State of Idaho
DEPARTMENT OF WATER RESOURCES
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BRAD LITTLE
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DEPARTMENT OF
WATER RESOURCES

June 3, 2021

Lava Ranch Property Owners Association
PO Box 131
Lava Hot Springs, ID 83246

RE: Summary of Investigation / Cease and Desist Order

Dear Water User:

In February 2021, Mike and Lori Beer filed a delivery call with the Idaho Department of Water Resources (IDWR), asserting that a well owned and operated by Lava Ranch Property Owners Association (LRPOA) was reducing the flow from a spring on the Beer property, which supplies water for domestic use under water right 29-13740. As part of that delivery call, IDWR conducted three site visits to the Lava Ranch subdivision. This letter is intended to summarize the data collected during the site visits and to clarify the statutory limits on the use of the LRPOA wells.

LRPOA owns and operates two ground water wells within the boundaries of the Lava Ranch subdivision. Each well supplies water to a separate community pump and distribution station. The lower station is located near the LRPOA pond and pavilion on the north side of the subdivision. The upper station is located on a hill top at the south end of the subdivision. Many of the cabin lots in the Lava Ranch subdivision have no direct connection to water. In order to satisfy water needs at their lots, property owners fill up portable tanks at the LRPOA community pump stations and transport the water to their individual lots.

The lower station supplies water directly to a single distribution line when the pump is turned on. No water is stored at the lower station. On May 19, 2021, Blake Jordan from IDWR conducted a flow measurement of the lower station. The pump delivered 20.5 gallons per minute (0.05 cfs) to the distribution line.

On April 30, 2021, I conducted a preliminary investigation of the upper system. I evaluated the key components of the system and confirmed that the system had not yet been turned on in 2021. On May 29, 2021, I met with Matt Groll, Tom Bland and Scott (?) to inspect the upper system. The well at the upper system is equipped with a 2 hp pump. Water from the well is pumped approximately 600 feet uphill to two storage tanks at the end of High Country Road. Each tank can hold at least 1,500 gallons. Together, the tanks have a storage capacity of at least 3,000 gallons. During the inspection, I was able to access the end of the pipe from the well to the tanks. With the system operating, I conducted a measurement of the inflow from the well. The tanks

were filling at a rate of 3.3 gallons per minute. Based on the measured rate of flow, it would take at least 15 hours to fill the tanks. An additional 2 hp pump supplies water from the tanks to two distribution hoses.

In Idaho, certain water uses are exempt from needing a recorded water right. For example, Sections 42-227 and 42-111, Idaho Code, establish an exemption for water diverted from a ground water well for domestic purposes. According to Sections 42-111(1)(b) and 42-111(2), in order to qualify for the domestic exemption, the diversion of ground water for domestic use at a multiple ownership subdivision cannot exceed a diversion rate of 0.04 cfs (18 gallons per minute) and a daily diversion volume of 2,500 gallons. Section 42-111(3) states that multiple exempt uses cannot be combined or stacked together to satisfy a water use that would otherwise require a water right. Multiple wells being used to supply water for a common domestic use must be evaluated together. The two systems operated by LRPOA represent a common domestic use within the Lava Ranch subdivision.

In combination, the two LRPOA systems divert more than 18 gallons per minute and 2,500 gallons per day from ground water. The lower system, by itself, delivers 20.5 gallons per minute (0.05 cfs). It takes more than 2,500 gallons to fill the storage tanks on the upper system. According to the LRPOA president, Matt Groll, on a busy summer weekend, the storage tanks are emptied and refilled at least once per day. When the tanks are empty, the upper system automatically refills the tanks in less than 24 hours. The volume diverted at the lower site is not known. It appears, however, that the lower site is used by more patrons than the upper site because of ease of access. Therefore, on a busy summer weekend, the volume pumped at the lower station likely exceeds 2,500 gallons per day.

The current combined diversion and use of water at the upper and lower systems exceeds the limits set forth in Section 42-111(1)(b). Consequently, the diversion and use of water from the LRPOA wells requires a recorded water right.

You are hereby instructed to cease and desist the operation of the upper and lower systems unless the system infrastructure is modified to ensure the individual and aggregate use will not exceed the limits set by Section 42-111(1)(b). This would include deciding how much of the 2,500 gpd volume limit to assign to the upper system and how much to assign to the lower system and restricting the pump diversion rates. **The upper and lower systems must be shut off and locked by LRPOA by June 15, 2021.** Enforcement staff from the Idaho Falls office will conduct an inspection after June 15th to confirm that the systems are shut off and locked.

If LRPOA wants to continue to operate the systems as they are currently configured, then LRPOA must either acquire a new water right to authorize the existing use or transfer an existing water right to the property. The Application for Permit and Application for Transfer forms can be found on IDWR's website. Please feel free to contact me if you have questions about the application process.

The Idaho Water Resource Board operates a Water Supply Bank, which allows unused water rights to be leased to the bank and rented by other water users in the area for short-term use. The Water Supply Bank may be a short-term solution for authorizing the existing diversion at the lower system. Given the injury concerns raised in the delivery call, it is unclear whether water rights could be moved to the upper system through the Water Supply Bank. Please contact your attorney or the Water Supply Bank staff to determine whether there are ground water rights available to rent in the Upper Portneuf River drainage.

I recognize that the board members are volunteers and appreciate them taking the time to meet with me to investigate the system. It is clear from my conversations with the board members that LRPOA did not intend to circumvent the law and were not fully aware of the rate and volume limits on domestic use when the systems were constructed. However, failure to limit the combined use of the water systems to the limits described above could subject LRPOA to a formal enforcement action and associated monetary penalties. If the upper system is shut off and locked by June 15th, no immediate action is required under the delivery call filed by the Beers. IDWR will hold off on scheduling a conference for the delivery call until LRPOA determines how it plans to address the unauthorized use at the upper system. Please feel free to contact me with any questions.

Sincerely,

James Cefalo

Cc: Matt Groll, President LRPOA (3286 N 1730 E, North Logan, UT 84341)
Travis Thompson (163 2nd Avenue West, Twin Falls, ID 83301)
Lance Schuster (955 Pier View Drive, Idaho Falls, ID 83402)
Garrick Baxter (322 East Front Street, Boise, ID 83702-7371)