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Governor Brad Little

Director Mathew Weaver

August 7, 2026

Southshore 2 Homeowners Association, Inc.
c/o Cristina Jacuzzi
cristinajacuzzi@gmail.com

Southshore 2 Water Company, LLC
c/o Ryan Martin
ryan@rmsquared.us

RE: Ownership of Water Right 63-32259

Dear Ms. Jacuzzi and Mr. Martin:

Over the past several years, the Idaho Department of Water Resources ("Department") communicated with Ms. Jacuzzi, who represents Southshore 2 Homeowners Association, Inc. ("HOA"), regarding the ownership of water right 63-32259. Most recently, the Department was asked about the documentation it received and relied upon in processing the *Notice of Change in Water Right Ownership* ("Ownership Change") that Southshore 2 Water Company LLC ("Water Company") filed in 2018 for water right 63-32259 pursuant to Idaho Code § 42-248. This letter is intended to explain the Department's processing of the Ownership Change and the limits of the Department's authority regarding disputes over water right ownership.

Condition 7 of the water right license for water right 63-32259 does not restrict the sale or transfer of that water right in the manner suggested in the correspondence. Water right 63-32259 is a ground water right. Conditions 6 and 7 address separate surface water rights appurtenant to the place of use for water right 63-32259 and available to irrigate the property. Although the license does not identify those surface water rights, they are likely water rights delivered through an irrigation entity serving the subdivision.¹ Condition 6 requires that ground water diversion for irrigation purposes under water right 63-32259 be limited only to times when that surface water is not available or is not reasonably sufficient. Condition 7 reinforces that requirement by providing that if the appurtenant surface water rights are sold, transferred, leased, or used on another place of use, the water right holder for water right 63-32259 may not use ground water for irrigation without Department approval. These two conditions are restrictions

¹ The water right file has contradictory information about the entity providing the appurtenant surface water rights. Item 10 in Application for Permit No. 63-32259 states, "Applicant owns 23.54 acres within the Wilder Irrigation District whose contracted water will be used for irrigation of subdivision lots and common areas." Item B.1 of the beneficial use field report for Permit No. 63-32259 states that surface water delivered by Boise-Kuna Irrigation District "will be used for irrigation of common areas, lots larger than ½ acres, and filling/maintenance of the small storage pond."

on the use of ground water for irrigation purposes, rather than restrictions on the sale or transfer of water right 63-32259.

To the Department's knowledge, the related surface water rights are still in use on the lots in Southshore Subdivision No. 2. That being said, Department approval is generally required for the sale, transfer, lease, or change in place of use of any water right. It is important to distinguish between a water right transfer and an Ownership Change, because the review and approval process is quite different. A transfer proceeding under Idaho Code § 42-222 is required when changes are proposed to certain elements of a water right, such as the point of diversion, place of use, nature of use, or period of use. As a result, transfer applications require significant information from an applicant and extensive review and approval by the Department. By contrast, an Ownership Change under Idaho Code § 42-248 only informs the Department that the owner of the water right has already changed. This is a recordkeeping process rather than a formal application process.

Because there is no proposed change to the point of diversion, place of use, nature of use, period of use, or any other element of water right 63-32259, a transfer proceeding under Idaho Code § 42-222 is not required. Instead, the appropriate step to notify the Department of the sale of the water right is to file an Ownership Change under Idaho Code § 42-248. Updating the Department's records to reflect a new owner of the water right does not divide, separate, or sever the water right from Southshore Subdivision No. 2, and it is not a determination of water right ownership.

As stated in Idaho Code § 42-101, a water right is "a complement of, or one of the appurtenances of the land or other thing to which, through necessity, such water is being applied." Accordingly, an Ownership Change is typically supported by a document showing conveyance of the land to which the water right is appurtenant. In some cases, however, water rights are sold or otherwise conveyed separately from the real property (land). Consequently, it is important to recognize that ownership of the land does not necessarily establish ownership of a water right. Also, ownership of diversion and conveyance works – such as a well, pump, and pipelines – does not establish ownership of a water right.

When the Ownership Change was filed in 2018, the Department's records showed Hubble Homes, LLC as the owner of the real property comprising the place of use for water right 63-32259 and of the water right. Because Hubble Homes appeared to be the owner (the Department had received no information to the contrary), it presumably had the ability to convey the water right separately from the real property. In 2026, the Department received a Quitclaim Deed dated August 7, 2015, which conveyed Hubble Homes' interest in Lot 16 to the HOA. Under Idaho Code § 42-248(1), if the Quitclaim Deed also conveyed ownership of all or a portion of water right 63-32259 to the HOA, an Ownership Change should have been filed by the HOA within 120 days of the execution of the deed. This would have made the Department aware that Hubble Homes had previously conveyed Lot 16 and, if applicable, the appurtenant portion of the water right to the HOA.

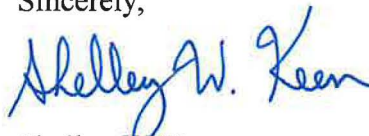
The Department does not suggest that the HOA's failure to file an Ownership Change either validates or invalidates the subsequent conveyance of the water right. Rather, this is just to

explain that the Department updates the water right records based on the information provided to it. In processing the Ownership Change, the Department reviewed the documents that were submitted in support of the filing. This included the Bill of Sale of the water right from Hubble Homes to the Water Company, as well as the Final Plat indicating the place of use. The Department updated the water right ownership records accordingly.

Most importantly, whether the Quitclaim Deed to the HOA or the Bill of Sale to the Water Company legally conveyed ownership of water right 63-32259 is not an issue the Department can resolve. The Department does not have the authority to determine the legal ownership of the water right or resolve the competing ownership claims presented in your correspondence. Idaho Code § 42-248(8) expressly provides that updating the Department's water right ownership records is not a determination of water right ownership. If either party believes the water right ownership records do not reflect the legal owner of the water right, that dispute must be resolved by a court in a water rights adjudication or in a quiet title action, not by the Department through correspondence or an administrative proceeding (see Idaho Code § 42-248(8)).

The Department has provided all the information available to it and considers its response to this matter complete. Unless the Department receives a court order, a final judgment resolving ownership, or other documentation supporting an update to its records pursuant to Idaho Code § 42-248, the Department has no further administrative action it can take regarding this ownership dispute.

Sincerely,



Shelley W. Keen
Deputy Director