

FAQs on the Silver Springs Developers 1979 underdrain tubes system

What is the underdrain system? One man's hobby?



Figure 1 Black lines indicate the location of the 1979 underdrains to the present. You can count that 50% of the lots have underdrains, the remaining 50% do not have them. Lots with underdrains on more than one property line increases their liability and repair costs Right away we can see that pursuing the underdrain project will not benefit ALL the properties equally. Of the 512 SSCommunity properties, Map by Alliance Engineering, 2014.

The **1978-1986** developer said he did not intend the underdrains to be a burden to the single family homeowners. [Underdrains are a short term County requirement for issuance of building permits to assist the early developer and builders to drain enough water to allow for initial development of this Community.](#) On July 13, 1979 Lots 1-64 had a [Special Notice recorded](#) to alert buyers of these lots of subsurface water fluctuation and to urge them to make proper construction preparations such as individual sump pumps and/or French drains around the home foundation to forestall water issues.



When a couple Homeowners began pressuring the Board of Trustees to take responsibility, liability, even ownership, for the undedicated, ownerless underdrains assembled under a small portion of Silver Springs there was Homeowner push back, predominantly because of the furtive manner in which Trustees were going about this new positioning. Up to 2009 the underdrains were not a part of the SSSF documents, agenda, budget or attentions.

As more and more information was brought forth from individuals outside of the Board, and as the proponents of the underdrains became more aggressive and brazen, we saw the negative, divisive impacts on our neighborhood, not only the physical aspects and cataloguing of the underdrains and manholes but also the legal and financial implications, and the very limited benefits for the majority of the Homeowners. Silver Springs Single Family property will be stigmatized by the never-ending calamity of rebirthing these 1979 drains. Water is the single most important natural resource on Earth. Homeowners need to learn to manage it, not to dispose of it.

Summit County considers the underdrains to be a pre-development system auxiliary to the panel concrete forming systems used to initiate work on foundations. These two systems work together, one drains away standing water, the other holds wet concrete until it hardens. The difference is that French drains can be added at almost any stage of construction or remodeling.



Figure 2 Beginning construction- concrete forms alongside of French under drain pipes.



Figure 3 Adding French drains years after construction

Water on your property is a valuable commodity. [To learn how the run-off water in and around your crawlspace can be used to water your trees or garden on the perimeter of your yard see this and other Videos.](#)

Silver Springs Single Family neighborhood [consists of 188 private lots](#). Phase C and LL-D do not include these drains. That leaves 181 lots, take away Lot 104. Only 50% of these lots in Phases A, B, & E hold underdrains. The majority of the remaining 90 do not need underdrains, maybe a total of 5 do and some may have ground water issues that have been mitigated with private French drains and sump pumps. When you look at these numbers you have to wonder why the Committee of two is pushing for new oppressive CCRs and assessments, and the replacement of plastic tubes temporarily installed in 1979.

Experts tell us these thermoplastic polyethylene tubes began to be used around 35 years ago for drainage applications. Silver Springs developer Vern Hardman was among the first. These tubes are generally 150 mm (6 inches) in diameter. As use and applications for these materials expanded questions increased concerning design, service life and the mechanical strength of the materials' properties in relation to the forces acting on the material, viz., the stress, the loading time, the temperature. The primary concerns are compression strength, tensile yield strength and flexural modulus (the ratio of stress to strain relative to the tendency of a material to bend). Any discussion of buried pipe service life cannot ignore proper installation quality and practice. All buried structures in

soil, interact with each other to carry the required loads.

Dale Gifford, Complex Solutions specialist wrote in his **August 2017** report that the Ground Water Underdrain System in Silver Springs: “does not have a predictable remaining useful life.” Bill Noland wrote that the underdrains have “returned to nature in a number of areas.” His next plan appears to be to begin replacement of these deteriorated pipes. Clues in the 2016 Morris & Sperry Draft CCRs Article 7 subsection 7.1 a: “The Association shall operate, maintain, repair, and **replace** the Underdrain System.” Indicating that the Chair of the Underdrain Committee of two (Noland and Hovey), is preparing to amass the enormous costs of his project from INDIVIDUAL HOMEOWNERS.



Additional punitive rules included in the 2016 Morris & Sperry **Draft** CCRs Article 4 subsection 4.2: The Association shall be responsible for the maintenance, repair and **replacement** of the Underdrain System (the Summit County building department described to Rick Hovey the cost in hundreds of thousands of dollars for underdrain work on just one lot!).....(a) The Board shall determine, in its SOLE DISCRETION, the appropriate maintenance standard for the Underdrain System (The last several Boards are not known for fairness)... (b) If the Board determines that the need for maintenance or repair of the UNDERDRAIN SYSTEM is CAUSED BY AN OWNER OR AN OCCUPANT, the Association shall have the **authority to assess to the OWNER** the actual cost of such maintenance or repair. (No cap. How does Noland determine whether the offending tree root damage occurred before the current owner lived here? Or is it a ground shift or degraded pipe collapse? How does the Owner verify the work is unnecessary or over-charged?) ... (c) The Association shall have an EASEMENT ACROSS ALL LOTS for the INSTALLATION, access to maintenance, and repair of the UNDERDRAIN SYSTEM regardless of whether such easement is described on the Plat or in other Governing Documents of the Association. (Yes, the March 2nd discussion clarified that Noland and his CCRs would give him full access to all of SSSF private property any time he wants it. **Vote NO! on the upcoming Morris & Sperry CCRs.**)

Do Homeowners need the underdrain system?



