



State of Idaho

DEPARTMENT OF WATER RESOURCES

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WESTERN REGION

August 1, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

TED R. AND CHRISTINE FRISBEE JR.
19270 NW HARPER RD
MAYFIELD ID 83716

COPY

**RE: EISENMAN FAMILY TRUST TRANSFER REQUEST ON
WATER RIGHT 61-11965**

Ladies and Gentlemen:

Our office received 9 transfers on water right 61-11965 in November of 2003. Processing of these transfers was delayed due to Snake River Basin Adjudication (SRBA) issues. Processing of these transfers resumed at the first of this year. During the review of the transfers it was discovered that this property had been sold.

Mike Eisenman, a Member of Eisenman Family Trust, has worked with each of the new owners to have the individual transfers and subsequent water right put into their respective names. According to Mr. Eisenman, your portion of water right 61-11965 should be 0.10 cfs for 5 acres of irrigation. Under this approach each lot sold would receive enough water to irrigate approximately 25% of the platted lot size.

Unfortunately, the deed confirming your ownership of the property does not specifically address the amount of water to be conveyed. The Idaho Supreme Court has confirmed that a water right is an appurtenance to the land upon which it is used and will pass with the conveyance of the land unless reserved in the deed. Water right records of the Department indicate that your property included irrigation of 15.7 acres under water right 61-11965. The proportionate amount of water associated with those acres is 0.31 cfs. Because the sales of the lots predated the completion of the Department's transfer process, a proportionate amount of the water passed only to the buyers of those lots that are appurtenant to water right 61-11965. The Department cannot approve a water right transfer for additional acreage and water quantity without documentation of ownership or authority to transfer the additional amounts. If additional information is not provided the Department will process your transfer based on your deed to the property and the amount of the water right appurtenant to your property. The Department could deny the transfer if there is no water right appurtenant to your property.

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If ownership of the water right is disputed between landowners, the department may not be able to complete processing of the transfers until the dispute is resolved. Please note that the Department cannot resolve a legal dispute of property ownership. Resolution may require an action to quiet title in a court of law, where a court can receive evidence as to the intent of the parties. The Department can delay processing of the transfers due to a pending court action if evidence of the court action is provided.

The Department will hold processing on your transfer until 9/1/2007 to allow submittal of the additional information documenting ownership of the water right. You may seek additional time to provide the information or a written request to delay or interrupt processing. Without additional information or a written request to delay processing, the department will proceed as described above.

If you have any questions or concerns please contact me at the above address.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel A. Nelson", with a long horizontal flourish extending to the right.

Daniel A. Nelson
Sr. Water Right Agent