

Parker, Cody

From: Cristina Jacuzzi <TheSkywritersLLC@gmail.com>
Sent: Tuesday, January 7, 2020 9:26 AM
To: Parker, Cody
Cc: Keen, Shelley
Subject: Re: Well rights

Thank you for that information. I shared your email with our community. It is a bummer we never got the opportunity to be considered on the water rights but that is business I guess. We are also looking into who owns the WELL now.

Thank you for all your time in this. We all greatly appreciate it.

Cristina Jacuzzi
Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948
office: 888.759.8973 #723
fax: 855-211-1626

On Mon, Jan 6, 2020 at 10:05 AM Parker, Cody <Cody.Parker@idwr.idaho.gov> wrote:

Good Morning Cristina,

I apologize for the delayed response to your questions. I wanted to be able to look through the water right file completely before responding. Unfortunately as Shelley previously stated, many of your questions involve issues that are outside the jurisdiction of IDWR. I will try to give you as much information as I can and point you to the right people.

Firstly, the CCR's I have available discuss the ownership of the water system (including the well) and the ability of the owner to transfer ownership to another entity. The same section also refers to a Water System Management Agreement which may have additional information regarding the ownership. I do not have a copy of the Agreement, but I am not qualified to interpret the legal implications of either the CCR's or the Agreement. For that you would probably need an attorney. In addition, I cannot speak to the motivations of Hubble Homes LLC including their reasons for selling to one group vs another.

IDWR usually does not have records of easements unless they are provided to IDWR to support our evaluation of a new application for permit or transfer. In this case no easement records were provided or requested. In general, property easement records are maintained at either the Assessor's office or the County Clerk's office.

As Shelley previously mentioned, IDWR is concerned with ensuring that water is delivered to water right holders at their designated point of diversion according to their water right(s). IDWR does not regulate how water right holders distribute water to individual water users. In general, water rights are appurtenant to the land on which the water is put to beneficial use, so water right ownership is not necessarily related to the ownership of the WELL and delivery system. Water rights may be severed from the land if the water right is withheld in a conveyance document that transfers ownership of the land (i.e. a water right may be withheld from the sale of the land). Based on the water right file a history of the water right ownership is as follows:

- May 13, 2005 – The original application is submitted in the name of Hendershot Construction Inc.

- June 26, 2006 – The water right permit is issued in the name of Hendershot Construction Inc.

- February 2, 2012 – A notice of change in ownership is submitted and processed transferring the ownership of the water right to First Security Corporation

- February 15, 2012 – A water right license is issued for the beneficial use that was made during the development period. License issued to First Security Corporation

- December 13, 2017 – A notice of change in ownership is submitted and processed transferring ownership of the water right to Hubble Homes LLC. The original CCR's were notarized in 2012. The CCR's state that Hubble Homes LLC is the owner of the water system.

- January 2, 2018 – A notice of change in ownership is submitted and processed transferring the ownership of the water right to Southshore 2 Water Company LLC.

Just to clarify, this is a record of the recorded changes to the ownership of the water right and not necessarily the changes of ownership of the WELL. The transfer of the water right to Southshore 2 Water Company in no way implies transfer of ownership of the WELL. The Bill of Sale submitted as the basis of the water right ownership change to Southshore 2 Water Company LLC only refers to the water right itself and does not make specific mention of the change in ownership of the WELL.

In short, the documents available to me are not sufficient to establish who the current owner of the WELL is or if there are easements for the WELL.

Hopefully this information helps. Please let me know if you have any further questions regarding information related to the water right.

Thanks

Cody

From: Cristina Jacuzzi [mailto:TheSkywritersLLC@gmail.com]

Sent: Friday, January 3, 2020 10:42 AM

To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>

Cc: Parker, Cody <Cody.Parker@idwr.idaho.gov>

Subject: Re: Well rights

Hi Cody,

Wondering if you can assist us in anyway.

It's clear that Hubble sold the well to Ryan Martin.

Q. Why wouldn't Hubble given the homeowners a chance to have purchased it or take ownership as some folks here say that is what they were told would happen when the last lot was sold in our division?

Q. Is there an easement for the WELL that sits on Lot #16. Our community owns that land and I am wondering if you have access to this information regarding easements.

