

Keen, Shelley

From: Keen, Shelley
Sent: Monday, April 12, 2010 3:02 PM
To: Robertson, Jean
Subject: RE: Assignment of some permits

Jeanie,

I see the potential complications. The first thing I recommend is to look at the deeds issued to the homeowners to see if they address water rights. Because that's rare, I'm going to assume they don't.

Here are some options for 37-20382 and 37-20384, which have had proof of beneficial use submitted:

- Ideally IDWR would quickly conduct the field inspection and prepare draft licenses. Meanwhile, the homeowners would form associations to which Mr. Calkins would assign his interest in the permits. The licenses would then be issued to the associations.
- IDWR could conduct exams and issue the licenses to Mr. Calkins. At that point, each homeowner would own a portion of the water right. The homeowners would be required to submit ownership change notices, and the rights would be split. The homeowners could quitclaim their interests to an association after proving ownership, and the rights could be recombined. This option, which is probably the most cumbersome, would occur if Mr. Calkins does nothing.
- Mr. Calkins could assign the permits to whomever he wishes. The assignee would be accountable for compliance with the conditions of approval, mitigation, and/or curtailment associated with these rights, if any. As soon as licenses are issued, see the second example above.
- The homeowners could form associations, and Mr. Calkins could assign the permits to the associations. Licenses could be issued now or later.

Permit 37-21384 has lapsed. Proof of Beneficial Use has been submitted. IDWR is working on a letter requesting proof of compliance with approval condition no. 5 before acknowledging proof and considering reinstatement of the permit. If the permit is reinstated, the options above would apply. It could be problematic for Mr. Calkins to assign the permit to someone else before demonstrating compliance with the approval conditions, especially if the new owner is not familiar with the method of compliance.

I could see this getting even more complicated if the homeowners are not in agreement about how to move forward.

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

Shelley

From: Robertson, Jean
Sent: Monday, April 12, 2010 1:43 PM
To: Keen, Shelley
Subject: Assignment of some permits

<< File: subdivision covenants 001.jpg >> << File: well agreement 001.jpg >>

Hi Shelley,

Mr. Calkins came in on Friday afternoon and wanted to give me some information to change the ownership on his three water rights. Turns out they are permits so they need to be assigned. They are 37-20382, 37-20383, and 37-21384. They involve three small subdivisions he created near Richfield. He is moving to the Oregon coast and wanted to give me names of one lot owner for each subdivision as a contact. I have enclosed generic copies of the well agreements and covenants that the buyers supposedly signed and recorded. I'm just not really sure how to do the assignment or even if we can?

-They don't really have a homeowners association but do they have to?

-Can we assign to one individual lot owner when they might not even own the lot with the well on it let alone the entire place of use of the permit?

-Do we need the recorded agreements and covenants for that specific individual?

Please let me know what to do?

Thanks, Jeanie