

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

December 11, 2003

Mr. Corey Skinner
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

Re: Riverview-Cloverly and Rinker water right transfers
Project No. 427-01-2000

Dear Corey:

This letter is in response to your November 26, 2003 inquiry.

Filing Fees

As you requested, please consider this letter to be a formal request that the eight (8) new transfer applications replace the original six (6) applications. Please apply the original filing fees to all of the new applications except Transfer #2GW and Transfer #4GW. These two applications are for 0.20 cfs or less, and so will require an additional fee of \$100 each. Enclosed is a check for \$200 to cover filing fees on these applications.

Agreement and Quitclaim Deeds

Enclosed is a signed Agreement between all Riverview lot owners and Harry Rinker, which clarifies ownership of groundwater right 37-2640 and surface rights 37-521, 37-522, and 37-523. The agreement specifies that seven (7) acres of the groundwater will be conveyed to the Blooms for use on Lots 2 and 3, three (3) acres will be conveyed to the Blooms for use on the entrance area, and the remaining two (2) acres will be retained by Mr. Rinker for transfer to his land east of the highway. Since the two (2) acres of groundwater retained by Mr. Rinker are likely stacked with the surface water, paragraph 2.C. specifies that any stacked surface water may be transferred with the groundwater retained by Mr. Rinker.

Please also note the new provision in paragraph 3.D., in which Riverview-Cloverly agrees to convey the remainder of the surface rights which are not stacked with groundwater to Mr. Rinker. This amount currently stands at 23.0 acres, but may depend on IDWR's final determination of historical acreage; therefore, a quitclaim deed is not being executed at this time.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

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Quitclaim deeds as follows are enclosed pursuant to the above provisions of the agreement:

- Rinker to Bloom for 7.0 acres of 37-2640A (Lots 2 and 3).
- Rinker to Bloom for 3.0 acres of 37-2640A (Entrance area).
- Riverview-Cloverly Irrigation, Inc. to Rinker for 2.0 acres of 37-521B, 37-522B, and 37-523B to go with the 2.0 acres of 37-2640A retained by Rinker.
- Riverview-Cloverly Irrigation, Inc. to Rinker for 23.0 acres of 37-521B, 37-522B, and 37-523B (unstacked surface water).

Based on our various discussions and your letter of November 26, 2003, I am addressing the following issues:

Transfer #1

Authority to file: Jim Speck is the corporate attorney for Riverview-Cloverly Irrigation Inc and its registered agent. The president of the corporation is Jacob Bloom and has authority to execute the transfer applications. Documentation from the Idaho Secretary of State is enclosed.

Point of diversion location: The shareholders of Riverview-Cloverly via their attorneys indicated their desire to have the point of diversion at the Big Wood River rather than from the Purdum Slough. The watermaster is also in favor of this approach. This is the point of diversion described on the transfer application.

Transfers #3 and #4

Ownership issue: The ownership of the 2.0 acres of unstacked surface water to be transferred to Little Mackawao / Gimlet West subdivision was resolved by the Agreement and subsequent quitclaim deed. As far as the ownership of the proposed places of use, an aerial map is enclosed showing a GIS overlay recently obtained from the Blaine County GIS Department. This map reflects ownership information from the Blaine County Assessor. The map shows the places of use for Transfer #3 (Nickelson – Lot 2, Gimlet West) and Transfer #4 (Monroe – Lot 4, Little Mackawao).

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Transfer #1GW

Ownership issue: The transfer application has been modified to list 11 acres and 0.22 cfs to comport with the deed from Rinker to Gordon (revised Part 1 and Part 2 enclosed).

Point of diversion issue: The well to be used for the irrigation is an existing well located in the NWSWNE Sec. 32 (this is the east well on Lot 1). Page 1 of the application has been modified to reflect this. The west well is also existing, but is a domestic well only supplying the residence.

Transfer #2GW

Ownership issue: The transfer application has been modified to list 7.0 acres and 0.14 cfs to comport with the Agreement and the quitclaim deed from Rinker to Bloom (revised Part 1 and Part 2 enclosed).

Authority to file issue: The applicant name has been changed to Jacob and/or Ruth Bloom. In our previous discussions, you indicated this would likely be acceptable. Please note that the Agreement was signed by both Jacob and Ruth Bloom, which certainly indicates Mrs. Bloom's concurrence.

Point of diversion issue: The wells listed on the application are existing wells, both of which serve the irrigation system.

