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DEPARTMENT OF
WATER RESOURCES

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KEVIN B. HOMER -- IDAHO STATE BAR NR. 2901

DARLENE BONKOSKI, LEGAL ASSISTANT

October 13, 2006

Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

Re: Derlin Campbell -- Chad/Caroline Phillips

Dear Sir or Madam:

I represent Mr. and Mrs. Derlin and DeOn Campbell of Rexburg, Idaho, who own the real property identified below. This letter requests information on a water right that had previously been registered to him.

The Campbells' current residence address is:

Mr. and Mrs. Derlin Campbell
1807 Morning View Drive
Rexburg, Idaho 83440

In March 2005 the Campbells sold the parcel of land described below to Mrs. Caroline Phillips (who apparently took title jointly with her husband, Chad Phillips, who then subsequently quitclaimed the property solely over to her—which may help you in your search for information):

- Street address of property: 7444 West Arco Highway, Idaho Falls, Idaho
- Acreage: approximately 11 acres
- Legal description:

In Bonneville County, Idaho:

Beginning at a point that lies North 89°29'50" East 416.00 feet along the Section line from the Northwest corner of Section 13, Township 2 North, Range 36 East of the Boise Base Line and Meridian and running thence North 89°29'50" East 416.00 feet along said Section line; thence South 00°05'29" West 208.00 feet; thence South 89°29'50" West 104.00 feet; thence South 00°05'29" West 1322.61 feet to a point on a curve on the Northerly right of way of U. S. Highway 20; thence along said curve, to the right a distance of 329.06 feet; said curve having a radius of 11259.16 feet, a central angle of 1°40'28" and a chord that bears North 71°22'40" West 329.04 feet; thence North 00°05'29" East 1422.79 feet to the point of beginning.

My clients also own the parcels adjoining on the west (a 12-acre parcel) and on the east (a 55-acre parcel) of the property described, which was sold to Mr. and Mrs. Phillips. On the 55-acre parcel to the east of the described property, my clients have a deep well for irrigation. Water from that well currently sprinkle irrigates the 55-acre parcel and the 12-acre parcel. As I understand, out of the buried main line running from the pump west across the property now owned by Mr. and Mrs. Phillips, a single riser is stubbed out on the Phillips' property, which Mr. Phillips uses (or at least has ostensibly been given permission to use) for purposes of drawing about 600 gallons per day for stock watering; Mr. Phillips does not use that riser for irrigation.

This letter inquires about the exact status of water rights relating to the described property now owned by Caroline (and Chad?) Phillips, identified above.

At the time that they sold the property to the Phillips, Mr. and Mrs. Campbell did not (to the best of their recollection and records) sign any documents purporting to transfer to the Phillips any water rights whatsoever. They have always understood that no water rights attached to that 11-acre parcel (now owned by the Phillips) except for the limited 600-gallon stock water "right" referred to above.

Mr. and Mrs. Phillips have filed a lawsuit against the Campbells, seeking a declaration of prescriptive easements, etc. In correspondence sent to me relating to that lawsuit, the Phillips' attorney claims that "[the Phillips] have been informed by the Idaho Department of Water Resources that the transfer {of the water right} is in process and, therefore, no further involvement by [the Campbells] is necessary." The Campbells have asked me to inquire through the Department of Water Resources to determine the basis of that statement (the Phillips' attorney is, unfortunately, completely uncooperative).

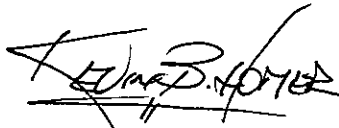
Therefore, would you please answer the following questions for me, for the benefit of Derlin and DeOn Campbell (who understand that they still own *all* the water rights tied to the three parcels referred to):

- What water right, if any, is owned currently by Chad and Caroline Phillips (tied to the described property, with the popular address: 7444 West Arco Highway, Idaho Falls, Idaho)?
- Is there in fact some kind of transfer pending, by which any water right previously owned by Derlin and DeOn Campbell is being transferred to Chad and Caroline Phillips?
- If so, please tell me the details of that transfer, including these specifics:
 - The total amount of the water right being transferred;
 - The documents forming the basis of the transfer (*i.e.* do the Phillips contend that the Campbells signed some document that gave the Phillips the right to apply for that transfer?);
 - If the transfer is being made on the basis of some law or regulation without any request or application by the Phillips, then please tell me the reference for that law or regulation;
 - The date on which that transfer was applied for;
 - The date on which the transfer will likely be complete.
- Is there any action by which the Campbells can, *administratively*, delay that transfer?

It is probably apparent that I do not purport to be a water law expert, but because the Campbells are on a limited budget (and aged and in poor health), they have asked me to investigate this matter for them as part of my helping them resolve the easement dispute with their purchasers, Chad and Caroline Phillips. Therefore, any explanation or help you can give me and my clients will be sincerely appreciated. As I mentioned, the Phillips have filed a lawsuit against the Campbells relating to a claimed easement, but the negotiations to prevent and then resolve that lawsuit have broken down, and it appears that formal litigation (including discovery, etc.) will now be inevitable. I may, therefore, need again to be in contact with the Department of Water Resources concerning the matters addressed in this letter. *Is there some specific person or division within the Department to whom I can (or should) address these and similar follow-up questions? Is there some person within the Department who would be willing to talk with my clients (or myself) by telephone, if other water rights questions arise out of that litigation?*

Thank you sincerely for your attention to this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kevin B. Homer", with a stylized flourish at the end.

Kevin B. Homer

KBH:db

cc: Derlin and DeOn Campbell