



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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July 25, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

WADE AND LE ANNE WADDOUPS
3221 W 3300 N
MOORE ID 83255

Re: Notice of Change in Water Right Ownership Filed for 34-13663
Ownership Change for 34-13839

Dear Mr and Mrs. Waddoups:

On August 13, 2002, the Department received your Notice of Change in Water Right Ownership for water right 34-13663, along with the filing fee of \$100. The notice was accompanied by a warranty deed, dated July 17, 2002, conveying property from Acor to Waddoups, including 43 inches of groundwater from a well located in the SW1/4 of Section 28, T5N, R26E. The conveyance also included a "... 16% interest in a water right issued through license number 34-2426C & 34-13663." On May 13, 2005, the Department received your second notice for the same water right, with a \$100 filing fee. The second notice was accompanied by a corrected warranty deed including a conveyance of "... 43 inches of Ground Water from well at Parcel 2. Water Right issued through license number 34-13663." The corrected deed did not include the 16% interest indicated on the earlier deed. The corrected deed does not appear to be executed by the grantors.

Water right 34-13663 was involved in a transfer (no. 71254) in the name of Michelsen Properties LLC. The transfer was contested, a hearing was held, and the transfer was approved by preliminary order on May 31, 2006. The preliminary order, which has become final, included the following findings:

22. Water right no. 34-13663 is derived from a water right license originally numbered 34-2426. Water right license no. 34-2426 authorized the diversion of 5.0 cfs for irrigation.

23. A claim was filed in the SRBA, numbered 34-2426C. Claim no. 34-2426C asserted the right to divert 7.507 cfs. IDWR staff prepared an SRBA recommendation proposing recognition of 2.5 cfs for claim no. 34-2426C.

24. The SRBA Court ultimately decreed two parts of 34-2426C and assigned the two parts new numbers. The first part was assigned decreed water right no. 34-13663. Decreed water right 34-13663 was issued to Everett T. Acor, Jr. on November 8, 2001. Decreed water right 34-13663 authorized diversion of 1.93 cfs and the irrigation of 2,138 acres. The second part was assigned decreed water right no. 34-13664, authorizing diversion of 0.57 cfs. This application for transfer does not seek to transfer water right no. 34-13664.

25. On September 24, 1999, Everett T. Acor, Jr, Eyleen P. Acor, Kurt Acor, Coralee Acor, Daryn Acor, Shanna Acor ("Acors") and Cannon – Shelley Properties Limited Partnership (Cannon – Shelley) executed a document titled "Agreement for Division of Water Rights and Related Property Rights." The agreement was attached to the application for transfer. The agreement documents the sale of various properties and water rights, many of which are the subject of this application for transfer.

26. On May 23, 2003, Cannon – Shelley executed a warranty deed to Mickelsen Properties LLC. The warranty deed conveyed land owned by Cannon – Shelley along with appurtenances, but did not expressly mention water rights. The legal description of the real property conveyed by the deed matches much of the place of use identified in decreed water right no. 34-13663.

27. The document titled Agreement for Division of Water Rights and Related Property Rights expressly sold 1.258 cfs of (claim to) water right no. 34-2426C to Cannon – Shelley. The deed will be interpreted to have conveyed 1.26 cfs of the 1.93 cfs recognized by decree no. 34-13663 to Cannon – Shelley.

28. At the hearing, Wade Waddoups alleged that he acquired a portion of water right no. 34-13663 by purchasing land from Everett T. Acor in 2002. Wade Waddoups testified that he owns some of the 1.26 cfs of 34-13663 sought to be transferred.

29. Acors sold 1.26 cfs of water right no. 34-13663 to Cannon – Shelley in 1999. The deed conveying real property from Cannon – Shelley to Mickelsen did not expressly include water rights. Nonetheless, even if Cannon – Shelley retained any portion of the 1.26 cfs in the conveyance to Mickelsen, Wade Waddoups would not be entitled to the portion retained because Wade Waddoups purchased from Everett T. Acor not Cannon – Shelley.

30. Because only a portion of water right no. 34-13663 was acquired by Mickelsen, IDWR assigned new water right no. 34-13840 to the portion of water right no. 34-13663 acquired by Mickelsen.

The portion retained by Acor (0.67 cfs) after the sale to Mickelsen was numbered 34-13839. Your original warranty deed indicates that you own a portion of water right 34-2426C (i.e. all or a portion of 34-13839); however, the quantity needs to be clarified. The Department has included your name, along with Acors, as current owners of water right 34-13839, as shown on the transfer approval document issued for transfer 71254 on July 21, 2006.

The Department will refund \$100 to you, since you paid a fee for both notices on the same water right. The Department can update the ownership record for water right 34-13839 if you can provide documentation that will clarify the quantity (all or portion of 0.67 cfs) conveyed to you by Acor.

If you have questions regarding this matter, please feel free to contact me at 208-287-4948.

Sincerely,


For Jeff Peppersack, Manager
Water Right Permits Section