Transfer #3GW

Authority to file issue: The applicant name has also been changed to Ward and/or Priscilla Woods (revised Part 1 enclosed). In our previous discussions, you indicated this would likely be acceptable. Please note that the Agreement was signed by both Ward and Priscilla Woods, which certainly indicates Mrs. Wood's concurrence.

Point of diversion issue: The well in the SENESW Sec. 32 is existing, and also serves the residence. The well in the SENWSE Sec. 32 is a proposed well to be drilled to provide an additional supply for the irrigation system.

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Transfer #4GW

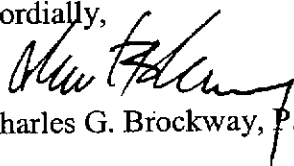
Ownership and authority to file issues: Part 1 of the transfer application has been modified to list 3.0 acres and 0.06 cfs to comport with the Agreement and the quitclaim deed from Rinker to Bloom. This amount in combination with the 2.0 acres / 0.04 cfs originally deeded to Bloom for the entrance area will comprise the 5.0 acres of irrigation on this parcel. The Agreement spells out the fact that the water right(s) will be owned by Bloom for use on the entrance area, even though portions of the land are owned by both Gordon and Bloom (see Paragraph 2.B. of the Agreement).

The applicant name has also been changed to Jacob and/or Ruth Bloom. In our previous discussions, you indicated this would likely be acceptable. Please note that the Agreement was signed by both Jacob and Ruth Bloom, which certainly indicates Mrs. Bloom's concurrence.

Point of diversion issue: The well is existing.

With this information, I believe all transfer applications may continue to be processed. Thank you for your immeasurable patience as we worked out the details on these rights. Please call me if you need anything further.

Cordially,



Charles G. Brockway, P.E.

Enc.

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WATER RIGHTS AND TRANSFER AGREEMENT

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This agreement is made on the ____ day of July, 2002, among (a) Jacob A. Bloom and Ruth Bloom, individuals, ("Blooms") (b) Wood River Properties, Inc., a California Corporation, and Harry S. Rinker Trust, by Harry S. Rinker, Trustee, ("Rinker"), and (c) Riverview Cloverly Irrigation, Inc., a Idaho Corporation, ("Riverview").

The parties each agree, that in exchange for the promises, performance and other consideration given by the other parties through this agreement, to the following:

1. Purposes and Scope of the Agreement.

This agreement resolves disputes and concerns among the parties to it relating to the nature, extent, and ownership of certain water rights in which the parties claim an interest.

The water rights covered by this agreement include a groundwater right identified by the Idaho Department of Water Resources ("IDWR") and the parties to this agreement as right number 37-02640A and surface water rights identified as right numbers 37-00521B, 37-00522B, and 37-00523B.

The agreement does not cover other water rights the parties may hold an interest in, including without limitation, other rights that are used in conjunction with or on the same places of use as the water rights covered by this agreement.

The agreement also resolves disputes and concerns about the use and transfer of the rights covered, including by imposing on each party the obligation to cooperate in, and not object to, the transfers of the rights in proceedings before the IDWR pursuant to I.C. 42-222 and other law applicable to such proceedings.

2. Quit Claim and Transfer of Portions of 37-02640A.

The parties forever resolve and settle any claims, known or unknown, to and interests in water right 37-02640A by agreeing that ownership and other interests in it be apportioned and transferred as follows:

- ✓ A. A total of seven miners inches (0.14 cfs) of this right will be conveyed from Rinker to Blooms by quit claim deed for irrigation use on seven (7) acres of land within Lots 2 and 3 of Riverview Ranches Subdivision, which is located in Blaine County, Idaho. A transfer of this part of the right will be filed with IDWR to establish the places of use, amount, and point of diversion within those Lots.
- ✓ B. A total of three additional miners inches (0.06 cfs) of this right will be conveyed from Rinker to Blooms by quit claim deed for irrigation use on three acres of land comprising the entry area to Riverview Ranches Subdivision located on the eastern

part of Lots 1 and 2; Riverview Ranches Subdivision. A transfer of this part of the right will be filed with IDWR to establish the places of use, amount, and point of diversion within those Lots. The parties acknowledge that the groundwater rights currently owned by Joyce E. Gordon are not appurtenant to the entry area of Riverview Ranches Subdivision.

