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FACSIMILE TRANSMISSION

DATE: March 16, 2005
FAX TO: Allen Merritt 736-3037
FROM: Gary Slette
RE: Brian McCoy - Seaboard / Blue Grouse Subd.

NUMBER OF PAGES INCLUDING THIS ONE: 4

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ADDITIONAL MESSAGE:

RECEIVED MAR 30 2001

File! ^{Brown} McCoy / Seaboard

State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.usDIRK KEMPTHORNE
GovernorKARL J. DREHER
Director

March 26, 2001

Brian M. McCoy, President
Seaboard
P.O. Box 3510
Ketchum, Idaho 83340Re: Clarification of Domestic Exemption

Dear Mr. McCoy:

Your letter of March 13, 2001, seeks clarification of the application of the domestic use exemption to the irrigation of trees if the use does not exceed 2500 gpd. It is my understanding that the exemption for domestic uses as defined in Section 42-111(1)(b), Idaho Code, includes any use. However, an exempted domestic use cannot be combined with other domestic uses to provide water for a use that would otherwise require a permit.

Because a domestic use that meets the definition of Section 42-111, Idaho Code, is exempt from the water right permitting process, it is not necessary to amend your existing permit No. 37-08877.

Sincerely,

Norman C. Young
Administrator
Water Management Division

c: Allen Merritt, IDWR, Southern Region

SEABOARD

P.O. Box 3510 • Ketchum, Idaho 83340 • (208) 726-1133 • Fax: (208) 726-1138
March 13, 2001

Mr. Norm Young
Administrator, Water Management Division
Idaho Department of Water Resources
1301 North Orchard St.
Boise, ID 83706-2237

Dear Norm,

My firm owns approximately 80 acres off Ohio Gulch Road in Blaine County, that was planned to be subdivided into residential lots. In connection with our subdivision plans, we drilled a well several years ago, and received a water permit. In preparation for our subdivision plans, you sent a letter dated June 2, 2000 to my attorney clarifying the circumstances under which we would qualify for use of up to 2,500 gpd for irrigating one of the planned subdivision entrances, under Subsection (3) of Section 42-111, Idaho Code. (I've attached a copy of your letter for your convenience).

Since that time, the Blaine County Board of Commissioners have turned down our subdivision request, and we would like to plant and drip irrigate trees on the parcel, using up to 2,500 gpd, until such time as another subdivision plan is approved.

With regard thereto, we have several questions:

1. I presume that the use of 2,500 gpd of water for landscaping portions of the entire parcel (rather than just the subdivision entrance) is included as a permitted use under Subsection (3) of Section 42-111, and accordingly, we could use the existing well to irrigate trees up to 2,500 gpd.
2. Assuming that a single residence is subsequently built on the property, I presume that the total exempted water right usage would be 13,000 gpd, and the 2,500 gpd allocated to the trees would be included as part of the 13,000 gpd.
3. Would the existing water permit (#37-08877) need to be amended to take care of the above contemplated uses?

I'll look forward to your response at your earliest convenience.

Thank you.

Sincerely,



RECEIVED JUN 8 - 2000**State of Idaho****DEPARTMENT OF WATER RESOURCES****1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098**
Phone: (208) 327-7900 FAX: (208) 327-7866**DIRK KEMPTHORNE**
GOVERNOR**KARL J. DREHER**
DIRECTOR

June 6, 2000

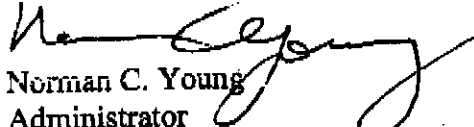
Gary D. Slette
Rosholt, Robertson and Tucker
P.O. Box 1906
Twin Falls, Idaho 83303-1906

Re: Use of Water under Domestic Exemption, Section 42-111, Idaho Code

Dear Gary:

Your memory is good; I recall discussing this matter with you. It is my understanding that the "Any other uses..." of Section 42-111(1)(b) covers any use not described in part (a) of the same section. Use of water for the landscaping at the entrance ways is included in the "any other uses." However, Subsection (3) of Section 42-111, Idaho Code, does not allow multiple domestic water rights to be "stacked" to provide water for a project that otherwise would require a permit to appropriate water. I believe we discussed whether each entrance way could be considered separate and have its own exempt use. Applying Subsection (3), if both entrance ways are part of the same use, the amount of water combined could not exceed a diversion rate of 0.04 cfs and a volume of 2500 gpd.

Sincerely,



Norman C. Young
Administrator
Water Management Division

c: Allen Merritt, Southern Region, IDWR

2/24/05