X			
WR 34-00644F		X			
WR 34-02323E		X			

RECEIVED
 SEP 15 2004
 DEPARTMENT OF
 WATER RESOURCES

2. The following **REQUIRED** information must be submitted with this form:

- ✓ A. The appropriate **FILING FEE**. See instructions for fee amounts. \$300 -
- ✓ B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- ✓ C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Mark Schluter
250 Woodland Hills Rd.

4. New Owner/Claimant(s) Helena, MT 59602
Name Connector (Check one): [] and, [] or, [] and/or
 New Mailing Address Marc Hanselman
 City, State and ZIP Code P.O. Box 5024
Ketchum, ID 83340
 New Telephone Number (208) 720-6369

✓ 5. Date you acquired the property 3/22/04

RECEIVED

MAY 27 2005

SUPPORT DATA

IN FILE # 34-644F

WARRANTY DEED

For Value Received MARK L. SCHLUTER AND PEGGY L. SCHLUTER, husband and wife, the Grantors, do hereby grant, bargain, sell and convey unto MARC HANSELMAN, a single person, the Grantee, whose current address is P.O. Box 5024, Ketchum, Idaho 83340, the following described premises, in Custer County, Idaho, to-wit:

A parcel of land situated in the Southwest Quarter of Section 7, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho, being more particularly described as follows:

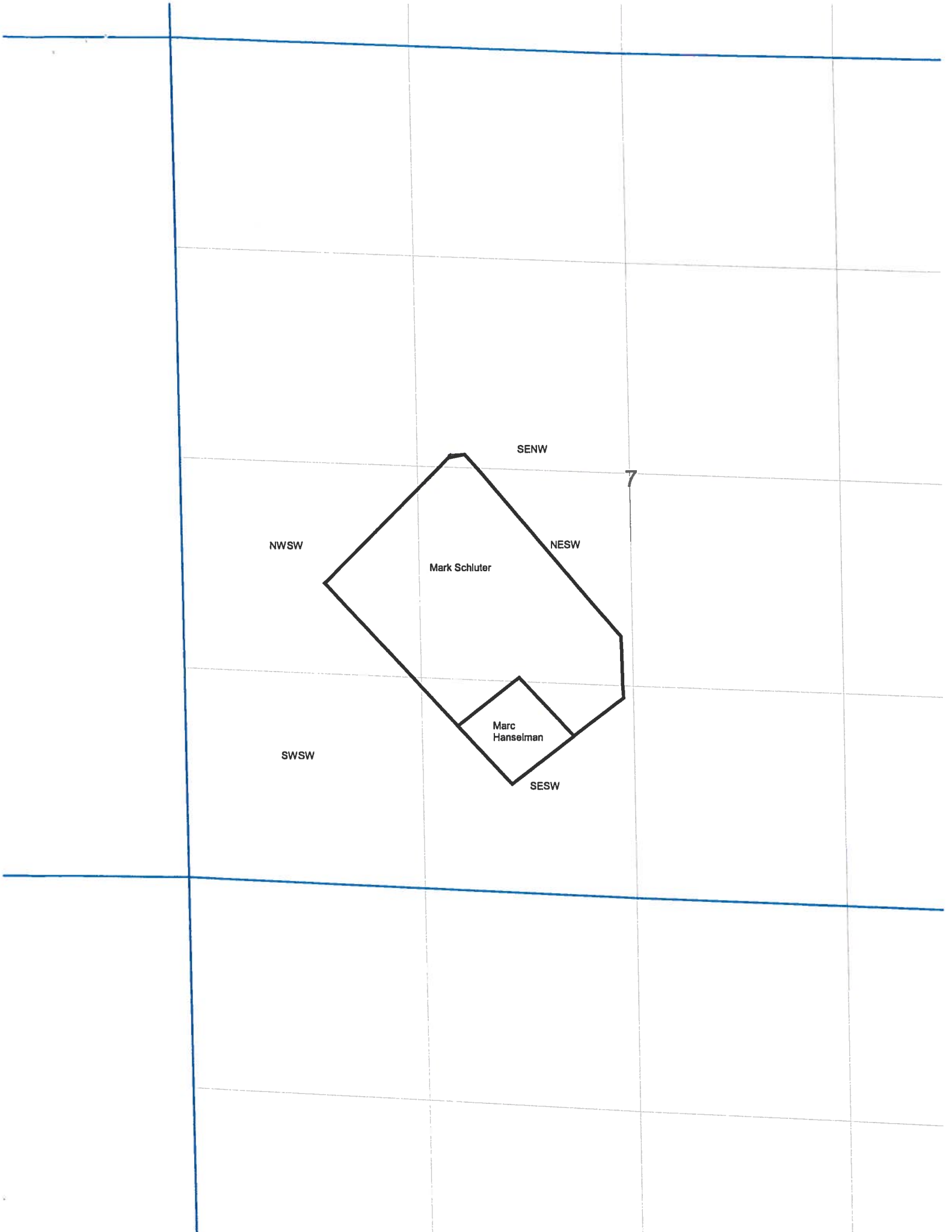
Commencing at the South one quarter corner of said Section 7, (said corner being monumented by a 5/8 inch diameter aluminum capped rebar established by P.L.S. 3577), from which the Southeast corner of said Section 7, (5/8 inch diameter rebar found), bears South 89°12'07" East, 2719.26 feet, (Record of Survey, Instrument No. 207792, records of Custer County, Idaho); thence from the South one quarter corner of said Section 7 North 01°17'31" West, a distance of 90.86 feet to a found 5/8 inch diameter capped rebar (P.L.S. 3577) on the centerline of a county road; thence North 42°51'53" West along the centerline of said county road, a distance of 1017.08 feet to a found 5/8 inch diameter capped rebar (P.L.S. 3577); thence continuing along the centerline of said county road, North 42°51'36" West, a distance of 30.05 feet to a set 5/8 inch diameter capped rebar (P.L.S. 8252), and the POINT OF BEGINNING.