How do we determine this?

- For years Homeowners have asked for alternative methods to remediate crawlspace water. A Cost Analysis for each alternative has been requested by Homeowners at Annual Meetings. The Board has not provided known alternatives or their Cost Analysis. The use of perimeter French drains and/or sump pumps, and dry wells, are known to be more economical, successful, and less intrusive alternatives in Snyderville Basin.
- The Homeowners have asked the Board to disclose how many of the 188 lots in SSSF HOA have high water that would benefit from maintenance of the underdrains. Five was the answer given at the Annual Meeting in 2014. Not all crawlspace water is from ground water, some has been attributed to snow melt and run-off, some to the existence of artesian water (such as the dozen artesian springs under the large pond/lake and a few homes), some to construction and landscaping errors.
- Has the Board provided a study of the usefulness of aged 8-10' deep underdrains for suppression of vertical water seepage from artesian sources, or on run-off from heavy rain, melting snow, and run-off. And who has the right to take away every Homeowners natural water resource?

- Over the years the Board has hired a list of attorneys to **rationalize** Noland’s requests and assertions. The Board has given him complete access to legal and engineering advice. Each attorney has his own spin, and some contradict themselves or each other. Count the annual costs for his privileges. See [Annual Budgets](#) - “Underdrain Reserve \$10,000, Attorney or professional Fees \$10.500, Underdrain expenses \$2,000.” These and other *Amounts vary year to year.*

**Silver Springs Single Family HOA
Proposed 2018 Budget**

	Budget 2017	Actual 8/31/2017	Proposed 2018	Change 2018
Income				
Income from Dues	70,500	70,500	70,500	0
Total Income	70,500	70,500	70,500	0
Expenses				
Master Association Dues	32,900	32,900	32,900	0
Management Contract	17,500	12,150	16,200	-1,300
Under-Drain Reserve	10,000	10,000	10,000	0
Under-Drain Expenses	2,000	1,455	2,000	0
Professional Fees	5,000	3,316	7,000	2,000
Meeting Expense	300	0	200	-100
Insurance	700	679	800	100
Administrative	800	306	700	-100

- Since 1979, when the Commissioners granted a short-term installation of underdrains, has the Board considered the impact study of the increase of housing subdivisions in the SSSF proximity, or of the installation of streets, gutters, [drainage channels](#), [retention ponds](#), [storm drains](#), and other natural water diversions throughout the Snyderville Basin supporting disuse of underdrains?
- Why do the contiguous subdivisions, North Shore, Ranch Place, Willow Creek, and others not have underdrains though they have high ground water? **Owners know how to handle it.** The only mention of high water in one of these subdivision’s documents: Article IV. 4.18. Drainage. “No owner shall alter the *direction* of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy.” PERIOD. So why is Noland being given free rein to destroy our neighborhood with his continual pommeling on our Association Trustees and neighbors with his misdirection?



On September 11, 2014 the County Attorney Dave Thomas wrote to us: ...the ownership and maintenance of the underdrains is a private matter between the homeowners within the various Silver Springs Community subdivisions and their owners associations Pretty simple.

The underdrains belong to no one. Not Summit County, not the Homeowners, not the Board of Trustees. Neither the State, the County, or the Weber Basin Conservancy District, not Mountain Regional Water District. They were never dedicated, never completed.

How does the underdrain system impact Property irrigation water?

In August of 2016 BOT President Brian Zilvitis was explaining the underdrains to me. “Look how great they are working; they are pumping thousands of gallons of water out of our neighborhood every day.” That report is not good news during a very hot summer receiving virtually no rain since around April. What **the underdrain system is pumping out is the expensive irrigation water** Homeowners apply to their lawns, trees, gardens, etc. The irony of this situation is that the management company continued to issue fines for dry, badly maintained yards. Did you have a \$250 fine were issued you? How many?

