

MEMORANDUM

Date: Oct 25, 2021
To: Water Right File 96-8983 and 96-9812
From: Michele Edl
Re: file review

Right 96-8983

Permit 96-8983 was issued on 9/23/1998 to Live More Lake Community Assn
Proof was due 10/1/2000.

The Northern Region received a 'proof' statement for the right on 10/2/2000. It was submitted by Live More Community Club, Inc., Phyllis Brown, president. (There is no record that the permit was assigned to this entity.)

On 7/10/2001 Wayne Baldwin completed the field exam. The exam report was forwarded to the state office where it was reviewed. Additional information was requested and received by State office personnel.

License 96-8983 was issued 11/18/2002.

Applicant

On 8/26/1997 an incomplete application for permit in the name of the Live More Lake Community Assoc was submitted to Northern Region. David Marx signed it, giving his title as president of the Live-More Lake Community Assoc. (File records directed to David Marks are incorrect spellings of his name).

According to queries of IDSOS, David Marx was listed as president of the reinstated Live-More Community Association, Inc. in 3/9/1998. His address was 1621 Camp Bay Rd, Sagle ID 83860 which the same address as was given on the application.

The relationship between the entities who have been involved in this right is not clear. The permit had not been assigned but at various stages in the water right process, the Live-More Community Association, Inc., the Live More Lake Community Assn and the Live More Community Club, Inc. have claimed signature authority for the right.

The water right filing was reviewed, by Allen Beardslee, Sr. Agent at Northern Region. He found it incomplete and returned it on 1/13/1998. In response, on 3/5/1998 Cindy Bills secretary/treasurer of Live-More Community Association Inc., provides additional information related to the application. The date that her information was received is the priority date for the right.

Source/POD

The water source is ground water from a single well/POD.

The additional information provided by Ms. Bills states that the well already existed and was in use. It was drilled by United Drilling of Hayden Lake in 1997.

The Application for Permit map shows the well on the parcel line between Live-More Lake Subdivision Lot 1 and a well lot.

The permit-authorized legal address for the well is **NENW** of Sec 18, T56N, R1E. And according to the field examiner's report, the source well for this right was found in the location as was proposed by the permit. The examiner states that he found the well within the well lot for the Live-More Lake Subdivision (see the examiner's plat map.) He states in his field report that the well is located the **NENW** of Sec 18, T56N, R1E.

The contemporary mapping tools available to IDWR now were not available to the examiner. However, a Well Driller's Report was available for this well. It was identified with tag D0063337, Drilling Permit 96-97-

N-0192-000. The well was originally drilled for domestic use. Putting it to use for multiple domestic units required an upgrade fee which was requested and was submitted. The discrepancy between the legal address of the well as it was stated on the Driller's Report and the legal address of the well as it was proposed and permitted was not recognized or not acted upon.

The Well Driller's Report shows the subject well located in **NWNW** of Sec 18, T56N, R1E. This was not the permit-authorized location for the POD, but no amendment was sought to correct the legal address before licensing the right.

POU

15 homes were proposed in the initial Application for Permit, but the home lots were not identified on the plat map attached to the application. The additional information provided by Ms. Bills stated that 12 homes are currently served by the well but does not give the location of those homes.

In response to multiple requests for an itemized list of the POU lots, on 9/22/1998 David Marx provides the following list of home lots: lots 1-14 Block 1 and lots 1-8 Block 2 for a total of 22 lots. Including the well lot would bring the total to 23 lots.

Although the boundary of the subdivision does not appear to have changed, the current Bonner County parcel information for the Live More Lake subdivision does not match the lot and block numbers given by David Marx in 1998 nor the list given by Phyllis Brown in 2002. Many of the lots are occupied by manufactured homes and shown to be larger than 1 acre.

He recommended the place-of-use for irrigation as 5.5 acres located in both **NWNW** and **NENW** of Sec 18, T56N, R1E. But he did not identify which of the 22 lots constituted the POU and doesn't show a POU for domestic use in the POU grid portion of his report.

The examiner's map indicated the overall POU to be in both the **NWNW** and **NENW**.

Quantity and Water Use

The proposed uses were: domestic use in 15 homes and irrigation of 7.5 acres within the home lots. The Permit authorized diversion of 0.20 cfs total. The diversion rate may have been based on an IDWRs policy for multiple domestic uses which utilizes a curve/equation to estimate the expected instantaneous use. The diversion rate expected for 15 homes would be 0.18 cfs.

The well log indicated that the well produced 9 gpm or ~0.02 cfs. On its own, that well can't provide sufficient water for the proposed number of homes. However, the Application for Permit stated that a 10,000 gal storage tank was part of the system and that storage feature would have supported multiple domestic users.

Examiner's Recommendations

In the field exam narrative, the field examiner recommended 15 of the 22 platted lots for domestic use. He stated that there was little irrigation and that the "system can't handle it".

He measured 10 gpm or ~.02 cfs which is the maximum diversion rate shown on the license. This is insufficient rate for the number of domestic uses that he recommends.

