

Memorandum

To: Water right permit file no. 67-14496,
in the name of Council Mountain Golf Course/Sam Davis

From: Deborah Gibson

Date: September 1, 2006

Re: Telephone call from ~~Sam~~ ^{Steve} Nash, dba Airdog, LLC., present owner of
property formerly known as Council Golf & Country Club Asso.

Steve Nash
cell 760-409-8993
home 760-674-8375

This memo is to document a telephone conversation I had with Mr. Nash on September 1, 2006. Steve Nash asked me what he could do to remove Sam Davis from water right permit no. 67-14486, issued in the name of Council Mountain Golf Course. This permit granted the development of aesthetic storage ponds on the golf course near Council, Idaho using Cool Creek and ground water as sources. Davis applied for the permit and stated that he owned the property. No proof of ownership was requested, and the application was permitted on September 12, 2005. Proof of beneficial use is due September 1, 2010.

An Assignment of Permit was received on June 30, 2006 from Airdog, LLC. The assignment was signed by Margaret A. Muller, on behalf of Ferd & Margaret Muller Trust, formerly dba Council Golf & Country Club, Inc. The department did not accept the assignment because Sam Davis or Council Mountain Golf Course did not sign it. However, Timberline Title & Escrow, Inc. provided the department copies of documents showing the chain of title of the property. No evidence reflecting that Davis was owner of the property, or a partner of the corporation. According to the last paragraph of the title companies' letter, it explained that Davis and Margaret Muller had a verbal agreement that he would lease the property to operate and improve the golf course, and that he had no legal right or title to the property. (Nash verified this information during our conversation on September 1.) Nash has contacted Davis and asked him to sign an assignment of permit. Nash gave the assignment form to the title company for Davis's convenience.

Nash is a partner of Airdog, LLC, a Washington corporation, which is a property development company. According to the Idaho Secretary of State, Airdog, LLC. is not an Idaho corporation, nor has applied to do business in the state of Idaho. Airdog, LLC. bought the property from the Mullens in June 2006 to develop a subdivision around the golf course. According to Nash, Davis has only completed construction of one pond using only the Cool Creek water. Nash stated that he has no intention to develop more ponds, but that he understands that because the pond has been completed, and unless he wants to remove it, he must maintain a water right for it.

I explained to Nash that Davis had until September 1, 2010, to file proof of beneficial use, and that if he did not file either proof or a request for extension of time with the department at that time, the permit would lapse and have no force. Then Nash could file an application for permit for the pond. However, if Davis would assign the permit over to Airdog, the matter would be resolved sooner and without an additional fee for a second application.

Nash gave me a phone number for Sam Davis (702) 210-4060. Nash believes that Davis is still residing in Council; however, Qwest does not have a listing for Sam Davis in Council, Idaho.

I recommend that the department write a letter to Davis at the address of record on file with the department and inform him that the department has been contacted by Airdog, as the present owner of the golf course, and that they ask that the permit be assigned to them.

Also see water right license and adjudication recommendation no. 67-7029 in the name of Council Golf & County Club, Inc., and Airdog, LLC, respectively.