Q. The CCR's is vague but it also shows that our Irrigation system was given to us to maintain yet vague as to how ownership of the WELL should of been transferred and who could own it. There are many other HOA's who maintain and support their own WELL, just wonder how we lost out on this without even an option yet under the assumption we get the rights to it. As a community this would of given us the financial means to support our own WELL than worry if our rates are going to go up and we have no way to see the assets in the account? Can we?

Looking forward to hearing from you. Just like some direction as to what we can do moving forward and if you can help us?

Thank you so much for looking into this for us.

Cristina Jacuzzi

Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948

office: 888.759.8973 #723

fax: 855-211-1626

On Thu, Jan 2, 2020 at 2:16 PM Cristina Jacuzzi <TheSkywritersLLC@gmail.com> wrote:

Ryan Martin shared the following:

"Hi Cristina,

I don't think it was ever planned to be given to the owners. In the CCR's it references South Shore Water company as well.

I can't speak to someone else's intent on why they decided to sell it or not... I just know they sold it and we bought it..

Is there a problem or something I can help address?"

I responded that we heard otherwise, and will share his response later.

I also spoke to the Commissioners office and they said they Boardwalk is not regulated so they can not assist. He suggested I talk to someone at the Attorney General Office. I could ask for the Bylaws to see if there is anything and so I reaching out to my title company for those.

Just wanted to fill you in on what I have done so far.

Thanks for all your help as well,

Cristina Jacuzzi

Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948
office: 888.759.8973 #723
fax: 855-211-1626

On Thu, Jan 2, 2020 at 12:23 PM Cristina Jacuzzi <TheSkywritersLLC@gmail.com> wrote:

Interesting information.

I didn't realize Ryan Martin, who receives our checks, worked for Humble Homes who is now the owner of our well, effective Jan. 1, 2018. (see attached) Hubble sold it to him and yet that lot that our well sits on is our property as Home Owners. That Well should be ours, shouldn't it?

Yet, we can't gain access to any of the financials or how much money is in there or why we have to continue to pay when that has been paid for long ago and over x'3. Plus have no rights to the well?

This is very confusing. I will look into that link that you sent.

Thank YOU SO MUCH for your help.

Any help or input would be greatly appreciated.

Cristina Jacuzzi

Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948
office: 888.759.8973 #723
fax: 855-211-1626

On Thu, Jan 2, 2020 at 11:46 AM Keen, Shelley <Shelley.Keen@idwr.idaho.gov> wrote:

Cristina,

I recommend contacting the Idaho Public Utilities Commission to find out if it regulates or should be regulating Boardwalk Idaho. At the following web page there is a list of water tariffs (charges) approved by IPUC for various water companies, but I don't see Boardwalk on it: <https://puc.idaho.gov/fileroom/tariff/water/approved.html>.

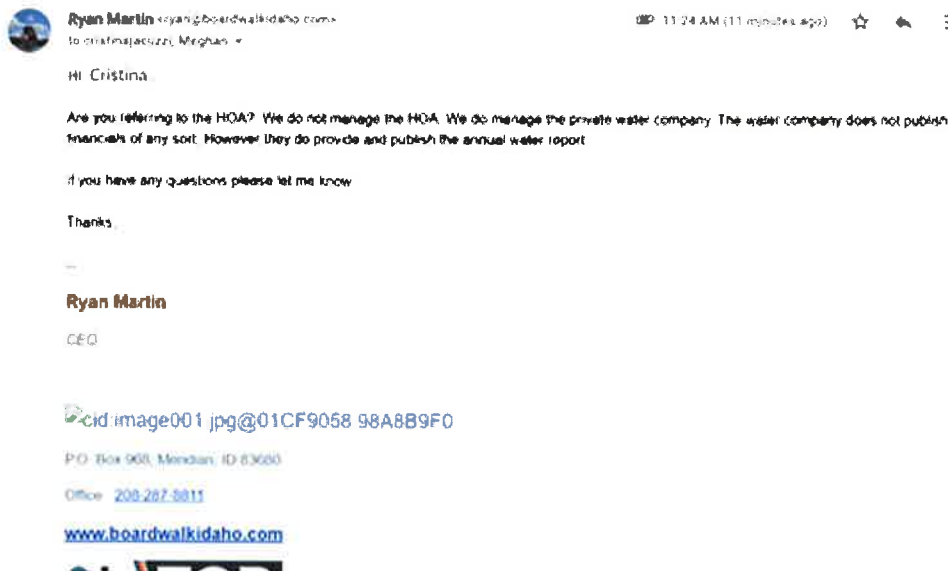
Shelley

From: Cristina Jacuzzi [mailto:theskywritersllc@gmail.com]
Sent: Thursday, January 02, 2020 11:39 AM
To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Cc: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: Re: Well rights

