

MEMORANDUM

TO: File 37-8850

FROM: Daniel Nelson – Staff Hydrologist

DATE: March 24, 2015

SUBJECT: Licensing Review for 37-8850

This is the licensing review of the field exam submitted by Sandy Hemenway formerly in our state office. The field exam was done in 2012. The system associated with this permit allowed water to be diverted from a well that supplies water to an undeveloped subdivision. The field exam has some issues that need to be addressed to prior to licensing of the permit.

July 31, 2014 Memorandum Review:

On July 31, 2014, Shelley Keen composed a memo concerning an office day call from a Bill Carter. In the memo, Mr. Keen discusses several different possible options for this permit and how it related to Mr. Carter. Mr. Carter also stated that he was the only one on this water system, and was not part of the subdivision listed on the permit. A review of the well drilling records show that Mr. Carter drilled a domestic well on September 16, 2014 after the memo was written. The well was drilled in the SWNW quarter of Section 13, Township 1 North, Range 13 East, or next to the subdivision. Mr. Carter owns property in the SWNW quarter of Section 13, Township 1 North, Range 13 East outside of the place of use described in this permit. It appears as though Mr. Carter is no longer involved in this permit, so there is no need to pursue further investigation into the July 31, 2014 memo.

Development of Permit:

The July 31, 2014 memo discusses that there have not been any homes built within the borders of this subdivision. Ms. Hemenway also stated that no homes had been constructed in the subdivision, but a number of the lots have been sold. The Department's tax lot information confirms that a number of the lots have been sold. A review of all of the aerial photos available to the Department also suggests that no homes have been constructed in this subdivision. The July 31, 2014 memo does state that Mr. Carter did use this system, but his property is north of the subdivision and is not within the place of use described in the permit.

Ms. Hemenway did state that the lots have all been stubbed into the system, and that a number of the lots have been sold. The current tax lot information confirms that some of the lots are owned by other individuals.

I am concerned that this permit was first approved in 1995 and there still are no homes constructed in this subdivision. Administrative processing memo states the following:

The stub-in practice was not applied in all subdivision development situations. For example, suppose the Department issued a permit for development of 100 homes in a subdivision and proof was submitted for 100 homes based on the stub-in practice. Many years later, the Department completes an exam and finds only 20 homes were built and using water. The remaining lots remained vacant and undeveloped except for the stubbed-in service line. The Department would only issue a license based on the actual diversion and use of water because sufficient time would have passed to complete development of the subdivision.

I spoke with Water Rights Bureau Chief, and he confirmed my suspicions. We are to follow the direction provided by Administrative Memo 18. If there was development of by providing water to Mr. Carter outside of the permitted place of use, then the current owner's of the permit would need to file an amendment of permit to allow that use to be licensed. The homes in the subdivision that are stubbed cannot be licensed, since there has been no homes constructed in the subdivision in the 20 years since the permit was first submitted.

I have been instructed to send a Notice of Intent to Void for no beneficial use found, since we cannot define the beneficial use developed within the boundaries of the subdivison.