- C. The remaining two (2) miners inches (0.04 cfs) of this right that were appurtenant to Lot 2 of Riverview Ranches Subdivision for irrigation use and owned by Rinker may be transferred from that Lot to new places of use determined by Rinker. The parties agree, without admitting, IDWR may determine that this portion of the right is supplemental to and "stacked" with some or all of the surface water rights covered by this agreement. To the extent that the two (2) miners inches are stacked with surface water rights covered by this Agreement, Riverview agrees to transfer to Rinker those portions of the surface water rights that are "stacked" in order to facilitate Rinker's transfer of such groundwater. ✓
- D. The parties acknowledge that eleven (11) miners inches (0.22 cfs) of Water Right 37-02640A was conveyed by Corporation Grant Deed from Wood River Properties, Inc. to Joyce E. Gordon, dated August 6, 1999, and that nothing in this Agreement shall affect or alter said conveyance. A transfer of this part of the right will be filed with IDWR to establish the place of use, amount, and point of diversion within Lot 1, Riverview Ranches Subdivision.
- E. The parties acknowledge that eleven and one-half (11 1/2) miners inches (0.23 cfs) of Water Right 37-02640A was conveyed by Warranty Deed from Harry S. Rinker, Trustee to Ward W. Woods, Jr. and Priscilla B. Woods, dated April 20, 1990, and that nothing in this Agreement shall affect or alter said conveyance. A transfer of this part of the right will be filed with IDWR to establish the place of use, amount and point of diversion within Lot 4, Riverview Ranches Subdivision.

3. Present Quit Claim and Transfers of Portions of 37-00521B, 37-00522B, and 37-00523B.

The parties forever resolve and settle any claims, known or unknown, to and interests in water rights of 37-00521B, 37-00522B, and 37-00523B by agreeing that ownership and other interests in them be apportioned and transferred as follows:

- A. The IDWR regional staff has acknowledged a total historical irrigation of 83.6 acres of land west of the highway that is irrigated by the surface and groundwater rights identified in this Agreement. According to IDWR documentation, there are 34.6 acres of land west of the highway that are irrigated with groundwater right 37-02640A and 21.0 acres of land west of the highway that are irrigated with groundwater right 37-02640B and 37-02507B, and in those areas covered by such groundwater rights, the

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surface water rights identified hereinabove are "stacked". There are twenty-eight (28) acres of land irrigated by surface water alone ("unstacked" surface water).

- B. All right, title and interest in the surface water rights, except as specifically provided in this agreement, shall remain in the ownership of Riverview for the benefit of the shareholders of its stock, including without limitation as described in the Articles of Incorporation, Bylaws, amendments and other documents and laws conferring rights and obligations on Riverview and its shareholders.
- C. A total of two (2) acres of irrigation use water of these surface water rights from the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32 in Lot 2 of Riverview Ranches Subdivision will be conveyed from Riverview to Rinker by quit claim deed for re-conveyance by Rinker for use at the Little Makawao Subdivision property which is located near the confluence of the East Fork of the Big Wood River and the Big Wood River in Blaine County, Idaho. The quantity of water conveyed pursuant to this paragraph is 0.126 cfs, which quantity is in the proportion of the total quantity under these rights (4.92 cfs) divided by the total historically irrigated acres (83.6 acres). If, in any of the transfer proceedings contemplated by this Agreement, IDWR determines the per acre quantity of these rights is less than the per acre quantity being conveyed to Rinker pursuant to this paragraph, the quantity of conveyance for the two acres shall be reduced to no more than IDWR's per acre rate determination.

Blooms and Riverview agree, that in order to accommodate the transfer of two acres of water to Little Makawao Subdivision, IDWR may require that two acres of land that has been historically irrigated on Lots 2 or 3 of Riverview Ranches Subdivision be dried up. In that event, Bloom and Riverview agree to dry up two acres within those two Lots.

- D. Riverview agrees to convey to Rinker the "unstacked" portions of the above-¹ numbered surface water rights covering twenty three (23) acres to a location to be prescribed by Rinker. The same shall be conveyed to Rinker by quitclaim deed with no warranties. In quantity, the amount of water to be conveyed to Rinker will be the remainder of 4.92 cfs minus the sum of the conveyance loss, plus the per-acre irrigation duty of water times 23. The per-acre duty of water and conveyance loss figures to be used will be the highest figures approved by IDWR pursuant to the transfers mentioned in the preceding paragraphs. If, in the process of transferring these rights, IDWR determines the historically-irrigated acreage to be less than 83.6, the number of "unstacked" surface water acres conveyed to Rinker shall be reduced on an acre-for-acre basis and the diversion rate reduced accordingly.
- E. The parties acknowledge that the stockholder interest in water rights held by Riverview Cloverly Irrigation, Inc. was conveyed by Corporation Grant Deed from Wood River Properties, Inc. to Joyce E. Gordon, dated August 6, 1999, and that nothing in this Agreement shall affect or alter said conveyance or the quantities of water specified therein for use on Lot 1, Riverview Ranches Subdivision.

