

Homan, John

To:
Subject:

Peppersack, Jeff
Ownership Change

Jeff,

Your analysis of the status of the Palfreyman/Reynolds water rights appears to be right on target. Unless there is some other type of documentation stating otherwise, those water rights are appurtenant to the entire 1040. The information submitted by Reynolds establishes intent, but does not convey any interest in the title to the water rights. Those owners who had a interest in that portion of the 1040 acres not acquired by Reynolds need to quit claim their interest in the three water rights over to Reynolds. Quit claim deed would be the appropriate conveyance document in this case.

As far as the questions you posed. Unless there is some indication otherwise, I believe the water right will become appurtenant to new land after a transfer even if title to the new land rest in the name of another. Here are some thoughts. If an applicant in a transfer makes IDWR aware that he does not intend for other landowners /lessors to acquire an ownership interest in the water rights, perhaps this can be noted as a condition of approval. The applicant should, for his own benefit, secure a lease that details what will happen to any water right that is developed or transferred onto the leased lands. Such a lease should be submitted with the transfer application. Perhaps the transfer application could be augmented with a question that asks about these issues. If the applicant submitted a lease that described that the water rights are to remain the exclusive property of the applicant/lessee or otherwise made IDWR aware that the water right ownership is to remain with the applicant, IDWR could condition the approval to reflect that ownership will remain with the Applicant. If the proposed ownership relationship is not made available to IDWR in advance of the approval and the transfer is issued with no special reference, the water rights become appurtenant to all of the lands and some type of deed may be needed to quiet title to the water rights.

John

7/5/05 J

Spoke with Steve Reynolds + relayed information from legal review. He indicated he would try to come up with a quit claim deed to get the owner change processed.