

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

James C. Dale
Michael E. Thomas
Patricia M. Olsson
James C. deGlee
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaefer Kaufmann
Michael W. McGreaham
Kimberly D. Evans Ross

Jon A. Stenquist
Eric M. Barzee
Valerie N. Charles
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Joel A. Flake, Jr.
Russell G. Metcalf

Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

September 7, 2005

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

RECEIVED
SEP 08 2005
DEPARTMENT OF
WATER RESOURCES

Jeff Peppersack
Idaho Department of Water Resources
Idaho Water Center
322 E. Front Street, 6th Floor
PO Box 83720
Boise, ID 83720-0098

Re: Notices of Security Interest in a Water Right
MTBR&F File No. 18-794.105

Dear Mr. Peppersack:

At the suggestion of the Twin Falls Regional Office of the Idaho Department of Water Resources, I am writing about a very serious concern my clients and I have regarding notices of security interest in a water right and the timely processing thereof. On May 13, 2005, my paralegal, Keri Moody, sent a Notice of Security Interest in a Water Right, along with the appropriate filing fee, to Kari Lynn Townsend with the IDWR. Given the serious nature of security interest, it was our justifiable expectation that the notice of security interest would be processed and the Department would take the necessary steps to adjust its records, so that we would receive notice of any proposed changes to those water rights. Unfortunately, nearly four months later, that action has not yet been taken.

The ramifications of this are very real to my client. In fact, it is my understanding that some seven changes to various water rights listed in the notice of security interest have been proposed. It was through sources other than IDWR that my client found out about one of those proposed changes that led to discovery of the other proposed changes. We received no notice from IDWR of those proposed changes. Idaho Code Section 42-248 provides that:

Any person having a security interest in a water right and desiring to be notified by the department regarding the filing of a change in ownership of that water right or of any proposed or final action to amend, transfer or otherwise modify that water right shall make

Jeff Peppersack
September 7, 2005
Page 2

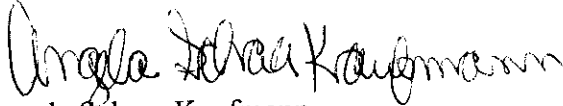
the request upon a form provided by the department accompanied
by a fee of twenty-five dollars (\$25.00) per right.

IDAHO CODE § 42-248(6).

That statute becomes entirely meaningless if the notices of security interest are not promptly attached to the water right, so that notice can be provided. In fact, my paralegal, Ms. Moody, was most recently told that the notice of security interest would be processed by the end of the year. That time frame is simply unacceptable and does not comport with the intended purpose of Section 42-248.

In short, this significant delay in attaching the notice of security interest to the pertinent water rights, or otherwise flagging them so that we receive notice, has the potential to harm my client in a real and significant way. Please let me know when we can expect the notice of security interest to be attached.

Very truly yours,


Angela Schaer Kaufmann
ask@moffatt.com

ASK/mdr
Enclosure
cc: Karl Dreher

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September 7, 2005

Jeanie Robertson
Idaho Department of Water Resources
1341 Fillmore Street - Suite 200
Twin Falls, ID 83301-3380

Re: Notice of Security Interest in a Water Right
MTBR&F File No. 18-974.105

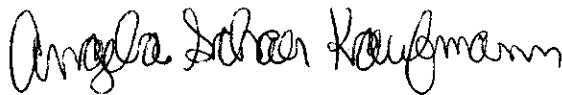
Dear Ms. Robertson:

I have recently learned that the Youngs have filed a significant number of notices of change of ownership and transfer applications with the IDWR. I have also been informed that you are the person who generally handles those applications.

