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MEMORANDUM

TO: Eric Bikis, Shane Sigle, Tom Gorton
FROM: Geoff Craig
RE: Abling-Cash Water Ownership
DATE: November 4, 2004

Based on my ownership research and the public records, the current ownership of Abling-Cash water appears to be as follows:

Gorton Family Partnership, LLLP: 0.4048 F-4 and 0.2510 F-15

Spraker: 0.0184 cfs F-4 and 0.0162 cfs F-15

Sam Jamot Brown III, trustee (Dec. 1994): 0.0736 F-4 and 0.0464 F-15

Sarver (Oct. 1993): 0.0513 F-4 and 0.02255 F-15 (it appears Sarver and Spraker each own Spraker 0.02255 F-15 an undivided ½ interest in 0.0451 F-15)

Vogl: 0.0248 cfs F-4 and 0.0157 cfs F-15

Koster: 0.0268 cfs F-4 and 0.0169 cfs F-15

Bell: 0.0303 cfs F-4 and 0.0191 cfs F-15

Villers: 0.02 cfs F-4

Blue Spruce Lodge Owners: 0.01cfs F-4 and 0.0062 cfs F-15

The above amounts add up to the total decreed amounts for the Abling-Cash (0.66 cfs F-4 and 0.4166 cfs F-15). Based on deeds of record, it appears that all water rights in the Abling-Cash, except for what was owned by Blue Spruce Lodge, were acquired by Dorsett, Phelps and Motz (0.65 cfs F-4 and 0.4104 cfs F-15). Dorsett et al. then conveyed their water to Villeli, Brown, Colwell and Sarver. Villeli then conveyed his share to Gorton. It appears Colwell conveyed his share to Spraker.

Sarver conveyed to Vogl, Koster, and Bell, and it appears he also conveyed to Villers and Spraker, resulting in the above described ownership.

The deed to the Spraker Family Trust for Lot 13R, Sarver Boundary Adjustment describes an undivided $\frac{1}{2}$ interest in 0.0449 cfs of F-15 water in the Abling-Cash. Based on a letter from Spraker I obtained from Janice Sheftel's files ("the Spraker Letter"), it appears this water came from Sarver's F-15 water described above. There is also a deed to the Spraker Family Trust from the Colwell Trustees for another portion of the Spraker land which does not describe any water rights. However, based on the Spraker Letter, it appears Spraker claims he owns the Colwell water described above (0.0184 cfs F-4 and 0.0162 cfs F-15) in addition to one half of Sarver's F-15 water (0.02255).

Additionally, the Villers purportedly received 0.02 cfs of F-4 water in the Abling-Cash when they bought Lot 15R, Sarver Boundary Adjustment, from Hamilton, Trustee. This water apparently came from Sarver's F-4 share. We may need to do additional research to trace the ownership of the Villers and Spraker water rights, as I have not researched the whole chain of title for these conveyances. It would also be helpful to talk to Sarver to confirm his current ownership and the water he has conveyed.

The Brown water was transferred to the S&S Ditch under Case No. 95CW45. The Blue Spruce water was transferred by the Andersons to the Blue Spruce Lodge under Case No. 85CW39. Pursuant to these cases, 4.54 acres were retired from irrigation by the Abling-Cash.

Bell, Vogl, Koster, Villers and Spraker currently own historic acreage under the Abling-Cash. The other owners within the Abling-Cash historic use area received no Abling-Cash water rights in their deeds. This makes sense because all of the decreed Abling-Cash water is accounted for pursuant to the conveyances described above. Additionally, based on my review of the plats and deeds to Florida Estates HOA, no Abling-Cash water was dedicated to the Florida Estates Subdivisions by the developers. Thus, any land within the historic use area not owned and irrigated by Bell, Vogl, Koster, Villers and Spraker with their water rights, and which has not already been dried up through the Brown and Blue Spruce change cases, is available for dry up. Of the remaining historic acres not owned with Abling-Cash water rights, we will probably need to allocate a portion to Sarver's remaining water rights, which appear to be held, like Gorton, without owning historic land. The rest of the historic lands are available to us for dry up in our change case.