Thence continuing along the centerline of said county road, North 42°51'36" West, a distance of 504.66 feet to a set 5/8 inch diameter capped rebar (P.L.S. 8252); thence leaving the centerline of said county road, North 50°33'54" East, a distance of 495.26 feet to a set 5/8 inch diameter capped rebar (P.L.S. 8252); thence South 42°51'36" East, a distance of 504.66 feet to a set 5/8 inch diameter capped rebar (P.L.S. 8252); thence South 50°33'54" West, a distance of 495.26 feet to the centerline of said county road and the POINT OF BEGINNING.

EXCEPTING THEREFROM County Road right of way.

DEED RESTRICTIONS:

1. Minimum lot size to be five (5) acres.
2. Power lines to be underground.
3. Perimeter fencing to be wood.
4. No temporary or permanent mobile homes allowed on the property. No recreational vehicles used as housing.
5. Modular housing 1,500 square foot minimum.



YOR'S CERTIFICATE

52
OTED

COUNTY ROAD

ALAN HAMBURG

2.50 AC.

5.73 AC.

RANDY PEHRSON

Survey details (bearings and distances):

- Parcel 1 (5.73 AC.): N 50°33'54" E 495.26', S 42°51'36" E 504.66', N 50°33'54" E 858.08', S 42°51'36" W 504.66'.
- Parcel 2 (2.50 AC.): N 42°51'36" W 504.66', S 42°51'36" E 504.66', N 50°33'54" E 216.15'.
- Road boundaries: S 42°51'36" E 1290.82' (M), S 42°51'36" E 1290.94' (R), N 42°51'36" W 1290.82' (M), N 42°51'36" W 1290.94' (R).

52
OTED

Idaho Department of Water Resources Receipt

Receipt ID C075170

Payment Amount \$300.00 Date Received 9/15/2004 9:18:12 AM Region State Status
Payment Type Check Check Number 1188

Payer HANSELMAN MARC G

Comment CHANGE IN WATER RIGHT OWNERSHIP #34-7801 34-644F 34-2323E

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$300.00	OWNERSHIP CHANGES/SECURITY INTERESTS	0229	21	56140	1155



Signature Line (Dept. Representative)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-00644D

1998 MAR 30 PM 4:56

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: MARK SCHLUTER
PO BOX 544
MACKAY ID 83251

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

QUANTITY: 0.86 CFS

RECEIVED

APR - 1 1998

Department of Water Resources
Adjudication Bureau

PRIORITY DATE: 06/01/1904

POINT OF DIVERSION: T07N R24E S33

NWSWE

Within CUSTER County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
0.86 CFS

PLACE OF USE: IRRIGATION
T06N R25E S07 Lot 2 Within CUSTER County
(SWNW)15
SESW 2.5
62.5 ACRES TOTAL

SESW 2.5

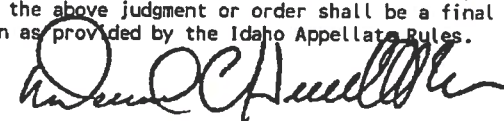
NESW 30

Lot 3 (NWSW)12.5

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 62.5 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00780G AND 34-02323D.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 1, 2010

2nd Request

MARK SCHLUTER
250 WOODLAND HILLS RD
HELENA MT 59602

RE: Transfer application for water right nos.: 34-644F, 34-780I & 34-2323E

Dear Sir/Madam:

Our previous correspondence dated August 27, 2009 (copy enclosed) still remains unanswered. Our department received an ownership change for a portion of the above listed water rights which are presently in your name. During our research of the ownership change we found some discrepancies in the place of use pictured on Arcmap and legal description listed on the water rights land list. According to the taxlot data it appears the property you own is best covered with in the arcmap shapefile not the land list on the water right proof report.