On May 13, 2005, we filed a Notice of Security in a Water Right with the IDWR. Unfortunately, we have experienced a significant delay in IDWR's processing of that notice, and the notice of security interest has not been attached to the water rights at issue. I am forwarding you a copy of the correspondence that we sent on May 13, 2005, for your information and use.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Angela Schaer Kaufmann
ask@moffatt.com

ASK/mdr

Enclosure

cc: Jeff Peppersack ✓
Karl Dreher

COPY

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MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

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Gerald T. Husch	Angela Schaefer Kaufmann	
Scott L. Campbell	Michael W. McGraham	

May 13, 2005

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise, Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Kari Lynn Townsend
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: KeyBank/Young & Young - Perfection of Water Right Security Interest
MTBR&F File No. 18-794.105

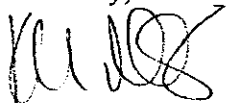
Dear Ms. Townsend:

As you recall, in the last several weeks we spoke about our client, KeyBank, perfecting its interest in 111 water rights held by Steve, Maria and Roy Young, as well as several of their business entities.

We have now obtained the fully executed mortgages and have enclosed those along with an executed Notice of Security Interest in a Water Right and list of rights subject to KeyBank's security interest. I am also enclosing a check in the amount of \$2775 as payment for the perfection of KeyBank's interest in the water rights. I trust that we will receive some acknowledgment of proper perfection of these water rights after you have been able to complete this process. If this is not the case, please let me know. I have requested that the Youngs work with you to file their notice of ownership changes impacting the names on certain water rights.

Thank you for your assistance in this matter. If you have any questions or concerns regarding this matter, please feel free to contact me.

Sincerely,



Keri A. Moody
Paralegal

/kad

Enclosures

cc: W. Lee Bean (w/o enclosures)

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

P.O. Box 829
Boise, Idaho 83701

(208) 345-2000

WELLS FARGO BANK NORTHWEST, N.A.
BOISE, IDAHO
92-379 / 1241

CHECK NO.

17754

NOT VALID UNLESS
NEGOTIATED WITHIN 90 DAYS

DATE

05/03/2005

AMOUNT

\$2,775.00

PAY TWO THOUSAND SEVEN HUNDRED SEVENTY FIVE AND 00/100

TO THE
ORDER
OF

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

[Signature]
GENERAL ACCOUNT

MP

⑈ 177542 ⑈ ⑆ 124103799⑆ 0030084230 ⑈

Idaho Department of Water Resources
CHECK NO.: 177542

17754

INVOICE NO:	DESCRIPTION:	VOUCHER:	AMOUNT:
18794.0105	fees to perfect interest in	201544	2,775.00

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

TO

Moffatt Thomas Barrett Rock & Fields Chartered
P.O. Box 829 • Boise, Idaho 83701
(208) 345-2000
Fax No.: (208) 385-5384

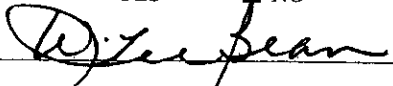
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s): See Attached Document
Adjudication Claim No(s): See Attached Document
2. The following **REQUIRED** information must be submitted with this form:
 - A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - B) A **FEE** of \$25.00 per water right or adjudication claim.
3. Name and Mailing Address of Person or Company holding Security Interest

KeyBank National Association
501 Broadway
Idaho Falls, Idaho 83405
4. Name of Water Right Owner/Claimant(s) See Attached list of Water Right Owners/Claimants
5. Expiration Date of Notification Period Does Not Expire
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) (and title if applicable) 
KeyBank National Association - W. Lee Bean, Vice President

For Office Use Only

Received by _____	Date _____	Fee _____
Receipted by _____	Date _____	Receipt No. _____
Processed by _____	AJ Date _____	WR _____ Date _____

**List of Water Rights
(111 Total)**

Water rights held in the names of Steven D. Young, Maria Young, and Roy Young (36)

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B
36-15566
36-15612
36-15614
36-15620
36-15622
36-2479A
36-2480
36-7476B
36-15234
36-15618
36-15616
36-15264B
36-8663

Water rights held in the name of Young & Young Partnership (64)

36-2454D
36-2630D
36-7007D

36*7956B
36*8619B

See attachment A hereto, for a list of 59 water right.

