



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0026

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

Call Form RECEIVED

AUG 17 2009

DEPARTMENT OF
WATER RESOURCES

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 5, 2009

208 610 - 3398

HARVEY G SURRENA
MIROS D SURRENA
351 FOUST RD
BONNERS FERRY ID 83805

RE: Transfer Approval 75457 for Water Right 98-7039

Dear Harvey and Miros Surrena,

Your application for Transfer of a Water Right 75457 was processed and approved on 06-25-2009. Upon further review of the process, I found that the ownership documentation submitted with the transfer application is insufficient to verify your ownership of Right 98-7039.

I apologize for the ownership question not being addressed during review of the application. I am seeking your assistance to address this matter so that the transfer approval and change of ownership can remain in place. If sufficient ownership documentation cannot be provided, the transfer approval may be revoked, and the right returned to the original ownership and location.

Acceptable Ownership documentation is described in our Notice of Change of Water Right Ownership form as "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.**" The single page of a Real Estate and Sale Agreement submitted with the application is not acceptable documentation since it is a preliminary document that doesn't confirm a conveyance of property was completed. Also the document was incomplete (page 2 of 7), didn't include a legal description, names or signatures to identify parties and property.

Our current transfer application checklist identifies the following requirements that pertain to the changes proposed under Transfer 75457:

- **#2a** Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.

The water right was in the name of David Foust prior to transfer. Provide documentation transferring ownership of the original property within NWNE, Sec 12,

T62N, R01E to you, or current ownership of the property and documentation transferring ownership of the water right from the current property owner to you.

- **#2b** If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use.

Provide ownership documentation of the new place of use within the NENE, Sec 12, T62N, R01E.

- **#3** Documentation of authority to make the change if the applicant is not the water right owner.

This may have been accomplished through documentation required under #2a & 2b. If not, provide separate documentation that clearly authorizes you to change the water right by the current property holder of the original place of use.

I will withhold any further action regarding this transfer and water right for 30 days to allow you to collect and submit the necessary information. I am also sending a copy of this letter to the previous water right holder of record and the current property owner of the original place of use according to Boundary County assessor's office. Please call me at (208) 287-4951 if you have any questions regarding this letter or my request for ownership information.

Sincerely,



Pamela S. Skaggs
Water Rights Supervisor

Enclosures

Cc: David G Foust



241126
WARRANTY DEED

STATE OF IDAHO }
County of Boundary } SS.
Filed by: Community Title
on 2-13-09 at 2:00
Glenda Peston
County Recorder Peterson
By Deputy

Escrow No.: 11011-SF

Fee \$ 10.00 chg
Mail to C.T.

FOR VALUE RECEIVED

David G. Foust and Phyllis F. Foust, husband and wife, who acquired title as
David G. Foust, an unmarried person

the grantors, do hereby grant, bargain, sell and convey unto

Harvey G. Surrena and Miros D. Surrena, Husband and Wife, as community property, with right of
survivorship

whose current address is 351 Foust Road, Bonners Ferry, ID 83805

the grantees, the following described premises, in Boundary County, Idaho, TO WIT:

The North Half of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of Section 12, Township 62
North, Range 1 East, of the Boise Meridian, Boundary County, Idaho.

AND

A tract of land situated in the North Half of the Northeast Quarter (N1/2 NE1/4) of Section Twelve (12), Township Sixty-
two (62) North, Range One (1) East of the Boise Meridian, Boundary County, Idaho; more particularly described as
follows:

Beginning at the northwest corner of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter (NE1/4
NE1/4 NE1/4) of said Section 12; thence, along the north line of the NE1/4 of Section 12, N89°41'27" W, 1256.87 feet to
the northeast corner of those parcels shown on Amended Record of Survey, Book 5 of Surveys, Page 270, as Instrument
No. 221973; thence, leaving said north line and along the east line of those parcels shown on said Book 5 of Surveys, Page
270, S 00°16'37" W, 612.02 feet to the southeast corner of those parcels shown on said Book 5 of Surveys, Page 270;
thence S 89°42'08" E, 763.96 feet to the centerline of a road as it was found to exist January 21, 2009; thence, along said
centerline the following Three (3) courses: along a non-tangential curve to the right having a central angle of 39°51'53"
(radial bearing = S 54°44'37" W), a radius of 170.17 feet, for an arc length of 118.40 feet (chord = S 15°19'26" E, 116.03
feet); thence S 04°36'30" W, 183.61 feet; thence S 00°29'15" W, 84.40 feet; thence, leaving said centerline S 89°41'11" E,
473.23 feet to the northwest corner of the South Half of the Southeast Quarter of the Northeast Quarter of the Northeast
Quarter (S1/2 SE1/4 NE1/4 NE1/4) of Section 12; thence, along the north line of said S1/2 SE1/4 NE1/4 NE1/4,
S 89°41'11" E, 577.23 feet to the southwest corner of "Parcel 2" as described in Instrument No. 231385; thence, leaving
said north line and along the westerly line of said "Parcel 2", N 12°50'47" W, 230.38 feet to the northwest corner of said
"Parcel 2"; thence, along the northerly line of said "Parcel 2", N 63°43'01" E, 148.92 feet to the northeast corner thereof and
the east line of the NE1/4 of Section 12; thence, along said east line N 00°27'15" E, 369.80 feet to the southeast corner of
the N1/2 NE1/4 NE1/4 of Section 12; thence, leaving said east line and along the south line of said N1/2 NE1/4
NE1/4 NE1/4, N 89°41'22" W, 657.50 feet to the southwest corner of the N1/2 NE1/4 NE1/4 NE1/4; thence, along the west
line of the N1/2 NE1/4 NE1/4 NE1/4, N 00°25'50" E, 330.38 feet to the POINT OF BEGINNING.