WWE has identified the historic irrigated acreage under the Abling-Cash, including those lands irrigated on the Bell, Vogl, Koster, Villers and Spraker parcels. WWE can now identify the remaining historic lands available for dry up, including lands owned by Thompson, Roundtree, Klemke, Bernhardt, Miller, Wolff, Breed, Stransky, Padover, Holmes, Bischoff, Wilson, and the Florida River Estates HOA. I have marked the owners of historic lands on WWE's map which were not identified on the previous map, and will get this to WWE. WWE should also assess whether the

water rights owned by Bell, Vogl, Koster, Villers and Spraker are sufficient to irrigate the historic irrigable lands they now own. If not, we may be able to claim some of their land for dry up.

According to WWE's latest map, the irrigated acres from the 1966 aerial photograph total 43.1. From talking to Shane, this is probably our best case for historic use. If we take off the irrigated acreage owned by Bell, Vogl, Koster, Villers and Spraker (10.77), and the land previously dried up (4.54), that leaves 27.8 acres available for dry up. In Case No. 85CW39, it was found that historic acreage was 36 acres. If we used that number, then 20.7 acres would be available for dry up. If we allocated about 2.8 acres to Sarver based on his percentage ownership of Abling-Cash water, that leaves about 17.9 acres available to us to dry up. Based on the assumption of 1.49 acre-feet of consumptive use ("C.U.") per acre used in Case No. 85CW39, this translates into 26.67 acre-feet of C.U. that we can change.

Eric and Shane, does the above analysis of historic acreage and C.U. sound about right to you? Should we use the assumptions of the 85CW39 case, or can we support different assumptions that will give us more C.U.? Please identify the historic acres you think we can dry up based on the ownership set forth in this memo, the C.U. associated with those acres that we could change, and estimate the number of units we could serve with the C.U. you think we can change. Please also estimate the best case and worst case in terms of historic acreage and associated C.U. that you think we can prove; and the number of units you think we can serve under the best and worst case.

Set forth below are the deeds pertinent to this analysis.

Abling-Cash Water Deeds

Florida River Estates, Inc. to Dorsett, Phelps and Motz (June 1993): 0.65 c.f.s. F-4 and 0.4104 c.f.s F-15

Motz, as PR of Estate of Alton Dorsett to Dorsett, Phelps and Motz (June 1993): 0.65 cfs F-4 and 0.4104 F-15

Childers to Dorsett, Phelps and Motz (Dec. 1994): All of grantee's right, title, interest, claim and demand, if any, in an undivided one-half (1/2) interest in and to the Abling-Cash Ditch and all improvements thereto.

Dorsett, Phelps and Motz to Colwell Trustees (Dec. 1994): 0.0184 cfs F-4 and 0.0166 cfs F-15

Dorsett, Phelps and Motz to Sam Jamot Brown III, trustee (Dec. 1994): 0.0736 F-4 and 0.0464 F-15

Dorsett, Phelps, and Motz to Sarver (Oct. 1993): 0.1532 F-4 and 0.0968 F-15

Dorsett, Phelps and Motz to Villeli (May 1998): 0.4048 cfs F-4 and 0.2510 cfs F-15

Sarver to Vogl (Nov. 1993): 0.0248 cfs F-4 and 0.0157 cfs F-15

Sarver to Koster (Nov. 1993): 0.0268 cfs F-4 and 0.0169 cfs F-15

Sarver to Bell (Nov. 1993): 0.0303 cfs F-4 and 0.0191 cfs F-15

Colwell Trustees to Motz, Dorsett and Phelps (Jan. 1995): 0.0004 cfs F-15

Villelli and Rancho Durango, Ltd. to Gorton Family Partnership, LLLP (Mar. 2004): 0.4048 F-4 and 0.2510 F-15

Other Deeds in Historic use Area of Abling-Cash

Childers, Trustee to Holmes (Sept. 77): Lot 4 in Block 5 of Florida River Estates Resubdivision. No water rights described. No other water rights deed located.