The examiner recommended more irrigation than he had seen. He recommended ¼ acre of irrigation on 22 lots for 5.5 acres total. But he did not identify which of the 22 lots constituted the irrigation POU and doesn't show a POU for domestic use in the POU grid portion of his report.

The examiner recommended 9.7 af for irrigation, using a 246-day season-of-use (SOU) 3/15-11/15. I believe that the math would have been 0.02 cfs x 246 days x 1.98 (a conversion factor for cfs to af) = 9.7 af.

The examiner recommended a maximum annual volume of 13.2 af for domestic use. I believe that the recommendation was based on IDWR policies standards; authorizing 0.6 af for in-house domestic uses; and recognizing a stub-in as a fully developed domestic use. I believe that the math would have been $22 \text{ homes} \times 0.6 \text{ af/home} = 13.2 \text{ af}$.

Licensed Elements

A reviewer from IDWR's state office made some changes to the examiner's recommendations but failed to identify a few problems with this water right.

The irrigation use shown on the license was issued for a 214-day SOU 4/1-10/31 instead of the examiner's 246-day SOU. But the examiner's 5.5 ac of irrigation use was carried forward onto the license. The domestic use was appropriately reduced from 22 homes to 15 homes, which was the number authorized by the permit.

The diversion rates for the individual uses and the overall maximum diversion rate were unchanged from the examiner's recommendations. However, the volumes that the reviewer recommended for licensing differed from the examiner's recommendations.

Neither the examiner nor the reviewer recognized that the overall volume could not be achieved with the measured diversion rate. Continuous diversion at 0.02 cfs from the well yields a maximum annual volume of 14.5 afa. The math is: $0.02 \text{ cfs} \times 365 \text{ days} \times 1.98 \text{ (a conversion factor for cfs to af)} = 14.45 \text{ af}$. The well cannot supply the licensed maximum diversion volume, 17.5 af.

The examiner did not provide the Well Driller's Report for the well/POD intended for this right. But one was available in the water right file. I believe that the reviewer located the Well Driller's Report and placed it in the water right file. And although that well report showed the well located in a different legal address than either the permit authorized or the examiner recommended, no amendment of the permit was sought to correct the location.

Using contemporary mapping tools, the well lot and pump house can be seen in **lot 1(NWNW)** of sec 18, Sec 18, T56N, R1E. The location of this well has not changed but the mapping tools IDWR can use for identifying that location are much easier and more accurate than those which were available to the examiner.

Post Licensing

To resolve an office day call I received on 10/21/2021, I agreed to further investigate the history of the well use, and the licensing effort for this water right.

Although I'm unsatisfied with the inconsistent elements of the license, I know that only a transfer would correct them. The result of the transfer process would mean at least a reduced volume and possibly a reduction to several other elements of the right.

But in my search, I found that an additional well for this permit had been sought by the right holder and had been authorized by IDWR. That well is identified with well tag D0033890, and well permitID 816213. It was constructed in 2004 by McCarty Drilling & Pump Inc. for the Live More Community and Water Right 96-8983 and is located in **NENW** of sec 18, Sec 18, T56N, R1E. It is within the PLSS address that was stipulated as the POD location on the right. A transfer to correct the POD location would not be needed.

This second well appears to have been considered a replacement well for this multiple domestic system. But that would be true only if the original well would be abandoned. Without a transfer to add an additional well/POD, use of the first well would need to cease. The well would not have needed to be decommissioned, only separated from the system. I did not find documentation of that abandonment. Only one well/POD is authorized for this right. That POD appears to be the newer well.

Unfortunately, that 2nd newer, well has not been fully associated with Water Right 96-8983 and recognized as the only authorized POD. Available maps and documents in the water right file have not

been updated since the license was issued in 2002. The well construction and supporting documents that I found will be added to file for 96-8983.

Right 96-9812

In contrast to 96-8983 this right has been licensed recently and has a short history. The right holder Joseph Swan is one of the two people I spoke with on 10/21/2021.

Application for Permit 96-9812 was received in Northern Region office on 6/5/2020. The permit was issued by Northern Region on 7/23/2020 to Joseph Swan.

The use and quantity requested by the applicant, qualified it for an in-house licensing review which was completed by State office personnel. Water Right License 96-9812 was issued for domestic use only on 9/24/2020 to Joseph Swan.

Based on Bonner County parcel records the house was built in 1995 and a well/POD was probably associated with the house at that time. The PLSS address for both the well and the house are **lot 1(NWNW)** of sec 18, Sec 18, T56N, R1E.

The reviewer missed the potential POD overlap. But considering that the PLSS address of the well/POD for right 96-8983 did not match the right's legal description of that element, the miss is understandable.

I benefited from having both water right files at hand and I noticed that the same well log was provided in both water right files. I also found the records which were only available from in the well construction database.

I did not find errors in either the in-house review or license of right 96-9812.

The right holder should be advised re-claim this right in upcoming adjudication.

