

Merritt, Allen

From: Merritt, Allen
Sent: Tuesday, November 16, 2010 2:56 PM
To: Skaggs, Pam
Cc: zach.latham@brockwayeng.com
Subject: RE: Petition of Approved Transfer 76796 - Name Connectors & Ownership

Pam,

Thanks for researching this. I forwarded this message to Zach and we talked on the phone. I asked if he needed a more formal response and he indicated he did not so I will consider the matter sufficiently addressed and will not respond further and consider the matter closed.

Allen

From: Skaggs, Pam
Sent: Tuesday, November 16, 2010 1:07 PM
To: Merritt, Allen
Cc: Keen, Shelley
Subject: Petition of Approved Transfer 76796 - Name Connectors & Ownership

Allen,

I researched your question regarding the email below from Zach at Brockway Engineering.

Is the name connector associated with ownership of a water right modified by the name connector identified on the Application for Transfer?

I reviewed both Administrative Memorandums **Records #9** Processing Notices of Change in Water Right Ownership & Associated Updates to Water Right Records and **Transfer Processing #24** Transfer Processing Policies and Procedures, and **Idaho Statutes 42-248** Notification of Change in Ownership of a Water Right or Change of Address of a Water Right Owner & **42-1409(6)** Notice of a Claim referenced in the Instructions for Filing a Notice of Change in Water Right Ownership for relevant direction with the following results.

Records #9 (2.7)	...discrepancies between information listed on notice and information on the deed or other conveyance document.... The deed or other conveyance document should be the basis for the change....name connectors.... Other information submitted with the notice should not be used as the basis for the change, <u>especially if it conflicts with information in the deed or other conveyance document.</u>
Records #9 (3.0)	... Other water right applications (e.g. transfer) before the Department are considered personal property as well...they are not conveyed as appurtenance to the land....Conveyance is normally accomplished through an assignment by the application or permit holder.
Transfer #24 (3.10. Signature)	...An application in more than one name must be signed by each application unless the right is held in the name of one joint owner "or" other joint owner(s), or the right is held in the name of one joint owner "and/or" other joint owner(s).
Transfer #24 (4. Changes to Applications for Transfer..Assignment of Application)	 The assignment will change the name of the transfer applicant, but ownership of the water right(s) involved in the transfer cannot be changed without proper notice and documentation. Section 42-248, Idaho Code, provides that a transfer application can substitute for a notice of change in water right ownership if adequate documentation is provided with the application.

Prior to the Records #9 memo we allowed the name connector to be "updated" through the transfer application process if all right holders had signed the application. It seems clear that we now have a distinction between the application & water right ownership in the references above. While application requirements are related to the water right ownership, **ownership of the water rights should be based on the conveyance documents.**

It appears that the approval document is not correct for the Applicant name connector (should be and/or per the application), but is correct for the the water right ownership based on the ownership documentation submitted with the application. The petition is directed to the name connector associated with the WR Ownership which is correct on the approval. I hope this is sufficient to clarify the issue.

Pam

From: Merritt, Allen
Sent: Tuesday, November 16, 2010 11:14 AM
To: Skaggs, Pam
Subject: FW: Transfer 76796

From: Zach Latham [<mailto:zach.latham@brockwayeng.com>]
Sent: Tuesday, November 16, 2010 10:34 AM
To: Merritt, Allen
Subject: Transfer 76796

Allen-

In checking over IDWR water right transfer 76796 approved on November 3rd, 2010, I noticed that the approved transfer incorrectly lists the water right holder as Shirley S Jentzsch And Rodney A Jentzsch. The water right transfer application submitted by Brockway Engineering lists the water right holder/applicant as Shirley S Jentzsch and/or Rodney A Jentzsch. Please consider this email a formal request and petition to have approved water right transfer 76796 amended to show the water right holders as Shirley S Jentzsch and/or Rodney A Jentzsch. Thanks for your time and please give me a call with questions or comments.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c.208-308-0739
f. 208-736-8506
zach.latham@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.