



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

November 5, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RICHARD W JANKOWSKI
PO BOX 1518
BOISE ID 83701

Re: Change of Ownership for Water Right 63-31194

Dear Mr. Jankowski:

This letter is a follow up to our phone conversation of November 3rd, including John Homan and Phil Rassier of this Department, regarding the ownership change for the water right referenced above. My letter of October 26, 2004 to Sundance Investment Ltd. Partnership concluded that the Purchase and Sale Agreement submitted with the Notice of Change in Water Right Ownership (filed in June 2003) only indicated an intent to purchase land and appurtenant water rights, but was not conclusive regarding the actual sale and conveyance of property and was not specific regarding any individual water rights to be included in the sale. I also indicated my intent to change the Department's database to show the previous owner, L. Darwin McKay, as the current owner of the water right until sufficient evidence is provided to indicate a change has occurred.

I have completed the change to the Department's database to show L. Darwin McKay as the current owner of water right 63-31194 for the reasons noted above. Please note that this action is not a determination of ownership by the Department, it is simply an indication by the Department that additional documentation is necessary to warrant a change from the previously recorded owner. As we discussed in our phone conversation, a warranty deed or similar document would likely verify ownership of the land, but if the deed does not specify the conveyance of any particular water rights, the ownership of water right 63-31194 would not be clarified by submittal of the deed in this case. Mr. McKay maintains that he developed the water right independent of the land and continues to own the water right. A court action may be necessary by either party to resolve the ownership dispute.

I understand that Sundance Investment Ltd. Partnership has submitted an application for transfer involving water right 63-31194 and that Mr. McKay has similar intentions. The Department will not be able to process a transfer involving the water right prior to resolution of the ownership issue.

If you have additional questions regarding this matter, please feel free to contact the Department.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', written in a cursive style.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

c: Jon Gould – Ringert Clark Chartered Lawyers