A French drain a.k.a. as weeping tile –perforated clay or plastic pipe (also known as blind drain, rubble drain, rock drain, drain tile, underdrain, perimeter drain, land drain, French ditch, sub-surface drain, sub-soil drain or agricultural drain) is a trench filled with gravel or crushed rock, or a trench containing a perforated pipe surrounded by gravel or crushed rock, that **collects and redirects surface water and groundwater away from an area. Whether it is grove of trees, a vegetable garden, or a flower bed, it makes no distinction. Its function is to leach away all water around or above it, for removal.**

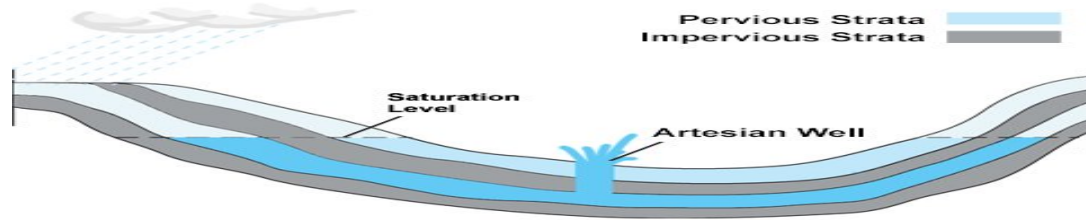
Noland wrote that irrigation water generally does not soak into the ground deeply enough to be directly affected by the underdrains. His next sentence reads: “We know for a fact that tree roots extend down to the level of the underdrain.” Does that sound like a contradiction?

Alternatively, French drains may be used to beneficially distribute water to arid areas of a property to prevent barrenness and drought damage to trees and vegetation. The best location for these drains is around the perimeter of a home if it is experiencing water seepage into their crawlspaces. Crawlspaces can also be outfitted with sump pumps to regulate seasonal high water. A drain that is not installed with a sump pump counts on gravity alone to drain foundation water, and if the house is not located on a hill or near a steep incline, finding this slope can be problematic. Additionally, maintenance on an underdrain involves expensive exterior excavation, affecting walkways, shrubs, large trees, porches, patios, gardens, and anything else along the perimeter of a property inclosing underdrains.

French drains are primarily used to prevent ground and surface water from penetrating or damaging building foundations and retaining walls, to relieve ground water pressure.

Placing or unclogging underdrains along the front, back, or side of an entire property is principally irresponsible especially when it is forced on homeowners’ private property.

Not every lot shares the same location and underground composition of sand, rock, gravel, ground water, pressure, broken strata, fissures, elevation. It is absurd to assume one system, the 1979 temporary underdrains, will equally and continuously apply to all lots in our neighborhood.



High percolating water tables are a prevalent condition in our area, specifically from Old Ranch Road to Highway 224 and from Quarry Mountain to the area north of I-80. A lake existed within the basin that is now Silver Creek Estates. The existence of water in arid Utah is a good thing. The likelihood that ground water “could lead to negative public perception problems for the Association and affect property values” is hype by the chair of the underdrain committee of two.

What will lead to a negative perception (similar to the digging in Prospector to replace lead contaminated soil) will be the draft CCRs plans to dig on private property to replace limited life plastic tubing. Digging, “at the sole discretion of the BOT,” will affect lawns, trees, driveways, play areas, patios, storage sheds, mailboxes, irrigation systems, gardens, fences; and most intrusively, expensive infrastructure utilities (gas, electric, telephone, internet and cable, public water lines), County roads and curbs, storm drains, etc. Summit County told Rick Hovey that digging up private property to replace, maintain, or repair the underdrains will likely cost hundreds of thousands of dollars – the Draft CCRs permit these costs to be assessed to the individual property owner of the impacted lot. If the Homeowner decides to sue the HOA and/or BOT, that is added cost. If the Homeowner files a claim with their insurance company to pay for this damage, then the insurance company may file a recovery lawsuit against the HOA and/or BOT. More added expenses. All of this calamity is avoidable.

In 2015, Zilvitis explained to me on two occasions that a most important consideration for the BOT’s recently increased liability coverages to \$2 million was to protect the Trustees from future insurance company and homeowner lawsuits.

This brings to light a very important, concealed facet of the underdrains conundrum. Had Gunter, Noland, Hovey not so insistently positioned the HOA as the superficially responsible party for the underdrains by making the SSSFHOA in January of 2015 a DBA of the 1979 Developers SSHOA; if they had not furtively used HOA money to make unauthorized repairs and studies of the underdrains; if they had not ignored their fiduciary duty to take direction from the three (1985, 1994, 2014) Homeowner votes to Ignore the Underdrains; and instead had they sought to openly receive Homeowner support and votes to allow engineer studies to assist affected homeowners on how best to mitigate water issues on the few lots with ground water and run-off problems; and if the December 2008 -to the present- BOTs had not deliberately subverted the HOA Bylaws, then Zilvitis and his BOT would not need and the Homeowners would not have to pay for a \$2 million dollar policy to cover their suspicious activities. And homeowners, their insurance companies, Complex Solutions, Alliance Engineering, and other entities would not erroneously consider the underdrains the property or responsibility of the SSSFHOA.

Don’t believe HOA attorneys if they tell us all of these situations can not be cleared up by properly re-writing new HOA Bylaws (not the John Morris draft) and Articles of Incorporation. It can all be fixed by transparency and ethical adherence to the SSSF HOA charter documents.

More topics, letters, documents, history, Minutes, explanations are available at
<https://www.silverspringscommunity.com/utilities/water/underdrain-system/>

[LINK: When Homeowners Association Boards Go Haywire](#)