Hi Shelley,

I just sent you an email and soon after received one from Boardwalk Idaho who is accepting our \$75 payment. However, i was told that I am NOT able to get any of the financial records. Below was their response and it's concerning, because as homeowners, we like to know what balance is in that account and thus discuss stopping what surplus may be there or if anything, what is happening to the money and who owns it, etc...? Do you have any suggestions as to where i go from here? Based on what I read on your website we as homeowners should be able to see the financials statements anytime we want to request them.

Here is snippet of the email I received from Boardwalk this morning. Do you have any suggestions on how I or we as homeowners can receive the financial statements and where our money is going?



On Thu, Jan 2, 2020 at 11:26 AM Cristina Jacuzzi <theskywritersllc@gmail.com> wrote:

Thank you Shelley and Cody for assisting in this matter.

We are an HOA of 15 homes who each pay \$75 each. What we heard and what I was told by various people is when the last lot was purchased we have the ownership of the well. That was 3 years ago. However, we are paying the \$75 to Boardwalk and thus they must be keeping accounting, however, I am curious to the amount in that account as it may be more than enough to cover whatever expenses could come up in the future. Interesting enough, no one has asked how much is in that account but with the info I received from your site I see that we have a right to know and thus I am asking them so we can discuss at the next HOA meeting. That is, if we have enough money to secure any future expenses then perhaps we can stop paying into this fund. Again, that is a separate issue as to what you shared and yet I have learned so much it is all helpful.

However, having Cody's input and who actually owns this well and how it is suppose to have been passed on will be of great value to our home owners. Thank you Cody for your assistance in this matter as well.

I greatly appreciate all your information and feed back. It's been very helpful and we look forward to getting more information.

Thank you,

On Thu, Jan 2, 2020 at 8:13 AM Keen, Shelley <Shelley.Keen@idwr.idaho.gov> wrote:

Cristina,

Thanks for the update. After quickly reviewing the water right file for Southshore Subdivision No. 2, I asked staff member Cody Parker to review it in detail and prepare a response. However, if your interest is mainly regarding financial matters, I doubt Cody's review will help you much. For subdivision water systems, IDWR makes sure wells are constructed to standards that protect the ground water resource, approves new water rights, and maintains records for existing water rights, including changes to the water rights. A water right is the opportunity to divert the public resource (water) for private use. IDWR ensures water is distributed from the public resource (stream, lake, or aquifer) to water right holders at their points of diversion (headgates, pumps, wells) according to their water rights. IDWR does not regulate how the water right holders – such as canal companies and irrigation districts, municipalities, HOAs, etc. – distribute water to the individual water users. In general, IDWR does not have an oversight role for ownership or maintenance of water system infrastructure or internal operations of privately owned water systems. Given IDWR's statutory role, I think Cody's review is likely to focus on the records for ownership of the Southshore water right.

The Idaho Public Utilities Commission regulates privately-owned utilities to ensure rates and levels of service align. However, I don't think IPUC regulates systems operated by HOAs. I don't know if your water system is a privately-owned utility or an HOA system. You might get some information by reviewing the following website and contacting IPUC: <https://puc.idaho.gov/water/smallwaterpacket.html>.

In addition, the Idaho Department of Environmental Quality regulates public water systems to ensure drinking water meets water quality standards. More information is available at: <https://www.deq.idaho.gov/water-quality/>.

Regards,

Shelley

Shelley Keen

Water Allocation Bureau Chief

Idaho Department of Water Resources

Shelley.Keen@idwr.idaho.gov

208-287-4947

From: Cristina Jacuzzi [mailto:TheSkywritersLLC@gmail.com]
Sent: Tuesday, December 31, 2019 5:26 PM
To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: Re: Well rights

Hi Shelley,

Just checking in to see if you had a chance to look into who should have ownership of the well at this time since we were under the impression that it would change after the last lot was built. I did not see it in the CRR's but I also heard the amount should be reduced if needed. We have a HOA meeting coming up in mid January and so I wanted to share whatever you find out since no one seems to know.

