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April 10, 2009

M E M O R A N D U M

To: Tom Kennedy, Ty Ryland and Craig Taggart
From: David Hallford
Re: Pleasant Valley Ditch Diversions

Gentlemen:

I have attached the State's "Structure Summary Report" for the Pleasant Valley Ditch, the document that I referred to in our recent phone call. This document reflects the State's records of the water rights associated with the ditch, the extent and nature of irrigation, and recorded diversions. You will see on the second page the diversion summary from 1974 through 2008 and the maximum, average and minimum amounts of diversions shown over that period of record.

Of interest is the column entitled "MaxQ & Day." While all of the monthly totals on this page are in acre feet, the Division of Water Resources confirmed to us that this column shows the amount of c.f.s. diverted, which is an important distinction. For example, this column shows 18 c.f.s. diverted on June 25, 1974. Using the ratio of c.f.s. to acre feet (1 c.f.s. equals 1.983 acre feet, or 2.0 rounded for convenience), 18 c.f.s. would produce 36 acre feet in a day. That 18 c.f.s. is identified as the maximum diversion during this period of record and it is interesting that since 1984, the maximum diversion rate has been 12 c.f.s. in 1986. Thus, in the more recent records, the ditch has been maxing at about half of its decreed 20 c.f.s. of water rights and the report shows an average of 9 c.f.s. diversion over the entire period of record.

This may be some of the information concerning Janie Goldberg. In speaking with her attorney, Jeff Houpt, he had no more specific information except that he believes that at one point there was concern about some culverts in the upper section of the ditch that could restrict the delivery to less than 20 c.f.s. He thought that the group may have commissioned some work on the diversion facilities and in regard to culverts to try to rectify that problem, and he recalled that Tom Kinney, attorney for Lizard Head Wilderness Ranch (f/k/a Faraway Ranch) had

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indicated concern that the more recent diversion records may result in a listing of the water rights for partial abandonment when the Division Engineer issues his 2010 abandonment list.

Ultimately, the question becomes whether the shareholders need the full 20 c.f.s. for their irrigation. In that regard, look at the first page that shows the irrigated land summary and the 616.5 acres reported in the year 2000. In that year the ditch diverted 1623 acre feet, or about 2.6 acre feet per acre. The adequacy of that amount of course depends upon the nature of the soil and how it drains, but on its face that seems to be an adequate amount for pasture grass irrigation. We could ask Eric Bikis about his views if we want to have a better feel for the adequacy of the rights for all of the users and/or specifically for Wilson Mesa Ranch Holdings.

Attachment

cc: Eric Klein, Esq.

Structure Summary Report

State of Colorado

HydroBase

Structure Name: PLEASANT VALLEY DITCH

Water District: 60

Structure ID Number: 736

Source: BIG BEAR CREEK

Location: Q10 Q40 Q160 Section Twnshp Range PM
SE NE SE 18 42N 10W N

Distance From Section From N/S Line:

From E/W Line:

UTM Coordinates (NAD 83): Northing (UTM) 4198934

Easting (UTM x): 235921.8

Spotted from PLSS distances from section lines

Latitude/Longitude (decimal degrees): 37.899641

-108.003385

Water Rights Summary:	Total Decreed Rate(s) (CFS):	Absolute:	20.0000	Conditional:	0.0000	AP/EX:	0.0000
	Total Decreed Volume(s) (AF):	Absolute:	0.0000	Conditional:	0.0000	AP/EX:	0.0000

