



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 18, 2009

BRUCE B HESSING
SEA CORP INC
7189 W COHO DR
BOISE ID 83709

Dear Mr. Hessing:

The department has received your letter dated May 9, 2009, in which you express concern about the change in ownership of part of water right no. 63-11636. The department assigned numbers 63-33187 and 63-33188 to the split portions of water right no. 63-11636.

The department does not approve or deny water right ownership changes, but rather reviews the deed(s) and/or other legal documents submitted by new owners and records the changes detailed in those documents. If a deed is silent regarding the water right(s) appurtenant to the land being conveyed, the water rights are assumed to be conveyed to the new landowner, just as other appurtenances, such as a fence or barn, customarily would be. The deeds submitted in connection with the ownership change notice for water right no. 63-11636 did not specifically exempt the water rights from the conveyance, and so the department considers them to have been conveyed with the land.

The Amendment to the Declaration of Covenants, Conditions, and Restrictions for Southfork Subdivision included with your letter is not a deed, and it addresses the water diversion and delivery system, not the water right. Ownership of the pumps and pipelines used to convey water and ownership of the right to divert and use water are separate items, somewhat akin to owning a car versus having a driver's license.

The Department's approach to evaluating water right ownership change notices and recording ownership changes is detailed in a memorandum, which I have enclosed for your review. You will find a situation similar to yours in section 2.8 Example Situations.

If you have further questions, please call me at 208-287-4952.

Sincerely,

Emalee Rushing
Office Services Supervisor

Enclosure