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4. No Protests or Objections.

Each party agrees not to object to or contest in the contemplated transfer proceedings, in the Snake River Basin Adjudication, or elsewhere, any applications or claims made by the parties to this agreement or the individual stockholders of Riverview Cloverly Irrigation, Inc. to the water rights covered, to the extent such objection, response or other position would be inconsistent with this agreement.

5. Cooperation.

Each party agrees to cooperate to accomplish the purposes of this agreement including by timely preparing and filing all documents necessary to convey ownership and accomplish the transfers pursuant to proceedings before IDWR.

6. Document preparation and interpretation.

This agreement and related documents have been prepared through negotiations among the parties and their counsel. Each party has had the opportunity to investigate, discover the facts, seek legal advice, and otherwise understand and negotiate the terms of the agreement. The agreement shall not be interpreted for or against any party on account of who drafted the documents.

7. This Agreement survives.

This agreement and all covenants, promises, and representations herein shall survive the transfer or conveyance of any covered property. Neither the agreement nor any term within it shall be deemed waived or be merged into any such deed or other document.

8. Specific Enforcement.

This agreement may be specifically enforced by the parties to it, as damages at law are not an adequate remedy. Temporary or permanent equitable relief may be granted to accomplish its purposes or enforce its terms. This paragraph shall not be construed as a limitation on other rights and remedies any party may have. Each party specifically reserves all other rights and remedies.

9. Attorney Fees.

If any legal action arises to enforce, interpret, or avoid this Agreement or the obligations, promises, or covenants set forth herein, the prevailing party, in addition to being entitled to any judgment so entered, shall be entitled to the award of reasonable attorney fees and costs against the non-prevailing party.

10. No oral modification.

This agreement may be modified only by a writing signed by each of the parties hereto.

11. State Law.

This Agreement is made and shall be construed under laws of the State of Idaho.

12. Merger of prior or contemporaneous understandings.

This Agreement is the sole and entire Agreement being entered into by and between the parties to it. Any descriptions, representations, agreements, negotiations, or other discussions predating this Agreement are expressly waived and shall not be a part of this Agreement.

Dated this _____ day of July, 2002.

JACOB A. BLOOM

Dated this _____ day of July, 2002.

RUTH A. BLOOM

Dated this _____ day of July, 2002.

RIVERVIEW CLOVERLY IRRIGATION, INC.

BY: _____

JACOB A. BLOOM, President

Dated this _____ day of July, 2002.

WOOD RIVER PROPERTIES, INC. '

BY: _____

HARRY S. RINKER

Dated this _____ day of July, 2002.

HARRY S. RINKER TRUST

BY: _____

HARRY S. RINKER, Trustee
under Restatement of Declaration
of Trust, dated July 12, 1985, for the
benefit of Harry S. Rinker, et. al.

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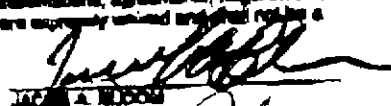
11. Bests Later.

This Agreement is made and shall be construed under laws of the State of Idaho.

12. Merge of prior or contemporaneous understandings.

This Agreement is the sole and entire Agreement being entered into by and between the parties to it. Any descriptions, representations, agreements, negotiations, or other discussions preceding this Agreement are expressly waived and shall not be a part of this Agreement.

Dated this ____ day of July, 2002.


JACOB A. BLOOM

Dated this ____ day of July, 2002.


RUTH A. BLOOM

Dated this ____ day of July, 2002.

RENEWVIEW CLOVERLY IRRIGATION, INC.

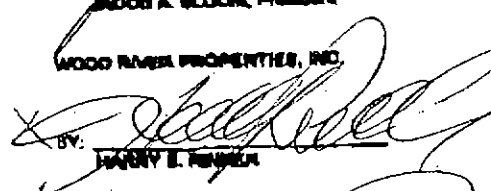
BY:


JACOB A. BLOOM, President

Dated this ____ day of July, 2002.

WOOD RIVER PROPERTIES, INC.

