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April 26, 2005

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Brent Chappell
408 S. 900 W.
Blackfoot, Idaho 83221

Charles Dansie
P.O. Box 445
Blackfoot, Idaho 83221

Re: Water Rights

Dear Brent and Charles:

At you request, I am providing this legal opinion concerning the water rights appurtenant to your lots that were at one time owned by Wallabys Retreat, Inc. I have reviewed the deeds in your respective chains of title and the water rights issued by the Idaho Department of Water Resource ("IDWR"). I have also reviewed a copy of the attached plat map which shows your respective parcels.

According to my research, Wallabys Retreat owned all six parcels shown on the attached map. In August 2001, Wallabys Retreat deeded Parcel 2 to Milton and Leora Bergevin (Instrument No. 503550) and Parcel 3 to Delbert and Nettie Baron (Instrument No. 503551). In January 2002, the Bergevins deeded Parcel 2 to George and Verna Olsen (Instrument No. 509337), who deeded it to Charles and Carol Dansie in January 2005 (Instrument No. 549843). In April 2002, the Barons sold Parcel 3 to Brent and Marie Chappell.

Each and every deed in these two chains of title states that the following is transferred along with the real property:

Also a 1/6 ownership in the water rights owned by Grantor in 70 Creek, Claude's Creek and a deed well (together with a 1/6 ownership in the related pump, generator, and storage tank) used for irrigation and domestic water.

According to IDWR, Wallabys Retreat possessed three water rights before it sold off the lots mentioned in the previous paragraph. I have attached a copy of each water right and have summarized them as follows:

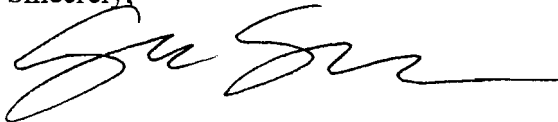
-  (1) **Water Right No. 27-7155** is for the water from the deep well located on Parcel 3 and allows the use of 0.15 CFS for irrigation use (from 4/15 to 10/31) and 0.10 CFS for domestic use (year round).
- (2) **Water Right No. 27-11944** is for the water from Claude's Creek and allows the use of 0.71 CFS for irrigation (4/1 to 11/01) and 0.06 CFS for stockwater (4/1 to 11/01).
- (3) **Water Right No. 27-4029** is for the water right from Seventy Creek and allows for the use of 0.10 CFS for irrigation (4/1 to 11/01) and 0.09 CFS for stockwater (4/1 to 11/1).

Pursuant to the deed language mentioned above, Brent and Charles each received and currently own a right to a 1/6th interest in each of these three water rights. For example, you each have a right in the deep well to 0.025 CFS for irrigation and 0.016 CFS for domestic use. This legal right cannot be denied and would be affirmed if challenged by the other lot owners in a court of law. The same is true for the other two water rights.

You also requested an opinion concerning how the water from the deep well can be used. This is dictated by Water Right No. 27-7155. According to that water right, you cannot use your 0.016 CFS of domestic use water for irrigation purposes such as the water of lawns, landscape, or trees. However, the water right places no limitation on the use of your 0.025 CFS of irrigation use water from the deed well, which can undeniably be used for all irrigation purposes including the watering of lawns, landscape, and trees.

Please feel free to contact me if you any further questions or are in need of any further assistance.

Sincerely,



SCOTT J. SMITH

SJS/
Enclosures