Engler to FRE HOA (June 2001): water development and distribution facilities and associated water rights administered by grantee for purpose of providing domestic water service within FRE resubdivision.

Drake to Bernhardt Family Trust (August 1990): Lot 2, Florida River Estates Second Subdivision. No water rights described. No other water rights deed located.

Hovis to Stransky (July 2003): Lot 2 of Block 5 in FRE Resubdivision, together with any water rights appurtenant to or historically used on land, including but not limited to all water wells. No other water rights deed located.

Breed to Breed (see map or deed for description) (April 98): No water rights described. No other water rights deed located.

Keith to Wolff (June 2004): Lot 2 of Bloc 6, FRE resubdivision. No water rights described. No other water rights deed located.

Ross to Miller (Dec. 1998): Lot 1 of Block 6, FRE resub. No water rights described. No other water rights deed located.

Vanderpoel to Wilson (May 1994): Lot 12 of Block 6 FRE subdivision. No water rights described. No other water rights deed located.

Estate of Doris Wilson to John Wilson (Jan 1997): Lot 12 of Block 6 FRE resubdivision. No water rights described. No other water rights deed located.

Bischoff to Bischoff, trustees (Dec. 1995): Lot 11, Block 6, FRE resub. No water rights described. No other water rights deed located.

Florida River Estates, Inc., by Susan Motz, President, to FRE HOA (Aug. 1991): Lots 1, 6, 6a and 7, Block 5 FRE resub and Lot 15, Block 5, FRE resub, less property described. No water rights conveyed.

Colwell Trustees to Spraker Family Trust (March 1996): SE1/4SE1/4 of Section 5 and NE1/4NE1/4 of Section 8, more particularly described in deed. No water described.

Spraker Family Trust to Richard Spraker (Oct. 2001): SE1/4SE1/4, Section 5 and NE1/4NE1/4 Section 8, more particularly described in deed or map. No water rights described.

Gilbert to Spraker Family Trust (April 2000): Lot 13R, Sarver Boundary Adjustment, less certain property described. Together with an undivided ½ interest in 0.04459 cfs of water from the Abling-Cash Ditch, F-15.

Richard Spraker to Spraker Family Trust (Oct. 2001): SE1/4SE1/4, Section 5 and NE1/4NE1/4 Section 8, more particularly described in deed or map. No water rights described.

Bell to Bell Revocable Trust (July 96): Lot 12, FRE Second Subdivision. No water rights described. Water rights conveyed by separate deed set forth above.

Vogl to Vogl Trustees (Dec. 1990): Lot 14, FRE Second Subdivision. No water rights described. Water rights conveyed by separate deed set forth above.

Roundtree to Koster (Oct. 2000): Lot 17, FRE Second Subdivision. No water rights described. Water rights conveyed by separate deed set forth above.

Hamilton, Trustee to Villers (Aug. 1999): Lot 15R, Sarver Boundary Adjustment, less certain property described. Together with 0.02 cfs of water from Abling Cash Ditch, F-4.

Roundtree to Villers (Aug. 2001): Lot 15R-1 Roundtree-Villers Boundary Adjustment, Less certain property described. Together with 2 acre feet of Florida Project Water Annually. No other water rights deed located.

Roundtree to Thompson (Jan 2004): Lot 18, FRE Second Subdivision. No water rights described. No other water rights deed located.

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Roundtree to Roundtree (July 1998): Lot 19, FRE Second Subdivision. No water rights described. No other water rights deed located.

Sieber to Klemcke (Oct. 2002): Lot 1 in FRE Second Subdivision. Together with all water rights appurtenant to property, including 6 acre feet of water annually in the Florida Water Conservancy District. No other water rights deed located.

Plats in Florida River Estates

The plats do not described any water rights in Abling-Cash dedicated for use within the subdivisions. One plat states that “an approved community water system will be installed by Florida River Estates, Inc..”

Please call with any questions or comments.

Sincerely,

GEOFFREY M. CRAIG LLC

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