

MEMORANDUM

DATE: January 17, 2012

TO: Water Right File 37-8752

FROM: Shelley W. Keen ^{SWK}

RE: Beneficial Use

On January 12, 2012, Craig Saxton and I had a conference call with Jim Speck and Chuck Brockway, Jr., to discuss the extent of beneficial use established in connection with Permit 37-8752. I explained that even though homes have not been constructed on the five lots, IDWR is inclined to issue a license for 13,000 gallons per day per lot since the water lines extend to each lot. Historically, IDWR has issued licenses for domestic purposes under the so-called "stub-in practice." The domestic use on each lot would be non-consumptive. Therefore, if/when homes are constructed and occupied, the change to the water budget of the Wood River basin would be inconsequential.

IDWR is more concerned about the irrigation component of the permit. An irrigation system is in place and water has been applied to about 14.5 acres. It is not clear, however, that the water applied to the land really constitutes irrigation. The watered area appears in aerial photography to be natural vegetation, not a crop or a recreation field. The watered area may not be aesthetic landscaping either, because nobody lives in the subdivision to enjoy it. It is also not clear how much water is applied to the vegetation each year. To IDWR it seems possible that very little is needed to keep native vegetation greener than the surroundings. If IDWR were to issue a license for irrigation with the standard field headgate volume, it would then be possible for the right holder to transfer the right to an agricultural crop or other intensive irrigation use and significantly enlarge the consumption of water in connection with the right.

In response to the concern about the irrigation component, Jim Speck said that his client could provide records of an expenditure on landscaping during the authorized development period. In addition, Chuck Brockway indicated he would look into power records or some other method to estimate the extent of use in the past. At a minimum, power records would show how frequently water was diverted. I agreed to hold the file until the end of February, 2012, to allow time for the additional information to be provided.

Depending on what is provided, the licensing options for the irrigation component of the permit are:

- Irrigation with the standard field headgate volume allowance
- Irrigation with a reduced field headgate volume
- Some other beneficial use, such as Wildlife
- No beneficial use



CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

10 FEB 12 AM 8:06

(Instructions on back of application)

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

Flowers Bench LLC

2. The complete street and mailing addresses of the initial designated/principal office:

520 Calumet Way, Hailey, ID 83333

(Street Address)

PO Box 4932, Ketchum, ID 83340

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

James E. Gray, Jr.

(Name)

520 Calumet Way, Hailey, ID 83333

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name

Constance A. Kemmerer

Address

PO Box 721, Teton Village, WY 83025

5. Mailing address for future correspondence (annual report notices):

James E. Gray, Jr., PO Box 4932, Ketchum, ID 83340

6. Future effective date of filing (optional): _____

Signature of organizer(s). (An organizer is a member, or is acting in behalf of a member or members).

Signature Constance A. KemmererTyped Name: Constance A. Kemmerer

Signature _____

Typed Name: _____

Secretary of State use only

g:\compform\llc form\llc org_1c.PMD
Revised 07/2008IDAHO SECRETARY OF STATE
02/12/2010 05:00
CK: 1121 CT: 229193 BH: 1207685
1 @ 100.00 = 100.00 ORGAN LLC # 2

W90589