



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 6, 2004

David M. Sellgren
Sutton, Sellgren & Sellgren
PO Box 87
Sun Valley, ID 83353

Dear Mr. Sellgren:

A recent examination of pending applications in our office revealed that a water right transfer application, filed in the name of Sutton, Sellgren & Sellgren Inc., is still pending. I have enclosed a copy of this application for your reference. This particular application was filed in April of 1991 in an attempt to change the recorded place of use of several Big Wood River water rights appurtenant to property located near the north end of Ketchum. A review of this application, and the water rights associated with the application, reveals several items that prevent the Department from processing the application.

The application is filed in the name of Sutton, Sellgren & Sellgren Inc., but the Snake River Basin Adjudication claims based on the water rights involved with the application are in the name of David M. Sellgren. A business entity search on the Idaho Secretary of State's website reveals that Sutton, Sellgren & Sellgren Inc. currently has a revoked status. Please note that in order to process a transfer application, the applicant's name must match the Department's current record of ownership of the water rights being transferred, or adequate documentation must be provided showing that the applicant has legal authority to make the change(s).

The application as currently proposed involves portions of four Big Wood River water rights, 37-158, 37-274, 37-276, and 37-892. Department records indicate that an additional claim, 37-4269, from an unnamed stream appears to at least partially overlap the four Big Wood River water rights involved with the transfer. This claim includes a remark stating "water from all rights is commingled and distributed through one system to sprinkler irrigate golf course & common area within Big Wood Subd." Please note that a transfer application must list all of the water rights for use in a common system that is proposed to be changed.

The application and the map do not clearly indicate the location(s) of the lands involved with the application. The application states that the reason for the proposed change is to "take water from subdivided land to allow expansion of golf course". Note that no information was provided with the application addressing the subdivided land where the water is to be transferred from. In addition, if the ownership of these subdivided areas has changed, any appurtenant water rights may have been sold with the property. A large-scale map, showing subdivision lots and roadways, depicting the irrigated areas before and after the proposed transfer, along with appropriate ownership documents showing that the subdivided lands were sold without water may help address these issues.

The application states that the lands from which the water rights are proposed to be transferred are subject to a lien, deed of trust, mortgage, or contract. Please note that if this is the case, a notarized letter from the holder of any liens, deeds of trust, mortgage, or contracts must be included with the application. No such authorization was included with the application.

As previously mentioned the transfer application was filed in April of 1991. The transfer describes the rights involved with the application as irrigation rights both before and after the transfer. In 1992, a letter from the Department was sent to Sutton, Sellgren & Sellgren relating to the issue of the ponds and aesthetic water features located on the property involved with the transfer application. Later that year, Sutton, Sellgren & Sellgren amended their Snake River Basin Adjudication claims to add aesthetic use in addition to irrigation use. Note that Snake River Basin Adjudication claims reviewed in the adjudication process will ultimately reflect water use(s) that existed prior to November of 1987. Examination of 1987 and 1988 aerial photos reveals that additional ponds are present in the 1988 aerial photo that are not present in the 1987 photo, indicating the likelihood that some of the ponds were first used after November 1987. Water use(s) developed after November 1987, can not be recognized through the adjudication process unless the use is allowed by an approved water right transfer. The transfer application that was submitted in April 1991, does not reflect any aesthetic uses for any of the water rights and does not address the ponds and aesthetic water features in any way.

The transfer application proposes the irrigation of 96 acres of property, and the Snake River Basin Adjudication claims reflect 96 acres of irrigation and aesthetic water uses. Examining past aerial photos from prior to November of 1987 reveals that significantly less than 96 acres appear to be irrigated. Ultimately any transfer approval or decreed right through the adjudication process will be based on the historical amount of irrigated

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Sutton, Sellgren & Sellgren Transfer Letter
January 6, 2004

acres (actually irrigated prior to November 1987). Please note that the Department cannot approve a transfer application that results in an expansion of the historical use of water or a transfer that may injure other water rights. An application that proposes more water use than what has historically occurred raises expansion and injury issues.

In summary, the transfer application that is currently filed has several items that prevent the processing of the application. In addition, there are several additional items relating to the application, or the rights involved with the application, that also need to be addressed. You may want to consider obtaining the assistance of a qualified consultant to address these issues and possibly file a replacement application if necessary.

If the items outlined in this letter are not addressed within 30 days of the date of this letter the Department will take action to reject or deny the application. Please note that this potential action will not prejudice the processing of any future applications that might be filed involving the water rights involved with this application.

If you have any questions feel free to contact our office at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Corey Skinner".

