



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 17, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

BRETT CARLSON
75 S RIDGEVIEW DR
BOUNTIFUL UT 84010

RE: Water Right 29-2422

Dear Mr. Carlson:

The Department of Water Resources (IDWR) is having difficulty interpreting the warranty deed you submitted in connection with your Notice of Change in Water Right Ownership for Water Right 29-2422. According to the deed, you acquired the parcel of land together with "Twenty (20) Shares of Water, Equal to 0.34 Cubic Feet/Second Included." IDWR understands the reference to 0.34 cfs, but we do not know what "Twenty Shares" means.

One possible interpretation for "Twenty Shares" is that it refers to 20 acres. Right 29-2422 authorizes the diversion of 1.48 cfs to irrigate 85 acres, or 0.0174 cfs per acre. A total rate of 0.34 cfs, as described on the deed, divided by 0.0174 cfs per acre, suggests a total of 19.5 acres, or approximately 20 acres. However, within the parcel described by the deed, the area historically irrigated with water from Right 29-2422 is approximately 12 acres. To irrigate 20 acres within your parcel, you would be required to file an application for transfer of a water right in which, among other things, you would have to identify the 8 acres that will no longer be irrigated on the parcel of land to which the rest of Right 29-2422 is appurtenant.

Another possible interpretation of "Twenty Shares" is that a share is one-twentieth of 0.34 cfs and not a reference to acreage. In that case, your portion of Right 29-2422 would be 0.34 cfs for the 12 acres it irrigates within your parcel, and it would exceed the statutory limit of 0.02 cfs per acre. To divert more than 0.24 cfs to irrigate 12 acres, you would be required to file an application for transfer of a water right and include justification based on soil type or some other reason for requiring more than 0.02 cfs per acre.

IDWR will be able to process your ownership change notice if you provide additional information interpreting the warranty deed. The additional information must clearly demonstrate the intent of the buyer and seller of the water right. IDWR will hold your water right ownership change notice for 30 days to allow you time to submit the additional information. If IDWR does not receive a response from you within 30 days, your ownership change notice will be returned to you, and the filing fee will be refunded.

If you have any questions, please call me at 208-287-4947, or email me at shelley.keen@idwr.idaho.gov.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

Cc: East Bannock Agricultural Property Trust