Water Rights -- Transactions

Case Number	Adjudication Date	Appropriation Date	Administration Number	Order Number	Priority Number	Decreed Amount	Adjudication Type	Uses	Action Comment
00CW0166	1929-02-26	1916-07-02	25826.24289	0	166	0.0600 C	S,TT	1A	AUG USE ADDED; 3.23AF/IRG SEASON; REPL WILSON
00CW0166	1929-02-26	1916-07-02	25826.24289	0	166	0.0600 C	S,TF	1	USE ADDED
03CW0276	1929-02-26	1916-07-02	25826.24289	0	187	1.0600 C	S,TF	1	USE ADDED
03CW0276	1929-02-26	1916-07-02	25826.24289	0	166	0.2900 C	S,TF	1	USE ADDED
03CW0276	1929-02-26	1916-07-02	25826.24289	0	166	0.2900 C	S,TT	1A	USE ADDED; BERMAN BUCKSKIN RANCH P/A;
03CW0276	1929-02-26	1916-07-02	25826.24289	0	187	1.0600 C	S,TT	01	USE ADDED STORAGE IN BBR PONDS
03CW0276	1929-02-26	1916-07-02	25826.24289	0	166	1.6000 C	S,TT	01	USE ADDED FOR STORAGE IN BBR PONDS
03CW0276	1929-02-26	1916-07-02	25826.24289	0	166	1.6000 C	S,TF	1	USE ADDED
97CW0114	1929-02-26	1916-07-02	25826.24289	0	166	0.2500 C	S,TT	1A	AUG USE ADDED; FARAWAY P/A; LIMIT 6.16AF/YR
97CW0114	1929-02-26	1916-07-02	25826.24289	0	166	0.2500 C	S,TF	1	USE ADDED
CA3785	1929-02-26	1916-07-02	25826.24289	0	166	12.0000 C	S	1	REFER TO DECREE FOR LOCATION BEAR CR
CA3785	1929-02-26	1916-07-02	25826.24289	0	187	8.0000 C	S	1	
90CW0117	1990-12-31	1989-09-01	51134.51013	0		0.2400 C	S,C	0	FILLS WILSON MESA PONDS 1 & 2, AKA BEAR CR
99CW0122	1990-12-31	1989-09-01	51134.51013	0		0.2400 C	S,C,AB	0	CANCELED BY COURT 6/20/2006

Water Rights -- Net Amounts

Adjudication Date	Appropriation Date	Administration Number	Order Number	Priority/Case Number	Rate (CFS)			Volume (Acre-Feet)		
					Absolute	Conditional	AP/EX	Absolute	Conditional	AP/EX
1929-02-26	1916-07-02	25826.24289	0	166	20.0000	0	0	0	0	0

Irrigated Acres Summary -- Totals From Various Sources

GIS Total (Acres):	616.571	Reported: 2000
Diversion Comments Total (Acres):	445	Reported: 2000
Structure Total (Acres):		Reported:

Irrigated Acres From GIS Data

Year	Land Use	Acres Flood	Acres Furrow	Acres Sprinkler	Acres Drip	Acres Groundwater	Acres Total
1993	***Year Total***	576.83	0	0	0	0	576.83
1993	GRASS_PASTURE	576.83	0	0	0	0	576.83
2000	***Year Total***	616.57	0	0	0	0	616.57
2000	GRASS_PASTURE	616.57	0	0	0	0	616.57

