



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

February 20, 2009

ALBERT A OR REBECCA S AUGUSTUS
PO BOX 94
WHITEBIRD ID 83554

Re: Application for Transfer No. 73753

Dear Mr. and Mrs. Augustus:

In review of the above referenced application for transfer we found that the ownership documentation that has been submitted to our department does not convey Rt. 79-4009B to you. We have reviewed deeds that document ownership of Rt. 79-4009, originally in the name of Harvey Hosley, back to 1979 when he conveyed all interest in Block 7, together with water right 79-4009B, to Gerald Hosley. Harvey then "assigned" the remainder of Rt. 79-4009 to Roberta Simonsen in 1986, which also included a reference to Block 7. In 2000, IDWR submitted a recommended water right, in the name of Gerald Hosley, to the SRBA (Snake River Basin Adjudication) Court who, in turn, issued a partial decree of this right to Gerald Hosley for use of water on Block 7 of Copperville Subdivision. Gerald Hosley then conveyed Block 7 to Mark Wilkins in 2006 together with appurtenances, which included Rt. 79-4009B.

Mr. Jaros acquired Block 4 under a warranty deed from Martha Beck and Victoria Wells which specifically included Rt. 79-4009B in 1998. However, any water appurtenant to Block 4 was assigned 12 years earlier to Roberta Simonsen. Water under 79-4009B was appurtenant to Block 7, as deeded to Gerald Hosley in 1979. Unless Mr. Jaros can produce a warranty deed conveying Rt. 79-4009B to Beck and/or Wells predecessor from Harvey Hosley that predates 1979, title to 79-4009B passed to Gerald Hosley for use on Block 7 of Copperville Subdivision.

It appears to us that you have several options in regard to obtaining a water right for your property.

1. Provide a warranty deed conveying Rt. 79-4009B to Beck and/or Wells predecessor from Harvey Hosley that predates 1979. This would allow your transfer to proceed.

2. You could file a Notice of Late Claim in the SRBA, on a portion of the original statutory claim filed by Harvey Hosley and see if the Court will accept the filing. You could withdraw your transfer if the court accepts your claim.
3. You could submit an Application for Permit for a domestic water right, which would include water for up to ½ acre of lawn and garden. You would end up with a junior priority date from the Salmon River but the application could be accepted and processed fairly quickly. The filing fee submitted for the transfer application could be conveyed to an application for permit if you withdraw the transfer application.

Please advise us what you wish to do in regard to the transfer application. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. Your response including the requested information or a request for more time to seek the information must be received by March 30, 2009. Without a timely reply, IDWR will issue a preliminary order to reject the application. The application fee will not be refunded for a rejected application. A rejected application may be re-filed when adequate information can be provided.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,



KAY WALKER
Sr. Water Resource Agent