At the present time it looks like Ryan Martin at Boardwalk Association Mgt. (based on info I saw online from your site) is receiving our checks from 15 homes. (\$75 each) However, I can only image with \$1135 being deposited into this account on a monthly basis for the last 7 years that there is also perhaps more than enough to cover the expenses that could arise for the well should it need repair, relaced, etc...Perahps making it so we can reduce the amount as well since we do not see the need for any unnecessary surplus. All that has been done to the well, so far, is a generator was put in in the event of electric outage. However, we have no idea how much is in the account and I am waiting to hear back from Boardwalk with a financial statement. As a homeowner I did see that I can ask for these documents which I did so, today. I will also take this to the board meeting should as well.

Thank you again for your time in this matter.

Cristina Jacuzzi

Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948
office: 888.759.8973 #723
fax: 855-211-1626

On Sat, Dec 21, 2019 at 8:44 AM Keen, Shelley <Shelley.Keen@idwr.idaho.gov> wrote:

Cristina,

Thank you for forwarding the document.

I apologize for not responding sooner. I missed three days of work this week due to illness. I'll let you know as soon as I have information for you.

Regards,

Shelley Keen

Water Allocation Bureau Chief

Idaho Department of Water Resources

Shelley.Keen@idwr.idaho.gov

208-287-4947

From: Cristina Jacuzzi [mailto:TheSkywritersLLC@gmail.com]

Sent: Wednesday, December 18, 2019 12:15 PM

To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>

Subject: Re: Well rights

Hi Shelley,

Thank you for assisting in this matter. I attached the HOA's

HOA South Shore.pdf

that were left behind by the prior owner at my home. What I don't understand is if each home owner is paying \$75 a month (15 home owners) it's possible at this point we have in excess of \$90,000 in reserve? I have never seen a statement but curious when too much reserve is really necessary. Considering it's paid all ready and I assume no one is reserving this money based on my readings? To drill for a new well, if ever needed, it might cost up to \$25,000.

Again, I am unclear who owns this well and perhaps you can assist as I know the home owners were all the impression we would be given the rights to the well and this \$75 fee to be waived assuming we have funds secured in the event of an emergency.

Please see attached 2012 HOA's. If you need anything else please advise.

Thank you for assisting in this matter.

Cristina Jacuzzi

Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948
office: 888.759.8973 #723
fax: 855-211-1626

On Tue, Dec 17, 2019 at 4:47 PM Keen, Shelley <Shelley.Keen@idwr.idaho.gov> wrote:

Cristina,

I received your email today. The water right for your subdivision is number 63-32259. Before responding to your specific question, I'd like to get the water right file and review the information in it. I anticipate emailing you again in a day or two.

Meanwhile, does your subdivision have covenants, codes, and restrictions (CCRs)? If so, I recommend reviewing them to see if they contain any provisions addressing ownership of the well or the water right. If you find something, it would be helpful for me to see the language.

Regards,

Shelley Keen

Water Allocation Bureau Chief

Idaho Department of Water Resources

Shelley.Keen@idwr.idaho.gov

208-287-4947

From: Cristina Jacuzzi [mailto:TheSkywritersLLC@gmail.com]

Sent: Tuesday, December 17, 2019 11:28 AM

To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>

Subject: Well rights

Hi Shelley,

I am a resident at 13450 Southshore Lane, Nampa, Idaho 83686

Every month, each homeowner in our HOA community pays \$75 towards a Well which is our primary water source. My understanding when I moved in was when all the lots were

purchased, which they are, we would obtain ownership of the well and no longer have to pay the \$75 each month.

I am curious if you could help us look into this? I am not clear why we are still paying a couple that lives in Homedale this kind of money for a well that has been paid off for years now. These homes were built in 2015. Perhaps you have more information which is what I am trying to understand. When will we get our ownership to the well and how do we go about getting it at this point?

Thank you for your time in this matter.

Cristina Jacuzzi

Owner and Event Producer

www.theskywriters.com

cell: 619.322.4948
office: 888.759.8973 #723
fax: 855-211-1626