

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF LICENSE NO.	)	
37-8474 IN THE NAME OF GROVE	)	PRELIMINARY ORDER
CREEK ASSOCIATION	)	CORRECTING A LICENSE
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to correct a water right license, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On June 6, 1989, the Department issued permit no. 37-8474 authorizing Grove Creek Association to appropriate 0.11 cubic feet second (cfs) of ground water for domestic use for 5 homes, and 0.08 cfs of ground water for irrigation use on 2.5 acres, located within the NW¼SW¼ of Section 8, Township 3 North, Range 18 East, B.M., Blaine County.
2. On June 15, 1992, the Department received proof of the application of water to beneficial use for permit no. 37-8474.
3. On September 15, 1997, the Department conducted a field examination to confirm the beneficial use of water established in connection with the permit. The field examiner reported development of domestic use for 1 home and irrigation of 2.5 acres. The examiner reported that a portion of each of the 5 lots in Grove Creek Subdivision was irrigated with the installed delivery system.
4. On December 19, 1997, the Department issued water right license no. 37-8474 (license) as a preliminary order in the name of Grove Creek Association. The license authorized domestic use for 1 home and irrigation of 5 acres. Condition no. 9 on the license described the place of use as follows: "Place of use located within Lots 1-4, Grove Creek Subdivision and also includes land to the north and east of Grove Creek Court culdesac." However, the land to the north and east of Grove Creek Court culdesac described in condition no. 9, is located within lot 5, block 1 of Grove Creek Subdivision.
5. On July 9, 2013, Grove Creek Association, through its attorney, contacted the Department by electronic mail (e-mail) petitioning the Department to correct license no. 37-8474 to authorize domestic use for all 5 lots within Grove Creek Subdivision. The right holder argued that the field examiner's report confirmed that each of the 5 lots were stubbed in for domestic development when it confirmed that the installed delivery system could divert water to 5 lots for irrigation purposes.

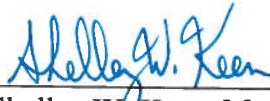
CONCLUSIONS OF LAW

1. Under Idaho Code § 42-219, the Department has a statutory obligation to issue a water right license that accurately portrays the extent of beneficial use of water developed in accordance with the permit.
2. The Department has historically issued licenses for domestic purposes if the water diversion and distribution system was in place, including a service line to each lot, even if water had not yet been put to beneficial use on all buildable lots.
3. Water right license no. 37-8474 neglected to authorize domestic use for the “stubbed-in” lots.
4. The Department should correct license no. 37-8474 to reflect development of domestic use for 5 homes within the Grove Creek Subdivision.
5. Condition no. 9 of the license should be modified as follows, “Place of use is located within Lots 1-5, Blk. 1, Grove Creek Subdivision.”

ORDER

IT IS HEREBY ORDERED that the license no. 37-8474, in the name of Grove Creek Association, is **CORRECTED** as set forth in the Amended Water Right License issued on this date in conjunction with this order.

Dated this 6th day of November, 2013.



Shelley W. Keen, Manager
Water Right Permits Section