

Keen, Shelley

From: Jim Speck [jim@speckandaanestad.com]
Sent: Wednesday, October 16, 2013 10:46 AM
To: Keen, Shelley
Subject: Re: Grove Creek Owners Association/Water Right 37-8474
Attachments: 2013.08.15 ltr to keen.pdf

Shelley,

I was out of the office for much of September. To the best of my knowledge I have not received a reply to the attached letter. I look forward to your response soon. Thank you.

Jim

James P. Speck
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August 15, 2013

VIA E-MAIL - Shelley.Keen@idwr.idaho.gov
ORIGINAL WILL NOT FOLLOW

Mr. Shelley W. Keen
Idaho Department of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Grove Creek Owners Association/Water Right 37-8474
Our File No. 115/080076

Dear Shelly:

I have reviewed your July 26, 2013 letter with my clients. We respectfully request that you reconsider your position on the extent of the domestic use under this water right for the following reasons.

First, I am attaching a copy of the July 9, 2013 letter from Webb Landscaping to Mr. Drew Gibson, the owner of Lot 5 in the subdivision, describing the construction of the original delivery system to all of the lots in 1984. The irrigation systems on each lot that were thereafter installed by the individual lot owners utilized this delivery system.

Second, in her October 1997 field exam report, Georgia Satterlee clearly stated that the delivery system was irrigating a portion of each lot. Contrary to what you state in your letter, this describes a system stubbed out to and actually serving each lot with water for the irrigation component of the permit. I understand Georgia was relatively new to the job at the time, so perhaps she was not aware of the significance of the installation of the water delivery system to each lot with respect to the domestic use.

Third, I want to draw your attention to the development of the domestic water right for The Valley Club Subdivision which consists of 98 residential lots. Permit 37-8613A was issued in May, 1991 to provide the domestic water to each of those lots as well as irrigation of 0.5 acre on each lot. Proof of beneficial use was filed in May 1996 stating the domestic use had been developed for all 98 lots. The beneficial use field examination was done 9 ½ years later in November 2005. The

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examiner notes in his report that as of that date only 27 of the 98 lots had been developed which is approximately 28% of the lots. There is no mention of how many lots had been developed at the time proof of beneficial use was submitted. For 37-8474, the Permit was issued in June 1989, proof of beneficial use was filed in June 1992 and the beneficial use field exam done in September 1997. In a little over 8 years from the date the Permit was issued, 20% of the lots had been developed, whereas in 14 ½ years only 28% of The Valley Club lots had been developed. In the latter case, the Department issued the License for 37-8613A authorizing domestic use on all 98 lots.

I am well aware of the time limitations on challenging preliminary and final orders issued by the Department and understand we are now well past those deadlines. However, in this case it appears the Department made a mistake when it issued the License for 37-8474. Water Right 37-8613A for The Valley Club is one example of how the Department has treated the perfection of domestic water rights for subdivisions in our area. There are likely others that I'm not familiar with. I believe there is an "obvious error" in the issuance of the License for 37-8474 that justifies correcting it at this time to provide for domestic use on all 5 lots of the Grove Creek Subdivision.

Please contact me to discuss this matter at your earliest convenience. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

A handwritten signature in black ink, appearing to read "Jim", written over the printed name of James P. Speck.

James P. Speck

JPS/

ec: clients



JULY 9, 2013

Drew Gibson
Grove Creek - Lot 5
Hailey, ID 83333

Re: Lot 5 at Grove Creek - Historical Irrigation Water Usage

Drew,

Based on the information we have gathered through your records and Doug Webb's corporate memory, it has been determined that Lot 5 has been under irrigation prior to the application for the 2.5 acre water right that the association has been operating under since the fall of 1992.

McStay construction installed a 2" galvanized service line to all of the five lots in the association in 1984. This service line was utilized by the homeowners to install their individual irrigation systems as well as the domestic water supply to the homes on Lots 3 & 4. Webb Landscape installed trees between Lots 4 & 5 in 1989 at which time the rotor zones were installed off of the 2" supply line from Lot 5. These zones are controlled off of the irrigation clock on Lot 5.

The trees planted on the west end of Lot 5 parallel to East Fork Rd were installed per Bill Swaney's request as the president of the association in 1991 at which time the rotor zones were installed in this area. These rotor zones are controlled by the irrigation clock located by the pump vault on Lot 2.

Please feel free to contact me if you have any further questions or concerns regarding the Grove Creek irrigation system.

Best regards.

Dan Hoffman
Project Manager
208.720.8046