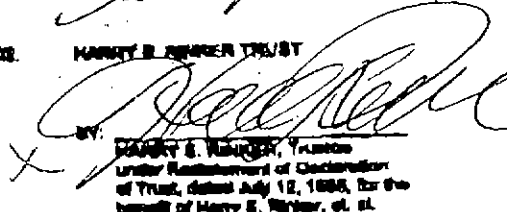
BY:


HARRY E. RINKER

Dated this ____ day of July, 2002.

HARRY E. RINKER TRUST

BY:


HARRY E. RINKER, Trustee
Under Restatement of Declaration
of Trust, dated July 12, 1986, for the
benefit of Harry E. Rinker, et al.

Witnessed and attested at Twin Falls, Idaho

WATER RIGHTS AND TRANSFER AGREEMENT - 9

44 TOTAL PAGE, BY 30

Received Mar-31-2003 04:10pm From:208 736 0041

To:RINKER COMPANY

** TOTAL PAGE, 02 **

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Order No. 16374

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

(Space Above This Line For Recorder's Use)

WARRANTY DEED

HARRY S. RINKER TRUSTEE, under Restatement of Declaration of Trust, dated July 12, 1985, for the benefit of Harry S. Rinker, et al., hereinafter called the Grantor, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby grants, bargains, sells and conveys unto WARD W. WOODS, JR. and PRISCILLA B. WOODS, husband and wife, whose current address is c/o Bessemer Securities Corporation, 630 Fifth Avenue, 39th Floor, New York, New York, 10111, hereinafter called the Grantee, the following described premises situated in Blaine County, Idaho, to wit:

Lot 4 of Riverview Ranches, according to the official plat thereof, records of Blaine County, Idaho.

TOGETHER WITH all improvements, water rights, easements, hereditaments and appurtenances thereto, if any.

SUBJECT TO:

1. Liens for taxes and assessments not yet due and payable;
2. Reservations and exceptions in any patents from the United States or any patent or deed from the State of Idaho;
3. Building and zoning ordinances and regulations;
4. Covenants, conditions, rights-of-way, easements, restrictions and other matters of record as disclosed by the records of Blaine County, Idaho;
5. Any facts which an inspection or correct survey would disclose;
6. Reservations contained in Right-of-Way Deed from A.T. Osborn and Jessie Osborn, husband and wife, to the State of Idaho recorded in Book 137 of Deeds, page 495, records of Blaine County, Idaho.
7. Reservations contained in Right-of-Way Deed from Mary Philip Osborn to the State of Idaho recorded in Book 137 of Deeds, page 497, records of Blaine County, Idaho.

8. Right-of-Way Easement from Marshall Chapman and Dorothy Jean Chapman, husband and wife, to West Coast Power Company recorded in Book 143 of Deeds, page 599, records of Blaine County, Idaho.

9. Power Line Easement from Dorothy Jean Chapman to Idaho Power Company recorded in Book 162 of Deeds, page 72, records of Blaine County, Idaho.

10. Power Line Easement from Dorothy Jean Chapman to Idaho Power Company recorded in Book 176 of Deeds, page 460, records of Blaine County, Idaho.

11. Title to that portion of property lying below the mean high water mark of the Big Wood River.

12. Easements as reserved on the official plat of River View Ranches.

13. Covenants, Conditions and Restrictions of River View Ranches as recorded.

14. Articles of Incorporation and By-laws of Riverview Cloverly Irrigation, Inc.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantee does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

DATED this 20th day of April, 1990.

Harry S. Rinker, Trustee
HARRY S. RINKER, Trustee

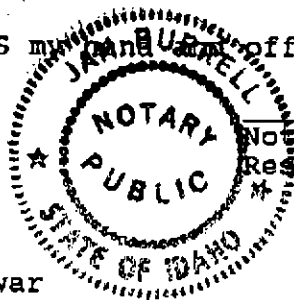
By:

Brian L. Ballard
BRIAN L. BALLARD,
Attorney-in-fact

STATE OF IDAHO,)
) ss.
 County of Blaine.)

On this 20th day of April, 1990, before me, the undersigned, a Notary Public in and for said county and state, personally appeared BRIAN L. BALLARD as Power of Attorney for HARRY S. RINKER TRUSTEE under Restatement of Declaration of Trust, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.



Jan L. Burrell
 Notary Public for Idaho
 Residing at Hailey

blb\rinker.war

318777

BLAINE CO. REQUEST
 of Swartz Title Co., Inc.

Reed

30 APR 23 PM 3 18

HARRY GREEN FLECK YMB

FEES \$900