TOGETHER WITH and SUBJECT TO an easement for access and utilities in the West Half of the Northeast Quarter of
the Northeast Quarter (W1/2 NE1/4 NE1/4) of Section Twelve (12), Township Sixty-two (62) North, Range One (1) East of
the Boise Meridian, Boundary County, Idaho, being Thirty (30) feet in width, and lying Fifteen (15) feet on each side of the
following described centerline:

Commencing at the intersection of the west line of said W1/2 NE1/4 NE1/4 and the north right of way of Foust Road,
which is N 00°24'24" E, 30.00 feet from the southwest corner of the W1/2 NE1/4 NE1/4; thence, along said right of way
S 89°41'06" E, 205.39 feet to the intersection with the centerline of a road as it was found to exist January 21, 2009 and the
TRUE POINT OF BEGINNING; thence, leaving said right of way and along said centerline the following Four (4) courses:
N 05°43'52" W, 201.40 feet; thence N 00°29'15" E, 184.49 feet; thence N 04°36'30" E, 183.61 feet; thence, along a curve to
the left having a central angle of 39°51'53", a radius of 170.17 feet, for an arc length of 118.40 feet (chord =
N 15°19'26" W, 116.03 feet) to a point on the boundary of the above described property and the terminus of this easement,
with the sidelines extended or shortened to intersect adjacent boundaries.

SUBJECT TO an easement for access and utilities as described in Instrument No. 231385.

TOGETHER WITH an easement for a water line, Sixteen (16) feet in width as described in Instrument No. 221304

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

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

Dated: February 11, 2009

David G. Foust
David G. Foust

Phyllis F. Foust
Phyllis F. Foust

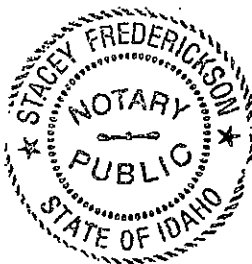
STATE OF IDAHO }
COUNTY OF BOUNDARY } SS.

On this 13th day of February, 2009 before me, a Notary Public in and for said state, personally appeared David G. Foust and Phyllis F. Foust known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Stacey Frederickson
Notary Public for the State of Idaho

Residing at: BOUNDARY COUNTY
Commission Expires: 08/08/2014



COPY**APPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST**

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule and water right proof report or details report for Part 2A of the transfer application are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☐ * Completed Application for Transfer of Water Right form, Part 1.
- ☐ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☐ * Application for Transfer Part 2A. Attach a Proof Report (obtained from Department) or Details Report (obtained on website) describing each water right in the transfer as currently recorded.
- ☐ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☐ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☐ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☐ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☐ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ☐ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/water/rights/>.
- ☐ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☐ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.)
- ☐ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Other. Please describe: _____

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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 IDWR will produce new water right number(s) for the split(s).

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- 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 on file with the county Planning and Zoning or Recorder's Office).
OR
- D. 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 or equivalent **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)

4. New Owner/Claimant(s)

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

City, State and ZIP Code

New Telephone Number

() _____ Email: _____

5. Date you acquired the property

PROPERTY ADDRESS: 351 Foust RoadID#: 80754804

4. OTHER TERMS AND/OR CONDITIONS: This Agreement is made subject to the following special terms, considerations and/or contingencies which must be satisfied prior to closing 1. Offer contingent upon Buyer's approval of Loan Terms and Arrangements. 2. Seller to provide Buyer Statistics on Well. This information to be to Buyer's approval. 3. Seller to provide a recorded Maintenance Easement to Well from Oxford Loop Road to Well and from Well to property being purchased. 4. Additional property to be purchased is roughly outlined in attached Add. #1. This additional property to be no less than 35 acres and is to be surveyed by Seller to Buyer's approval. 5. Seller to grant, and record, an Easement for Ingress and Egress and Utilities at existing road running north from Foust Road near the end of the existing County Road known as Foust Road to Buyer's approval as depicted in Add#1. 6. Legal Description of additional acreage to be supplied prior to close. 7. Seller guarantees that the Well supplying the house on the five acres that lies West and off of the five acre property with house passes to the Buyer with this Purchase and Sale. Seller further guarantees that said Well supplies water to the house on five acres exclusively. 8. Seller to provide a Water Test on Well to Buyer's approval.

