



State of Idaho

DEPARTMENT OF WATER RESOURCES

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FAX TRANSMITTAL COVER SHEET

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

DATE: 6/17/10

TO: Sidney Highgate
(208) 456-2248

FROM: Cherie Padilla

DOCUMENT

DESCRIPTION: email to Northwest Farm Credit

COMMENTS:

COVER SHEET + 2 PAGES

PLEASE CONTACT Me IF YOU DON'T RECEIVE THIS
ENTIRE DOCUMENT 208/287-4944

Padilla, Cherie

From: Padilla, Cherie
Sent: Thursday, June 17, 2010 11:38 AM
To: 'Lori.Scott@Farm.Credit.Com'
Subject: Security Interest/Ownership for right 22-7697 Sidney Highnote

Lori,

This email is to follow-up on our phone conversation regarding Sidney Highnotes water rights, 22-7697 and 22-13973. Currently, the rights are permits and a license will be issued shortly after we sort out the ownership. The ownership history on these rights follows:

- On 6/12/1991 permit 22-7697 was issued to Sidney Highnote
- On 8/21/1998 the department received an Assignment of Permit that changed ownership of permit 22-7697 from Sidney Highnote to Northwest Farm Credit Services, ACA **AND** Sidney Highnote
- On 2/26/2010 the department received an Assignment of Permit where Sidney assigned ½ of right 22-7697 from Sidney Highnote to Northwest Farm Credit Services FLCA. This split the right into two pieces, 22-7697 and 22-13973. Ownership of 22-7697 remained in Sidney Highnote and NW Farm Credit Services and ownership of 22-13973 was put into NW Farm Credit Services only. The ownership change was completed by the department on 5/21/2010.

Communication from Sidney and yourself indicate that Northwest Credit has a security interest in Sidney's rights and that changing the ownership of the rights may not have been the correct process.

I would suggest that you look at Idaho Code §42-248(6) that discusses security interest in a water right. Note that a security interest does not change the ownership of the right.

<http://legislature.idaho.gov/idstat/Title42/T42CH2SECT42-248.htm>

This leads to another point, a permit is personal property. Once a permit becomes licensed, it becomes an appurtenance. When a right is a permit, it can be assigned to whomever the permit holder wishes, as long as he/she signs the appropriate form, is notarized, and submits the correct fee. In order to be listed as an owner of a water right license, evidence of ownership, such as a deed, needs to be presented to the department on the correct form with the correct fee.

If Northwest Farm Credit Services should be listed as a security interest on these rights, you will need to submit an Assignment of Permit for each permit to the department assigning the right to Sidney Highnote only (this will return the right to the original form). Then a Notice of Security of Interest should be submitted to the department with evidence of interest (see instructions on form) for right 22-7697.

In regard to fees, the two assignments and one notice of security interest will cost \$75. Northwest Farm did submit a payment of \$50 for a licensing amendment for right 22-7697 which will become moot once you submit the above documents since NW Farm will no longer be listed as an owner of the right. I will return the licensing amendment and apply the \$50 to the new fees. The balance owed will be \$25.

Please contact me if you have any questions.

Sincerely,

*Cherie Padilla, Sr. Water Resource Agent
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
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c: Sidney Highnote via fax