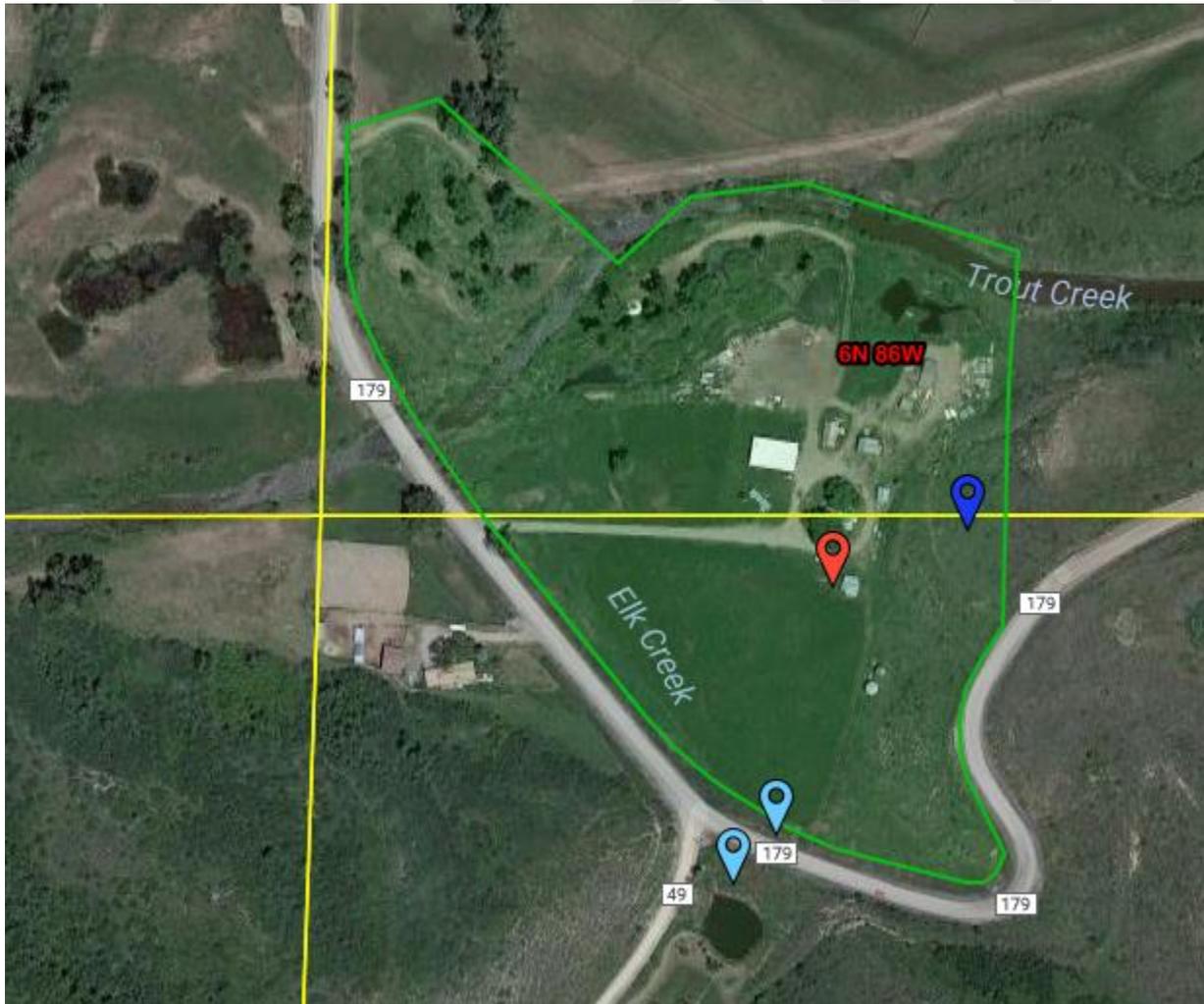




PONDEROSA
ADVISORS LLC

Water Rights Due Diligence Report

*John Doe Property
Frontier, Montana*



September 7, 2017

Property Description

John Doe (JD) is the owner of record of 61.25 acres of land located in the E2W2, Section 35, T6N, R86W (subject property) as shown in yellow on the cover page. According to state property tax information, one residence with geothermal heat has been built on the property. The Water Sage™ Land Parcel Detail Report is attached.

Scope of Report

This report includes a summary of all water rights and wells associated with the subject property and their current status, as provided by the Montana Department of Natural Resources and Conservation (“DNRC”). The information provided is based on a review of Ground Water Information Center (GWIC) records and DNRC Abstracts and claim files. No field investigation has been performed. No review of land transfers has been undertaken. This report relies on the legal property descriptions as listed by the state and county land records. Ponderosa Advisors, LLC is not responsible for any errors or inaccuracies in government land or water records.

Several abbreviations are commonly used to describe particular elements of a water right. Two that are used in this report are “POU” and “POD.” POU stands for “place of use” or the land area where the water right is put to beneficial use. POD stands for “point of diversion” or the place where the water is diverted (e.g. a well head or at a head gate).

Findings

The subject property has a portion of one irrigation claim and no claims for water rights for stock or domestic use. The irrigation claim can be divided into separate water rights in shares proportionate to each owner’s irrigated acreage. Additional claims may have been used on the subject property, but they may have been severed from the property by deed.

