

February 2, 2012

Mr. Shelley W. Keen, Manager
Water Rights Permits Section
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

RECEIVED

FFR 0 2 2012

DEPARTMENT OF WATER RESOURCES

Re: Water Right Permit No. 63-32259 Proof of Beneficial Use Licensing Examination

Dear Shelley,

I write to memorialize our discussions concerning lapsed water right Permit No. 63-32259 in the name of Hendershot Construction, Inc. and to transmit the following documents:

- 1) Signed Notice of Change in Water Right Ownership.
- 2) Proof of Ownership conveyance document in the form of a Trustee's Deed.
- 3) Legal description of the property.
- 4) Topographic series map showing the place of use for Permit No. 63-32259.
- 5) Plat Map of the Southshore II subdivision.
- 6) Filing fee of \$25 to process the Change of Ownership.
- 7) Signed Statement of Completion for Submitting Proof of Beneficial Use.
- 8) Signed and stamped Beneficial Use Field Report.
- 9) This transmittal letter.
- 10) A compact disc with all of the above in digital Adobe® pdf-format.

Explanation of the Lapse of Permit No. 63-32259:

Hendershot Construction, Inc. completed construction of its Public Drinking Water System water well, the connecting water distribution system, and the installed pumping plant under this permit just as the U.S. housing market plunged into a prolonged recession. Unable to sell lots, Hendershot was not apparently able to pay his loans and, ultimately, the financing bank foreclosed on the property with the relationship between the original owner and the new owner becoming strained. IDWR's notices of Proof Due were sent to the original water right holder, Hendershot Construction, Inc. but were not apparently passed on to the new owner, First Security Corporation. In other words, the new owner of the land and water right was unaware of the need to submit proof of beneficial use. IDWR also copied Hydro Logic, Inc. because I was the consultant who filed the water right for Hendershot. I was unaware of the foreclosure at that time but I contacted IDWR right away to let it know that I had not been paid by Hendershot and that I was no longer working for him. I also attempted to contact the new water right owner so it could file a Statement of Completion and so that all of the work on the water right would not go to waste. It took a while for my shot-in-the-dark letter to get routed to

the appropriate person when I was then contracted by First Security Corporation to conduct a Proof of Beneficial Use field licensing examination for the water right. After I was hired by First Security Corporation, I was afflicted with some serious health challenges that caused a further delay (after the water right had lapsed). During the length of time for this to all transpire, the water right lapsed. From our recent discussions, it appears that the right can be reinstated contingent on IDWR's review of the submitted documentation (above).

Concerning a Permit not being real property:

I understand that a water right Permit is *not* considered real property as a license or decree *is*. IDWR guidance recommends that a formal Assignment of a Permit be filed when the right is to change hands. In this case, I contacted the previous owner Ed Hendershot and spoke to him about assigning the right to the new owner. Because of the estranged relationship between Hendershot Construction, Inc. and First Security Corporation, he indicated he was not inclined to sign such an assignment. I discussed this with First Security Corporation, who was also willing to contact Hendershot, but it was apparent that what Hendershot wanted in exchange for the assignment could not be agreed upon. Therefore, I submit the Trustee's Deed evidencing First Security Corporation's ownership of the property so that the Change of Ownership could be accomplished as the Permit is converted to a License.

I request that the IDWR review the submitted documentation and reinstate the water right Permit so that it may be converted to a License (I understand that the priority date will be advanced appropriately) as recommended in the attached Beneficial Use Field Report. I further request that the Change of Ownership to First Security Corporation be accomplished in the conversion to a license.

Thank you for your guidance and patience in dealing with this lapsed permit. Please have your staff call me at the numbers listed above if any further information is needed or if there are any questions.

Respectfully,

Ed Squires
CWRE 12-125



c: Molly Rigby, Assistant Vice President, First Security Corporation