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Morgan W. Richards, *of counsel*

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June 23, 2006

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Dennis M. Dunn
Senior Water Resource Agent
Idaho Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

Re: Snake River View Estates
MTBR&F File No. 22813.0001

RECEIVED
JUN 26 2006
Department of Water Resources
Eastern Region

Dear Mr. Dunn:

The purpose of this correspondence is to respond to yours dated June 20, 2006, regarding the Snake River View Estates. I represent Snake River View Estates and Mr. Mecham in their water matters. I will be coordinating with my client to discuss the issue of the extent of development as of December 1, 2005, and will discuss that information with you further when I obtain the requested information. I note, however, that, according to my client, the berms and trees along the highway are within the lots rather than the common areas, and therefore are within the scope of the water right permit.

In addition, irrigation is allowed under the permit for water right 35-9085. I have enclosed the permit for your ease of reference in the remainder of this discussion.¹ Condition #6 of the permit provides that: "The domestic use authorized under this right shall not exceed 13,000 per day per home." Under Idaho Code § 42-111, domestic use includes irrigation of up to 1/2 acre, "if the total use is not in excess of 13,000 gallons per day." Therefore, irrigation of the lots up to 1/2 acre of each lot is clearly within the definition of a domestic water right.

That conclusion is supported by Condition #7, which provides that: "The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for

¹ There appears to be some difference between the condition numbers and the version of the permit you are reviewing, versus the permit dated December 3, 1999, which I am reviewing. That permit appears to be the official permit for this water right and so I will refer to it in the remainder of this discussion.

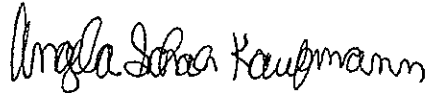
Dennis M. Dunn
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irrigation of lots upon which homes have not been constructed." Therefore, irrigation of up to 1/2 acre of each lot is clearly contemplated.

Condition #8 then provides that: "The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted for irrigation occurring under this right as described above." That condition, as written, does not require that surface water rights be used prior to the use of ground water for irrigation. Therefore, there is nothing in the permit itself that requires the full use of irrigation water rights prior to the use of ground water under permit number 35-9085. In fact, if that had been the requirement under the permit, there would be very little, if any, reason for Condition #7.

As previously indicated, I will coordinate with my client regarding proof of beneficial use as of December 1, 2005. In the meantime, please let me know if you have any questions.

Very truly yours,



Angela Schaer Kaufmann

ASK/jrj

Enclosure

cc: Snake River View Estates
Roger Warner, IDWR
Jared Bragg P.E.
John Lindsay HOA
Chuck Ketterman DEQ