Water rights held in the name of North Ridge, LLC (6)

36+10090
36+2449
36+7835
36+7523
36-7523
36-7394

Water rights held in the names of Samuel C. and Margaret Large (1)

36-2268A

Water rights held in the name of Rustic Ag, Inc. (of which Ken Patterson and Don Chisolm are the owners) (1)

36+2479B

Water rights held in the name of William Kerbs (1)

36+7476A

Water rights held in the name of C&B Farms, Inc. (1)

36+10491

Water rights held in name of Steven Young (1)

36+15264A

Attached as EXHIBIT A to Noti of Security
Interest in a Water Right

Page 4 of 126

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
36-15366C	NO	NO	YES	NO	NO	NO
36-7021A	NO	NO	YES	NO	NO	NO
36-2530A	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
36-2058D	36-2058D	0.36 cfs	104 af	26.0	8,644.0		N/A	N/A		N/A
36-2075D	36-2075D	0.12 cfs	32 af	8.0	8,644.0		N/A	N/A		N/A
36-2075F	36-2075F	0.16 cfs	41.6 af	10.4	8,644.0		N/A	N/A		N/A
36-2193	36-2193	4.26 cfs	1260 af	315.0	8,644.0		N/A	N/A		N/A
36-2233G	36-2233G	0.20 cfs	48 af	12.0	8,644.0		N/A	N/A		N/A
36-2410C	36-2410C	2.23 cfs	446 af	111.5	8,644.0		N/A	N/A		N/A
36-2591	36-2591	2.90 cfs	636 af	159.0	8,644.0		N/A	N/A		N/A
36-2620	36-2620	7.13 cfs	1760 af	640.0	8,644.0		N/A	N/A		N/A
36-7795A	36-7795A	1.58 cfs	316 af	79.0	8,644.0		N/A	N/A		N/A
36-8404	36-8404	2.10 cfs	524 af	131.0	8,644.0		N/A	N/A		N/A
36-8777	36-8777	1.12 cfs	473.1 af	253.5	8,644.0		N/A	N/A		N/A
36-11290	36-11290	0.06 cfs	12 af	3.0	8,644.0		N/A	N/A		N/A
36-15456B	36-15456B	0.07 cfs	29.6 af	16.0	8,644.0		N/A	N/A		N/A
36-2058C	36-2058C	5.13 cfs	1496 af	374.0	8,644.0		N/A	N/A		N/A
36-2075B	36-2075B	0.16 cfs	52 af	13.0	8,644.0		N/A	N/A		N/A
36-2075E	36-2075E	7.11 cfs	1846.4 af	461.6	8,644.0		N/A	N/A		N/A
36-2191	36-2191	2.56 cfs	640 af	160.0	8,644.0		N/A	N/A		N/A
36-2233D	36-2233D	0.01 cfs	4.2 af	12.0	8,644.0		N/A	N/A		N/A
36-2410B	36-2410B	0.05 cfs	10 af	2.5	8,644.0		N/A	N/A		N/A