5. ITEMS INCLUDED & EXCLUDED IN THIS SALE: All existing fixtures and fittings that are attached to the PROPERTY are INCLUDED IN THE PURCHASE PRICE (unless excluded below), and shall be transferred free of liens. These include, but are not limited to, all seller-owned attached floor coverings, attached television antennae, satellite dish, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm doors, storm windows, window coverings, garage door opener(s) and transmitter(s), exterior trees, plants or shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems, all ranges, ovens, built-in dishwashers, fuel tanks and irrigation fixtures and equipment, that are now on or used in connection with the PROPERTY and shall be included in the sale unless otherwise provided herein. BUYER should satisfy himself/herself that the condition of the included items is acceptable. It is agreed that any item included in this section is of nominal value less than \$100.

(A). ADDITIONAL ITEMS SPECIFICALLY INCLUDED IN THIS SALE: Dishwasher, Dryer, Range/Oven, Refrigerator, Washer, Fire Wood next to shop.

(B). ITEMS SPECIFICALLY EXCLUDED IN THIS SALE: na

COPY

6. MINERAL RIGHTS: Any and all mineral rights appurtenant to the PROPERTY are included in and are part of the sale of this PROPERTY unless otherwise agreed to by the parties in writing.

7. WATER RIGHTS: Any and all water rights including but not limited to water systems, wells, springs, lakes, streams, ponds, rivers, ditches, ditch rights, and the like, if any, appurtenant to the PROPERTY are included in and are a part of the sale of this PROPERTY unless otherwise agreed to by the parties in writing.

8. TITLE CONVEYANCE: Title of SELLER is to be conveyed by warranty deed, unless otherwise provided, and is to be marketable and insurable except for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by SELLER may be paid out of purchase money at date of closing. No liens, encumbrances or defects which are to be discharged or assumed by BUYER or to which title is taken subject to, exist unless otherwise specified in this Agreement.

9. TITLE INSURANCE: There may be types of title insurance coverages available other than those listed below and parties to this agreement are advised to talk to a title company about any other coverages available that will give the BUYER additional coverage.

(A). PRELIMINARY TITLE COMMITMENT: Prior to closing the transaction, ☒ SELLER or ☐ BUYER shall furnish to BUYER a preliminary commitment of a title insurance policy showing the condition of the title to said PROPERTY. BUYER shall have 5 business day(s) from receipt of the preliminary commitment or not fewer than twenty-four (24) hours prior to closing, within which to object in writing to the condition of the title as set forth in the preliminary commitment. If BUYER does not so object, BUYER shall be deemed to have accepted the conditions of the title. It is agreed that if the title of said PROPERTY is not marketable, or cannot be made so within 5 business day(s) after notice containing a written statement of defect is delivered to SELLER, BUYER'S Earnest Money deposit will be returned to BUYER and SELLER shall pay for the cost of title insurance cancellation fee, escrow and legal fees, if any.

(B). TITLE COMPANY: The parties agree that Community Title of Boundary County Title Company located at Bonnors Ferry, ID. shall provide the title policy and preliminary report of commitment.

(C). STANDARD COVERAGE OWNER'S POLICY: SELLER shall within a reasonable time after closing furnish to BUYER a title insurance policy in the amount of the purchase price of the PROPERTY showing marketable and insurable title subject to the liens, encumbrances and defects elsewhere set out in this Agreement to be discharged or assumed by BUYER unless otherwise provided herein. The risk assumed by the title company in the standard coverage policy is limited to matters of public record. BUYER shall receive a ILTA/ALTA Owner's Policy of Title Insurance. A title company, at BUYER's request, can provide information about the availability, desirability, coverage and cost of various title insurance coverages and endorsements. If BUYER desires title coverage other than that required by this paragraph, BUYER shall instruct Closing Agency in writing and pay any increase in cost unless otherwise provided herein.

(D). EXTENDED COVERAGE LENDER'S POLICY (Mortgagee policy): The lender may require that BUYER (Borrower) furnish an Extended Coverage Lender's Policy. This extended coverage lender's policy considers matters of public record and additionally insures against certain matters not shown in the public record. This extended coverage lender's policy is solely for the benefit of the lender and only protects the lender.

BUYER'S Initials (HGS) (MLC) Date 1-3-09

SELLER'S Initials (PG) (pl) Date 1/4/09

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