

Memo
6/30/05

To: John Homan
From: Jeff Peppersack
Re: Owner Change

Could you take a look at the ownership change documents in this file? The previous owners (Palfreyman) filed a transfer to create a permissible place of use for potato field rotation. The water rights are now limited to 451 acres within a PPU of 1040 acres. Palfreyman owned 560 of those acres (where the original water rights were held) and sold their acreage to Reynolds. Reynolds submitted an ownership change for the water rights. We corresponded and let them know that additional evidence of water right ownership would be necessary because the water rights may have become appurtenant to the entire 1040 acres (see IDWR letter dated 6/3/05).

Reynolds submitted a signed statement from the previous owner indicating that the land sale included the water rights in their entirety. I don't think that helped because the water rights may already have become appurtenant to other lands (plus the form of the document was lacking). In response to our letter, Reynolds came in with signed, notarized statements from the other landowners indicating that they understand that the water rights are Reynold's water rights and are only used on their lands during the term of the lease. I indicated that the intent is clear, but I wasn't sure about the adequacy of the documents. I told him I would ask for legal review and let him know.

Two questions:

1. Does a water right automatically become appurtenant to new land if transferred (42-222) by the water right owner to new land that is not owned by the water right owner? What kind of document would be necessary to maintain ownership of the water right by the original right holder?
2. If no agreement exists to clarify ownership, what kind of document would be necessary to provide proof of ownership by the original owner?