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JUN 18 2002

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
36-2410D	36-2410D	0.20 cfs	40 af	10.0	8,644.0		N/A	N/A		N/A
36-2619	36-2619	12.80 cfs	2560 af	640.0	8,644.0		N/A	N/A		N/A
36-7391	36-7391	0.11 cfs	46.5 af	160.0	8,644.0		N/A	N/A		N/A
36-7795B	36-7795B	0.06 cfs	12 af	3.0	8,644.0		N/A	N/A		N/A
36-8776	36-8776	6.10 cfs	2240 af	560.0	8,644.0		N/A	N/A		N/A
36-8251E	36-8251E	8.31 cfs	2256 af	564.0	8,644.0		N/A	N/A		N/A
36-15456A	36-15456A	1.93 cfs	815.4 af	455.0	8,644.0		N/A	N/A		N/A
36-2058B	36-2058B	0.11 cfs	46.5 af	12.0	8,644.0		N/A	N/A		N/A
36-2530B	36-2530B	0.19 cfs	39.6 af	9.9	8,644.0		N/A	N/A		N/A
36-2454B	36-2454B	0.45 cfs	120 af	30.0	8,644.0		N/A	N/A		N/A
36-2653P	36-2653P	6.75 cfs	1980 af	495.0	8,644.0		N/A	N/A		N/A
36-2653N	36-2653N	0.05 cfs	16 af	4.0	8,644.0		N/A	N/A		N/A
36-7007B	36-7007B	1.32 cfs	264 af	66.0	8,644.0		N/A	N/A		N/A
36-7041	36-7041	4.40 cfs	1128 af	282.0	8,644.0		N/A	N/A		N/A
36-7580B	36-7580B	0.07 cfs	14 af	3.5	8,644.0		N/A	N/A		N/A
36-7580D	36-7580D	0.32 cfs	62.8 af	15.7	8,644.0		N/A	N/A		N/A
36-8068D	36-8068D	0.04 cfs	16.9 af	10.0	8,644.0		N/A	N/A		N/A
36-8068F	36-8068F	0.05 cfs	21.1 af	13.0	8,644.0		N/A	N/A		N/A
36-8069P	36-8069P	3.34 cfs	1400.8 af	557.0	8,644.0		N/A	N/A		N/A

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JUL 1 2002

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
36-8274A	36-8274A	0.28 cfs	56 af	14.0	8,644.0		N/A	N/A		N/A
36-8275B	36-8275B	2.46 cfs	492 af	123.0	8,644.0		N/A	N/A		N/A
36-8778	36-8778	0.67 cfs	196 af	49.0	8,644.0		N/A	N/A		N/A
36-15366B	36-15366B	0.05 cfs	21.1 af	12.0	8,644.0		N/A	N/A		N/A
36-15366D	36-15366D	0.16 cfs	56 af	14.0	8,644.0		N/A	N/A		N/A
36-2653B	36-2653B	0.68 cfs	200 af	50.0	8,644.0		N/A	N/A		N/A
36-2653Q	36-2653Q	0.09 cfs	28 af	7.0	8,644.0		N/A	N/A		N/A
36-4006	36-4006	1.70 cfs	718.2 af	1,240	8,644.0		N/A	N/A		N/A
36-7021C	36-7021C	0.54 cfs	108 af	27.0	8,644.0		N/A	N/A		N/A
36-7042	36-7042	5.12 cfs	1260 af	315.0	8,644.0		N/A	N/A		N/A
36-7580C	36-7580C	3.53 cfs	691.2 af	172.8	8,644.0		N/A	N/A		N/A
36-8068B	36-8068B	0.05 cfs	21.1 af	13.0	8,644.0		N/A	N/A		N/A
36-8068E	36-8068E	2.17 cfs	916.8 af	584.0	8,644.0		N/A	N/A		N/A
36-8069N	36-8069N	0.03 cfs	12.5 af	4.0	8,644.0		N/A	N/A		N/A
36-8069Q	36-8069Q	0.05 cfs	21.1 af	7.0	8,644.0		N/A	N/A		N/A
36-8274B	36-8274B	2.04 cfs	408 af	102.0	8,644.0		N/A	N/A		N/A
36-8775	36-8775	23.11 cfs	6528 af	1,632	8,644.0		N/A	N/A		N/A
36-11340	36-11340	0.97 cfs		90.0	8,644.0		N/A	N/A		N/A
36-15366C	36-15366C	2.31 cfs	800 af	200.0	8,644.0		N/A	N/A		N/A
36-7021A	36-7021A	0.42 cfs	84 af	21.0	8,644.0		N/A	N/A		N/A
36-2530A	36-2530A	5.27 cfs	1100.4 af	275.1	8,644.0		N/A	N/A		N/A
TOTALS		119.01 cfs	34296 af	8574	8644.0		N/A	N/A	N/A	N/A

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11/11/79 9-2382

Page 7 of 126

Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

J. Glen Saylor
Chief, Water Allocation Bureau

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JUN 18 2002