

MEMORANDUM

Date: January 21, 2010
To: Water Right File 13-7553 and 13-7457
From: medl
Re: ownership mixup

On Jan 11, 2010, I received an office day call that resulted in extensive follow-up by me and a senior agent in IDWRs Eastern Region.

The initial call was from a realtor attempting to assist a client by confirming the status of a water right. The client had been told she had a water right and I was given 13-7553 as the number. I located the place-of-use for that permit and explained the difference between a permit and a license related to a change in ownership. I also explained that this permit had been protested when the appropriation was greater than 0.04cfs or a single domestic use. I learned from the realtor's statements, that there was more water use occurring than what had been permitted under 13-7553.

A neighbor's licensed right 13-7457 was also part of the discussion. Paraphrasing: the neighbor is contending that the spring source for license 13-7457 is fully appropriated. And that no additional water is available because the spring on the property in question and the spring for 13-7457 are one and the same. Use above and beyond what was licensed under 13-7457 may be occurring. I shared the contact information for the Cub River 13A watermaster and encouraged the realtor and/or her client to connect with him and express their concerns.

In the course of our conversation, I learned that the property in question had exchanged hands several times. The Department's ownership records for 13-7553 have not been updated and probably do not reflect current ownership. I encouraged the realtor to advise her client to connect with the Eastern Region office and begin the permit process for the additional use. And because maps of the place-of-use were not available to any of the interested parties, I sent an electronic map; an ArcMap screen shot showing the permit 13-7553 place-of-use at a scale which also showed license 13-7457 place-of-use.

The owner of the property in question paid a visit to the Eastern Region office and Denise Kidman was the agent assigned to assist. My screen shot and other documents including a warrantee deed, which I had not seen, were provided to agent Kidman. The permitted 13-7553 place-of-use is in Twn 15S, Rge 41E section 18, but the property in question is located in Twn 15S, Rge 41E section 7. In short, the property in question was not the place-of-use for the permit or of any other active water right. The property owner purchased the property without confirming the validity of the water right information she was given but is taking steps not to pass on that misinformation. Agent Kidman initiated claim (or new permit) processing and forwarded a copy of the warrantee deed and plot diagram to be placed in the file.

According to the map in permit 13-7553 the Hull family had owned most of the property in this area. I am not convinced that the Roland Hull named on the warrantee deed is the same Roland Hull that is named on permit 13-7553. However, that permit property and any associated water rights have passed to another generation of the Hull family. Permit 13-7553 ownership will need to be resolved at some future date.

Although proof of beneficial use has been submitted for permit 13-7553, from my review at this time it is questionable that any beneficial use has occurred.

WARRANTY DEED

For Value Received ROLAND LEROY HULL and RUBY HULL, husband and wife,

the grantors do hereby grant, bargain, sell and convey unto PETER HULL and IDA MAE HULL, husband and wife,

whose current address is Pocatello, Idaho

the grantees, the following described premises, in Franklin County Idaho, to wit:

Meridian:

Township 15 South, Range 41 East, of the Boise Section 7; commencing at a point 270 feet East and 669.5 feet South of the Northwest corner of the Southeast quarter of the Southeast quarter of Section 7; and running thence South 386 feet, thence West 300 feet, thence North 386 feet, thence East 300 feet to the point of beginning.....

Included in the above described property is a permanent right of way and easement for ingress and egress across the adjoining properties above described.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owner in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: This 21st day of October, 1977.

Roland Leroy Hull
ROLAND LEROY HULL

Ruby Hull
RUBY HULL

STATE OF IDAHO, COUNTY OF Bannock

On this 21st day of October, 1977, before me, a Notary Public in and for said State, personally appeared ROLAND LEROY HULL and RUBY HULL

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at Pocatello, Idaho
Comm. Expires 9 February 1980

144170

Recorded at the request of

Michael D. Hunt

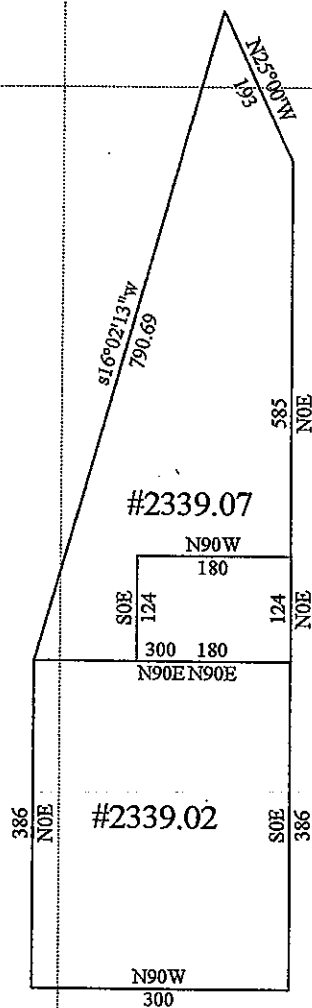
OCT 25 1977

MICHAEL D. HUNT, RECORDER

By *[Signature]* Deputy
FRANKLIN COUNTY, IDAHO

RECORDED

INDEXED



Title:

Date: 06-27-2007

Scale: 1 inch = 225 feet

File: MURDOCK D FAM TRST 237838,39 #2339.07 #2339.02.des

+Tract 1: 3.164 Acres: 137846 Sq Feet: Closure = n25.5343w 0.00 Feet: Precision = 1/876055: Perimeter = 1869 Feet

-Tract 2: 0.512 Acres: 22320 Sq Feet: Closure = n00.0000e 0.00 Feet: Precision > 1/999999: Perimeter = 608 Feet

+Tract 3: 2.658 Acres: 115800 Sq Feet: Closure = n00.0000e 0.00 Feet: Precision > 1/999999: Perimeter = 1372 Feet

Net Area= 5.311 Acres: 231326 Sq Feet

001=/NW,SE,SE,7,15S,41E

009=/NW,SE,SE,7,15S,41E

017=/NW,SE,SE,7,15S,41E

002=/N90E 270

010=/N90E 270

018=/N90E 270

003=/S0E 669.5

011=/S0E 669.5

019=/S0E 669.5

004=/N0E 585

012=/N0E 124

020=/S0E 386

005=/N25.00W 193

013=/N90W 180

021=/N90W 300

006=/s16.0213w 790.69 ?

014=/S0E 124

022=/N0E 386

007=/N90E 300

015=/N90E 180

023=/N90E 300

008=@0-

016=@0+