Corey Skinner, PE
Water Resource Engineer

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

February 27, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

David M. Sellgren
Sutton, Sellgren & Sellgren Inc.
P.O. Box 87
Sun Valley, ID 83353

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Examination of Department records indicate that Sutton, Sellgren & Sellgren Inc. is no longer the recorded owner of these particular water rights since the ownership of the rights was changed to David M. Sellgren. In addition, the Snake River Basin Adjudication claims involved with this particular transfer application were amended (to add recreation use) after the transfer application was originally filed.

Because the circumstances involving the water rights that are involved with the transfer application have changed, the original transfer application no longer appears relevant. If our Department were to approve this transfer application as it is currently proposed, the recreation use that was added to the Snake River Basin Adjudication claims would be deleted and Sutton, Sellgren & Sellgren Inc. would be listed as the current owner of the water rights and/or claims.

Since you are the last recorded owner of these water rights, and you were involved with the filing of the transfer application as a representative of Sutton, Sellgren & Sellgren Inc., I am inquiring about your opinion and intention relating to the transfer application. There are several options available to you and/or Sutton, Sellgren & Sellgren Inc. regarding the transfer application and the appurtenant water rights on the property.

February 27, 1998
PAGE 2

I encourage you to give me a call so we can discuss this matter and your options in further detail. In addition, we may be able to schedule a meeting to further discuss this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Corey Skinner".

Corey Skinner, EIT
Dam Safety Section

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RECEIVED

FEB 27 1998

Department of Water Resources
Southern Region

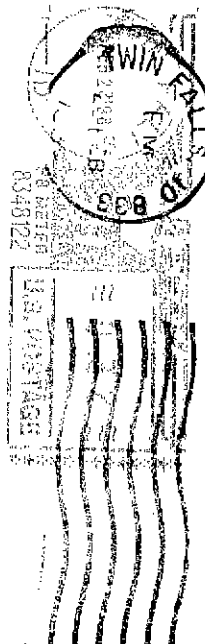
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Because the circumstances involving
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FORWARD
SELLGREEN
PO BOX 67
SUN VALLEY ID 83353-0067

82301/3380

Idaho





State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

February 23, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

David M. Sellgren
Sutton, Sellgren & Sellgren Inc.
P.O. Box 2810
Sun Valley, ID 83353

Dear Mr. Sellgren:

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February 23, 1998
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Sincerely,

A handwritten signature in cursive script, appearing to read "Corey Skinner".

Corey Skinner, EIT
Dam Safety Section

23-Jan-1992

DAVID SELLGREN
SUTTON, SELLGREN & SELLGREN, INC.
P.O. BOX 2810
SUN VALLEY, ID 83353

Re: TRANSFER FOR GOLF COURSE

Dear Mr. Sellgren,

During review of the transfer application, submitted to change the place of use of the water rights owned by you, several discrepancies and complications were discovered. Some these problems are clerical, others relate to expansion of use and added uses. I shall attempt to present these items for your consideration in the following paragraphs.

Statutorily the transfer process is centered on established water rights (i.e. decrees, licenses, etc.) as they are recorded with us. Water rights 37-0158C, -0274, -0276B and -0892B are decreed rights which have been the subject of past transfers. The transfer which you developed, with the assistance of Jim Stanton of this office, is based on Snake River Basin Adjudication (SRBA) claims. SRBA claims are, until ruled on by the judge, statements made by the claimant. Your transfer needs to be changed to reflect principally the water right data, and secondarily the SRBA claim data. I have made the simple edit to strike the leading "A" from the transfer application. A copy of the application is enclosed for your review and records. Carefully check the information and contact me if there are any problems or questions. The SRBA claim data will still be carried along and when, and if, the transfer is approved, in whole or in part, the claims will be amended by the Department.

Unfortunately, some of the computer data which was used to fill out portions of the application are incorrect. I have corrected these data on rights 37-0158C and -0892B. Right 37-0158C actually involves 24 acres instead of the 21 acres listed in the computer. Right 37-0892 was split by an earlier transfer and the "B" part, which apparently is owned by your company, involves 90 acres. These edits are highlighted on the enclosed copy.

More problematically, quite a number of ponds have been constructed and have been used without water rights. Aerial photographs indicate that these ponds were first used in 1988. These ponds should be included on this transfer as a change in nature of use from irrigation to aesthetics. Our information shows that there is less irrigation occurring than these rights originally covered. This foregone irrigation might

be converted to use in the pond system. Until authorization is granted to use this system, diversion into it is not permissible.

If you desire to include the change in nature of use on this application or if there are problems with the information contained on it please contact me within 30 days. After that time I will proceed with advertising and processing.

Sincerely,

Douglas Jones, EIT
Engineering Specialist