Please find attached a copy of a map showing the Arcmap shapefile in purple and a shapefile created to show the land list as seen on the water right proof report in orange, also noted is the acres within each quarter quarter as listed on the water right proof report. I have also included a computer generated copy of the proof report for your reference. Please indicate which is the correct property being irrigated.

If the land list on the water right proof report is incorrect; please complete a transfer application to correct the place of use listed on the water rights.

If you have any questions about this matter feel free to contact our department at (208) 525-7161.

Respectfully submitted,

Jonie Barg
Technical Records Specialist

Enclosure(s)

cc: MARK HANSELMAN

SCANNED
APR 1 2010



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GARY SPACKMAN
Interim Director

RE: Change in Ownership Water Right No. 34-644F, 34-780I and 34-2323E

Dear Sir/Madam:

The Department of Water Resources acknowledges receipt of your Notice of Change in Water Right Ownership.

During our review of the documentation you submitted we found some discrepancies between that documentation and the legal description of the place of use for the water right(s) indicated in your notice.

It appears there is a possible error in either the departments Arcmap shapefile or an error in the land list on the water right for the above listed water rights. If the error has occurred in the land list on the water rights a transfer application may be necessary to correct the problem. Our department has sent a letter to the current owner of the water right in an attempt to fix discrepancies. Please find attached a copy of the letter sent to Mark Schluter and a map showing the place of use as seen on Arcmap and the land list as seen on the water right. Until the department receives correspondence from Mr. Schluter we will be unable to complete your ownership change, however it will be completed as soon as possible.

Because the Department cannot process the ownership change without proper documentation/fees, we will hold any action on your notice pending receipt of the necessary information/fees. If we do not receive the necessary information/fees within 30 days we will return your notice and all attachments and your notice will not be processed.

Please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact the Department if you have any questions.

Sincerely,

Jonie Barg
Technical Records Specialist

Enclosure(s)

SCANNED
APR 1 2010



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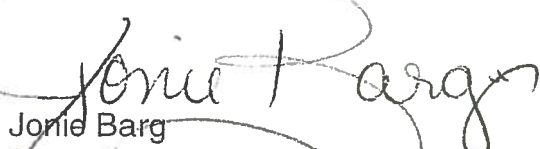
During our review of the documentation you submitted we found some discrepancies between that documentation and the legal description of the place of use for the water right(s) indicated in your notice. I have enclosed a copy of the water right(s) for your reference.

It appears there is a possible error in either the department's Arcmap shapefile or an error in the land list on the proof reports for the above listed water rights. If the error has occurred in the land list on the proof report a transfer application may be necessary to correct the problem. Our department has sent a letter to the current owner of the water right in an attempt to fix the discrepancies. Please find attached a copy of the letter sent to Mark Schluter and a map showing the place of use as seen on Arcmap and the last list as seen on the proof report. Until the department receives correspondence from Mr. Schluter we will be unable to complete your ownership change, however it will be completed as soon as possible.

