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August 8, 2008

Jeff Peppersack
Manager
Water Allocation Bureau
Water Rights Permits Section
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED

AUG 12 2008

DEPARTMENT OF
WATER RESOURCES

Re: Chris and Jackie Flanigan, Water Right No. 37-8870

Dear Jeff:

This follows up on my letter of January 29, 2008 and on our meeting yesterday with you, me, Kelly Christensen, and Scott King. I ask that this letter be made a part of the record for Water Right No. 37-8870.

My January 29, 2008 letter confirmed the following:

- It is not necessary to change the place of use. Although the location of the original homes served by the right were incorrectly identified, that property has been sold to the Welshs and the water is now used on property owned by the Flanigans that falls within the original description. Since the original description is now correct (albeit speaking in terms of the prior plat), you determined that there was no need for a transfer or any other action to update the POU description.
- It is not necessary to change the point of diversion listed for this water right, because there has been no physical change in the point of diversion. It is listed incorrectly on the water right license T5N R17E §10 NWSWSE. It should be T5N R17E §10 SESESW.

Jeff Peppersack
August 8, 2008
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Another issue has arisen that was not addressed in my January 29, 2008 letter. That issue was resolved yesterday, and is memorialized by this letter. We advised the Department that the Flanigans are using water under this domestic right to fill a small stock tank connected to the domestic supply in the main home (running off the garage). We sought confirmation that this was permissible under this right despite condition number 1 stated on the license (copy enclosed), which reads:

1. Domestic use is for 2 homes and does not include lawn, garden, landscape, or other types of irrigation.

You advised that this condition prohibits use of this domestic right for irrigation of any type, but does not restrict use of the right for other purposes associated with domestic use, such as filling a stock tank. Accordingly, we agreed that there is no need for any transfer or other action with respect to Water Right No. 37-8870.¹

This is a post-SRBA water right license for which no claim has been filed. Accordingly, no action is required with respect to the SRBA, either.

Please advise if anything in this letter is inconsistent with your understanding. Again, I thank you and Kelly for your time in meeting with us to resolve this issue.

Sincerely,



Christopher H. Meyer

Encl: License for Water Right No. 37-8870

cc: Chris and Jackie Flanigan
Jill Eshman, J. Eshman Law, P.C.
Scott King, SPF Water Engineering, LLC

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¹ The domestic supply on the Flanigan property is met primarily through this spring right (No. 37-8870). However, another ground water right (No. 37-12219) also served domestic needs on a back-up basis and is plumbed into the same system. There is no need to change that water right (No. 37-12219) because it contains no limiting condition and, in any event, expressly includes stockwater as a use.

State of Idaho
Department of Water Resources

Water Right License

WATER RIGHT NO. 37-08870

Priority: February 26, 1998

Maximum Diversion Rate:

0.06 CFS

Maximum Diversion Volume:

1.2 AF

This is to certify, that CLAIRE BAILEY
PO BOX 619

KETCHUM ID 83340

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 26, 1998; and has submitted Proof of Beneficial Use on June 8, 1998. An examination indicates that the works have a diversion capacity of 0.060 cfs of water from:

SPRING

tributary to SINKS

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.06 CFS	1.2 AF

LOCATION OF POINT(S) OF DIVERSION: NWSWSE, Sec. 10, Township 05N, Range 17E
BLAINE County

PLACE OF USE: DOMESTIC

TWN RGE SEC

05N 17E 10

SWSE

CONDITIONS OF APPROVAL AND REMARKS

1. Domestic use is for 2 homes and does not include lawn, garden, landscape, or other types of irrigation.
2. Place of use is located within Lots 2-3, Blk. 1, North Fork Subdivision.
3. Point of diversion is located within Lot 3, Blk. 1, North Fork Subdivision.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Signed and sealed this 12th day of FEBRUARY, 1999.


KARL J. DREHER, Director

MICROFILMED

MAR 11 1999