



State of Idaho

DEPARTMENT OF WATER RESOURCES

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April 13, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

RECEIVED

APR 14 2010

Zach Latham
2016 North Washington St., Suite 4
Twin Falls, ID 83301

Dear Mr. Latham:

You recently returned to our office application for transfer #76280, on behalf of Cottonwood Creek Home Owners Association (HOA), which had been returned to your office for deficiencies on January 28, 2010. As outlined in the January 28th return letter, the following issues needed to be addressed:

"For applications that propose changing the place of use of a water right, the applicant not only needs to show that they own the right involved with the transfer &/or the land to which it is appurtenant, but they must also show that they own the land where they are proposing to move the water right to. **If the land is owned by a party other than the applicant, then the applicant must have some sort of documentation from the current owner of the land allowing the applicant to move the water right(s) to their land.** In addition, documentation must be included that addresses the ownership of the right(s) on the land. **The documentation must clearly address the issue of whether the applicant will retain ownership of the right(s) on someone else's land, or whether the land owner will own the right(s) once the transfer is approved. ...**

In summary, without the following required information clarifying the water right ownership, processing cannot continue with application #76280:

1. A copy of existing deeds or agreement withholding the water rights from the current land owner OR a document (such as a quitclaim deed), conveying the current land owners' interest in water rights 37-577CG & 37-657E to the HOA.
2. **A (signed) copy of an agreement allowing the HOA to have the ability to own a water right on the current land owner's property."**

With the returned application you included several "Water Rights Quitclaim and Assignment" from Lynn Campion Trust, John H. Whittier, Jean Jones, James and Alison Luckman Trust, Anson Beard Jr., and Anson McCook Beard, Jr. Cottonwood Creek Trust. These documents effectively give the HOA the ownership and authority to transfer the rights. However, I was

unable to find any language in these documents or other documents submitted with the application that would allow the HOA the ability to own a water right on these individuals' property. As a result of this deficiency, we are returning the transfer application along with check #9294 in the name of Brockway Engineering, PLLC, in the amount of \$290.00.

If you have any questions, or if I can be of any further assistance, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cooper', followed by a long horizontal line.

Jeffrey S. Cooper
Sr. Water Resource Agent, IDWR

Enclosures