The subject property lies within the POU of the Never Dry Water Users Association (NDWUA) water projects. If needed, JD can check on water available from the project.

Five wells have been drilled on or adjacent to the property, but the water user did not file Notices of Completion with the DNRC. Beginning October 17, 2014, ground water withdrawals are limited to 35 gpm up to 10 AF within a one-quarter mile radius. Even if the wells have been used prior to 2014, they are subject to the rule. JD should seek additional advice prior to filing Notices of Completion for the wells.

Water Rights

JD co-owns irrigation Claim No. 63P 9876 00 with eight adjacent landowners. Claim No. 63P 9876 00 was filed for the use of 2.5 cfs (100 inches) of water from Elk Creek under a decreed water right with a May 15, 1899 priority date. The POU of the claim includes 57.50 acres in the E2NW of Section 35, T6N, R86W, owned by JD and a neighbor. Each owner is entitled to the amount of water proportionate to their number of irrigated acres. The subject property is served by Lowline Ditch, which diverts water from Elk Creek in the NESWSW of Section 32, T6N, R86W. The DNRC Abstract and Water Sage™ Water Right Detail Report are attached.

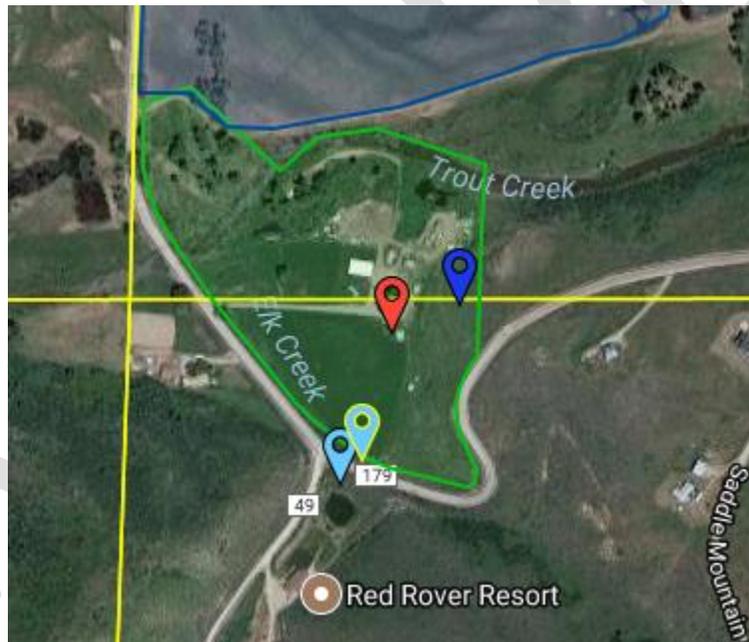
Although Claim No. 63P 9876 00 is the only water right filed for use on the subject property, the property is located within the service area of the Dam/Lake projects operated by NDWUA. To find out if there are available shares of water that can be diverted to the subject property, contact Kevin Smith at the DNRC, 406-444-2932.

Water rights are appurtenant to the land where they are used and are automatically conveyed with land as an appurtenance unless the deed reserves them to the seller. Because the mapping of water rights is imprecise, the POU of Claim Nos. 63P 9876 00, 63P 26543 00 and 63P 123450 00 appear to overlap the subject property. JD would not be entitled to a share of any of these rights unless they were used on the subject property prior to July 1, 1973 and they were not severed by a deed. If JD believes that he has used these rights, further investigation should be undertaken into the use of water and the chain of title of the property.

The subject property has no stock water rights filed with the DNRC, but Elk Creek flows through it. If Elk Creek was used for stock prior to July 1, 1973, JD can file a claim for that use.

Ground Water Information Center Records

The Ground Water Information Center is the central repository for information on the ground-water resources of Montana. GWIC locates wells within 40-acre tracts based on well-completion reports from drillers. The wells may be water wells, abandoned wells or monitoring sites. As shown below, five wells have been drilled in and around the subject property. An index of those wells and a copy of the Water Sage™ Well Detail Reports are attached.



Because the mapping of wells is imprecise and well drillers occasionally enter the legal description incorrectly, the landowner should determine how many wells are on the subject property and if those wells are in use. No water rights were filed for any of the wells, although it appears that the house is served by a domestic well and a geothermal well. Owners are not required to file for a water right for any well, but without a water right, the water user has no priority date for the water use if there is interference with the well. Ground water withdrawals are limited to 35 gpm up to 10 AF within a one-quarter mile radius. Aside from that limitation, JD can still file a Form 602 with the DNRC for the wells used on the property to obtain a Ground Water Certificate and a priority date for the water use. The priority date will be the date of filing the form with the DNRC. If the 1966 stock water well is still in use, JD can file a claim for that well without affecting the 10-AF limitation.

Recommendations

- Determine JD's portion of Claim No. 63P 9876 00.
- Investigate whether JD should be a co-owner of Claim Nos. 63P 9876 00, 63P 26543 00 or 63P 12345 00.
- File claims for stock water.
- File Notices of Completion for wells on the property.
- If needed, contact Kevin Smith at the DNRC, 406-444-2932, regarding the availability of contract water.

EXAMPLE