

Webster, Clay

From: Webster, Clay
Sent: Wednesday, October 21, 2015 12:25 PM
To: 'Johnny Galgano'
Subject: RE: Water rights

Mr. Galgano,

The legal description on your water rights are what govern the usage from IDWRs standpoint. The water rights should be diverted from the Point of diversion (POD) described on the water right. To divert it from other locations would require that the HOA file a transfer identifying the other POD(s). The beneficial use of this 37-8409 is for the irrigation of 1.7 acres. That is all it can be used for within the Place of Use (POU) described on the water right.

The department's authority is to make sure that the water right is used for its beneficial use and within its POU from its POD. How the HOA controls that use would not have any impact on the department as long the water right is used for its intended purpose.

You could opt to split the water right through a transfer and ownership change process between the lot owners in the subdivision. The problem with that is that 1.7 acres of irrigation split between 8-12 homes does not accomplish much irrigation. The transfers and ownership changes would be processed through the regional office.

37-20843, 37-21240 and 37-21242 are overlapping surface water rights with an overlapping ground water right 37-22499 (that is considered a supplemental use right) What this means is that the surface water has to be used before the ground water is used . These rights are considered stacked (they all worked together for the beneficial use of irrigating the same 14 acres) and would all have to be in the bank together to protect them all from forfeiture.

You cannot divert a surface water right from a groundwater well. The answer above about the legal description also applies to these rights.

The priority of the rights would be administered according to each individual priority date. This means that each right's portion could be curtailed at different times during the year if that curtailment occurs.

If your subdivision has access to those surface water rights and can use them, you would want to make sure that you had the 14 acres irrigated under those rights to avoid any forfeiture of those rights. If the lots are not irrigated, that could cause a partial forfeiture of the water rights.

You could apply to lease the un-irrigated portions into the Water Supply Bank for protection from forfeiture.

Your assessment of our previous conversations are correct. I hope this helps.

Sincerely,

Clay Webster

Water Resource Agent

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From: Johnny Galgano [<mailto:jgalgano@hotmail.com>]
Sent: Friday, October 16, 2015 10:53 AM
To: Webster, Clay
Cc: jgalgano@hotmail.com
Subject: Water rights

Mr. Webster

I have been traveling but had a few questions concerning our water rights for the Silver Sage Owners Association Inc as follows;

1. The ground right being released from the water bank 31 Dec 2015, 37-8409.
 - a. Can we leave it out of the Bank and use it for our own purposes with the domestic wells on site?
 - b. If we can do this would the amount of water for that right be divided by 8 which are the total number of home sites currently developed in the subdivision?
2. The remaining four (4) water rights (37-20843, 21240, 21242, 22499) which are combined (conditions of approval 37-22499 E56) will be released from the Bank 31 Dec 2016.
 - a. Can we leave these water rights out of the bank and use them for our own purposes with the domestic wells on site?
 - b. If we can do this would the amount of water for that right be divided by 8 which are the total number of home sites currently developed in the subdivision?
 - c. Since these four (4) rights are stacked do they have the oldest priority date 6/1/1886 (37-20843) as the basis for seniority?
 - d. If we can use these rights within the subdivision, for irrigation using our domestic wells is there anything else we would need to do for recordkeeping going forward to maintain our rights?
 - e. If we can use these rights, can we fill out the paper work (4 forms for each right) and remove all of the water rights at the end of this year and move forward with those being used in the subdivision?
 - f. Would there be any concerns if all of the lots aren't developed?
 - i. I plan to develop one additional lot next spring which would bring the total to 9 of 12 developed and using the water rights.

In our previous conversations you have explained that the water rights deeded to this subdivision was for the purpose of irrigation, with that in mind;

1. If we do nothing and forfeit the water rights then we are only able to irrigate ½ acre of land based on the county rule?
2. If we can only irrigate ½ acre and are found to be irrigating above that amount we are subject to fines or fees or water being turned off?
3. If we keep the water rights, we have irrigation for the entire parcel, minus roads, structures and any other areas which don't require irrigation?
4. At that time we could water in excess of ½ acre per lot without any penalty?

Many thanks in advance for your help. If it's easier to discuss these questions on the phone with me typing in the answers I am happy to do that as well, thank you.

Be well

Johnny Galgano
1-208-720-2996