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SCANNED
AUG 27 2009



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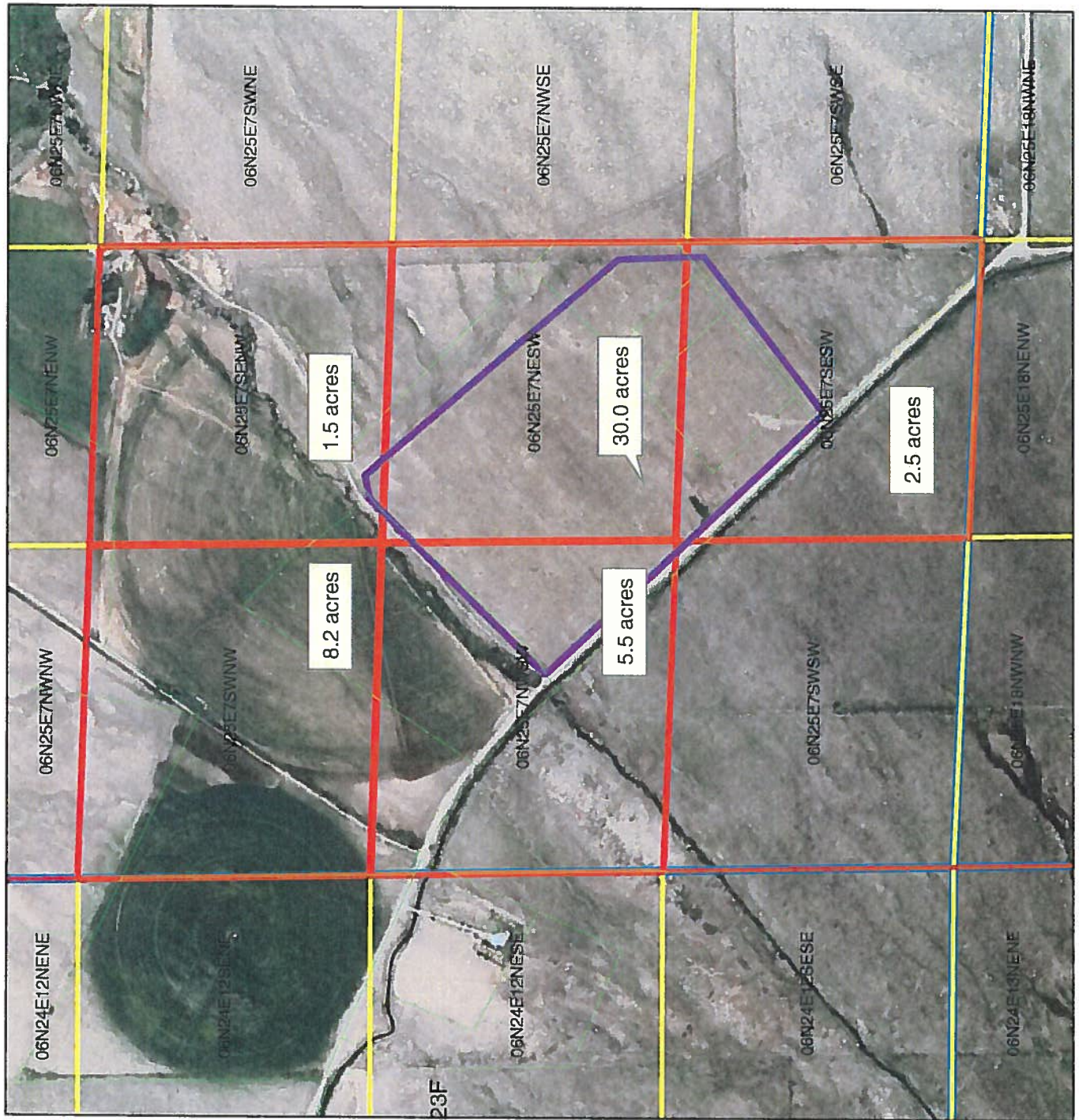
Enclosure(s)

cc: MARK HANSELMAN

SCANNED

AUG 27 2009

Idaho Department of Water Resources



Legend

Taxlots

- | | Arcmap 34-644F, 34-780I & 34-2323F |
|---|------------------------------------|
|  | Quarter Quarters on land list |
|  | Township/Range |
|  | QQ |
|  | Sections |

SCANNED
AUG 27 2009

Layout Created by:

Jonie Barg

Date:

August 27, 2009

BIG LOST RIVER IRRIGATION DISTRICT

P.O. BOX 205 · MACKAY, IDAHO 83251 · (208) 588-2231 · FAX: (208) 588-2863

March 21, 2011

Rick Wager
11217 Puente Way
Mira Loma, CA 91752

Dear Mr. Wager:

I have been working on the research on your land in Custer County. Here is what I have found out so far:

Water Rights - I have spoken with Blake Jordan at Idaho Department of Water Resources in Idaho Falls. There was a transfer of water rights to your property per transfer #5130, but you need to contact him at 208-525-7161 to work through the issues associated with the transfer. Currently the portion of those rights that could be assigned to you need to have an ownership transfer approved by the state.

Once this issue is resolved with Idaho Department of Water Resources, we can re-evaluate your billing with Big Lost River Irrigation District on the classification of your acreage within the district as well as any past charges that have been assessed by Big Lost River Irrigation District.

As far as the bridge across the canal, the realtor did come and request a bridge through the board. At that time the board requested that you and your neighbor's the McCray's work together and share a bridge across the canal. Having multiple bridges in close proximity of each other causes canal maintenance issues.

If you have questions you may contact the office at 208-588-2231.

Sincerely,


Dawn Brown - Office Manager
Big Lost River Irrigation District.

✓ Cc: Blake Jordan, IDWR viafax only 525-7177

Attn
Blake
Jordan

Cox, Sharla

From: Cox, Sharla
Sent: Friday, September 16, 2011 3:24 PM
To: Marston, Sascha
Subject: Refund Please

Sascha, please refund the following:

Receipt #C075170
Amount \$300.00
Payable to:
Marc Hanselman
PO Box 5024
Ketchum ID 83340

Reason: 3 change of ownerships, not able to make change, returning application.

Thank you.

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
900 N. Skyline Dr. Ste. A
Idaho Falls ID 83402
208-525-7161 - telephone
208-525-7177 - fax
sharla.cox@idwr.idaho.gov