Diversion Summary in Acre-Feet - Total Water Through Structure

Year	FDU	LDU	DWC	Maxq & Day	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Total
1974	1974-06-05	1974-10-31	149	18 06-25	0	0	0	0	0	0	0	809	809	262	77	84	2042
1975	1975-06-27	1975-10-15	111	15 06-27	0	0	0	0	0	0	0	119	887	649	292	119	2065
1976	1976-05-21	1976-10-24	157	10 06-25	0	0	0	0	0	0	65	401	526	188	119	54	1353
1977	1977-05-19	1977-10-30	165	7 06-02	0	0	0	0	0	0	77	409	280	184	179	179	1307
1978	1978-06-12	1978-10-30	141	8 06-12	0	0	0	0	0	0	0	283	433	309	163	119	1307
1979	1979-06-06	1979-10-30	147	5 06-06	0	0	0	0	0	0	0	248	307	307	258	179	1299
1980	1980-06-06	1980-10-14	131	7 06-06	0	0	0	0	0	0	0	347	377	228	161	56	1168
1981	1981-05-13	1981-10-30	171	7 06-23	0	0	0	0	0	0	188	329	331	343	298	222	1712
1982	1982-06-02	1982-10-20	141	15 06-02	0	0	0	0	0	0	0	863	793	615	307	198	2777
1983	1983-06-29	1983-10-24	118	9 07-06	0	0	0	0	0	0	0	28	534	315	298	238	1412
1984	1984-06-18	1984-09-05	80	10 06-18	0	0	0	0	0	0	0	258	615	452	50	0	1375
1985	1985-06-25	1985-09-25	93	10 07-12	0	0	0	0	0	0	0	95	541	395	198	0	1230
1986	1986-06-02	1986-10-07	128	12 06-20	0	0	0	0	0	0	0	619	670	448	284	69	2091
1987	1987-06-22	1987-10-24	125	7 06-22	0	0	0	0	0	0	0	125	343	307	266	143	1184
1988	1988-05-24	1988-09-30	130	7 05-24	0	0	0	0	0	0	111	417	323	282	238	0	1371
1989	1989-05-17	1989-10-30	167	8 05-17	0	0	0	0	0	0	238	476	456	276	119	119	1684
1990	1990-05-10	1990-10-23	167	8 06-21	0	0	0	0	0	0	218	357	456	371	268	171	1841
1991	1991-06-15	1991-10-22	130	10 06-15	0	0	0	0	0	0	0	317	555	321	179	131	1502
1992	1992-05-08	1992-10-30	176	10 06-10	0	0	0	0	0	0	333	541	549	484	376	309	2594
1993	1993-05-21	1993-10-30	163	10 06-08	0	0	0	0	0	0	153	553	460	375	298	298	2136
1994	1994-05-27	1994-10-30	157	7 06-22	0	0	0	0	0	0	50	333	430	323	243	223	1603
1995	1995-05-22	1995-10-17	149	10 07-12	0	0	0	0	0	0	99	428	593	538	401	169	2227
1996	1996-06-03	1996-10-30	150	10 06-24	0	0	0	0	0	0	0	472	478	369	243	179	1741
1997	1997-05-30	1997-10-30	154	9 07-07	0	0	0	0	0	0	28	470	538	468	360	188	2051
1998	1998-06-13	1998-10-24	134	10 06-13	0	0	0	0	0	0	0	357	615	529	498	393	2391
1999	1999-05-12	1999-10-18	160	10 05-12	0	0	0	0	0	0	397	595	615	564	492	286	2948
2000	2000-05-26	2000-10-21	149	10 05-26	0	0	0	0	0	0	119	496	379	268	216	146	1623
2001	2001-05-24	2001-10-30	160	11 06-28	0	0	0	0	0	0	127	502	544	324	268	233	1998
2002	2002-06-08	2002-10-30	145	4 06-08	0	0	0	0	0	0	0	160	130	108	104	104	605
2003	2003-05-27	2003-09-03	100	4 05-27	0	0	0	0	0	0	42	232	186	135	12	0	607
2004	2004-06-03	2004-10-31	132	6 06-03	0	0	0	0	0	0	0	336	277	82	217	249	1161
2005	2005-06-08	2005-09-22	107	5 07-27	0	0	0	0	0	0	0	187	228	330	234	0	978
2006	2006-05-29	2006-10-30	155	8 07-06	0	0	0	0	0	0	44	421	458	421	270	253	1867
2007	2007-05-16	2007-10-30	153	4 05-16	0	0	0	0	0	0	40	182	177	142	126	126	793
2008	2008-05-06	2008-10-30	178	7 06-10	0	0	0	0	0	0	211	351	333	341	232	215	1685
Minimum				4	0	0	0	0	0	0	0	28	130	82	12	0	605
Maximum:				18	0	0	0	0	0	0	397	863	887	649	498	393	2948
Average				9	0	0	0	0	0	0	73	375	464	344	238	156	1649

35.00 years with diversion records

Notes: The average considers all years with diversion records, even if no water is diverted.

The above summary lists total monthly diversions.

* = Infrequent Diversion Record. All other values are derived from daily records.

Average values include infrequent data if infrequent data are the only data for the year.

Diversion Comments

IYR	NUC Code	Acres Irrigated	Comment
1975		500	
1976		500	
1978		500	
1979		500	
1980		500	
1981		400	
1983		400	
1984		400	
1985		400	
1987		375	
1989		400	
1990		445	
1991		445	
1992		445	IRR ON WILSON MESA
1993		445	IRR ON WILSON MESA
1994		445	IRR ON WILSON MESA
1995		445	IRR ON WILSON MESA
1996		445	IRR ON WILSON MESA
1997		445	IRR ON WILSON MESA
1998		445	IRR ON WILSON MESA
1999		445	IRR ON WILSON MESA
2000		445	IRR ON WILSON MESA

Note: Diversion comments and reservoir comments may be shown for a structure, if both are available.