

Keen, Shelley

From: Keen, Shelley
Sent: Wednesday, August 08, 2012 9:38 AM
To: Cefalo, James
Cc: Saxton, Craig
Subject: RE: Permit 29-13297

James,

I reviewed the City of Lava Hot Springs file and their other filings this morning. I don't think the fact that they're irrigating a park is a sticking point. We actually modified the permit, at their request, to indicate that no "new" parks could be irrigated under the right. Our view was that since the park was already being irrigated, the additional rate would provide operational efficiency (the ability to irrigate in a shorter time overnight, for example) without substantially increasing consumptive use.

Our licensing, dilemma, as I see it, is that the city has disconnected the well from the municipal distribution system and used it solely to irrigate the park. Does that qualify as a municipal use? Should it have the same generally described place of use as other municipal water rights? Should it have a volume limit?

As I researched our guidance, I came across the following statement on page 5 of App. Processing Memo 18: "However, beneficial use may be further limited if the intended use described in the application as justification for the permit was not accomplished." I asked Jeff if he had a specific circumstance in mind when he wrote that sentence. Apparently the sentence was intended to protect against the de facto RAFN right that a city would get if it said it needed a water supply for a new subdivision, constructed and equipped the well, then didn't develop the subdivision. I think the Lava Hot Springs situation is similar because the city has shown by limiting the use of the well to irrigation of the park that it did not need the additional capacity to serve its citizens in the near term.

So, how should we further limit the authorized beneficial use? Jeff and I agreed to leave the use as "municipal" because the definition of municipal use includes irrigation of parks. However, we want to limit the POU to the 40-acre tracts containing the park. That way, if the city wants to connect to the broader distribution system in the future, they'll have to file a transfer application, and we can evaluate the potential for enlargement. We agreed that it won't be necessary to put a specific volume limit on the right, but we should probably include a condition that limits the irrigation component of the municipal use to 4.0 (or whatever the local standard is) AF per acre when combined with other rights.

Western region has issued some permits to the City of Boise with a similar approach. United Water Idaho, a private company, serves municipal water to the residents of Boise. However, the City of Boise has several water rights for irrigation of parks throughout the city. Western issues the permits for municipal use, but limits the POUs to the actual locations of the parks.

We can issue the City of Lava Hot Springs license here if you'd prefer. Let me know.

Call or email if you want to discuss it some more.

Shelley

P.S. – We need to make sure we account for the 30 h.p. motor instead the 15 h.p. used in the examiner's theoretical. Maybe we should just get a measurement if someone is headed that way.



From: Cefalo, James
Sent: Tuesday, August 07, 2012 4:50 PM
To: Keen, Shelley
Subject: Permit 29-13297

Shelley,

I just came across the permit we discussed earlier this morning for the City of Lava Hot Springs. The permit (issued in 2002) is actually pretty simple. The conditions are not overly complex. The permit does include a condition stating: "Developing new large irrigation projects such as parks, golf courses, or sports activities fields is not authorized under this right."

A field exam was completed in 2007. The examiner found that the well listed in the permit is no longer tied to the main city water distribution system. Instead, the well only provides water to irrigate a city park. We got stuck at that point. There is some correspondence in the file between you and the mayor of Lava Hot Springs . . . specifically discussing the park condition. When you get a chance, could you review the file and tell us how you would like to proceed.

James Cefalo
Water Resources Program Manager
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