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October 27, 2009

Richard Cortese
Edgemont Ranch Metropolitan District
5972 CR 234
Durango, CO 81301

Re: Ownership of Gorton water rights and conveyance deed

Dear Richard:

You requested that I provide you with my analysis and opinion as to ownership of the water rights being conveyed to you by Gorton Family Partnership, LLLP (“Gorton”), and the transfer document that should be used for the conveyance.

Ownership of Water Rights

The water rights I have reviewed for this letter are the Spring Valley Lake Reservoir, Spring Valley Pipeline, the Ogden Shirmer Ditch, and the Abling & Cash Ditch. It is my understanding that these are the water rights which Gorton will convey to the Edgemont Ranch Metropolitan District (“the District”) as part of the latest transaction.

Abling & Cash Ditch

Attached is a memo I previously prepared which outlines the ownership of the Abling & Cash Ditch (“A-C”) water right as of 2004. To determine ownership, I reviewed the deeds in the chain of title of the A-C, which are listed in the memo. The chain of title showed that 0.4048 cfs F-4 and 0.2510 cfs F-15 of the A-C were conveyed to Tom Villelli and then conveyed to Gorton. Attached is the deed Gorton received for these water rights, recorded on 5/3/2004 under Reception No. 883684, reflecting Gorton’s ownership of 0.4048 cfs F-4 and 0.2510 cfs F-15.

This analysis does not consider any potential adverse possession claims related to Gorton’s A-C water right. Gorton owns water in the A-C ditch, but does not own land under the ditch and thus does not use the water. I believe Tom Villelli, who received the A-C water right by deed in 1998, also did not own land under the A-C ditch. I don’t know whether Villelli’s predecessor owned land under the ditch and used the water there. It is possible that a landowner under the A-C ditch

has been using Gorton's water, and could try to make a claim for adverse possession. A party seeking to establish ownership of a water right by adverse possession has the burden of establishing that such possession is actual, adverse, hostile and under claim of right, as well as open, notorious, exclusive and continuous for the prescribed statutory period of 18 years. To my recollection, adverse possession claims for water rights have not come up in my practice, so I am assuming they are rarely raised. This potential issue should be resolved through the change case. If the A-C water right can be changed without ownership challenges from other land owners, the change should defeat any potential adverse possession claims, because after the change is accomplished, the A-C water right could then only be legally diverted at the District's point of diversion, and not at the A-C Ditch headgate, and the change would be settled as to all issues, including ownership. Whether a landowner on the A-C ditch has been using Gorton's A-C water, and if so, whether he may be able to satisfy the 18 year time period and other elements of adverse possession, would require additional investigation. I suggest it would be better for the District not to do that investigation or raise any issues about it, but rather file the change case, and see if anyone objects in the case and raises that issue. If nobody raises the issue, it is moot.

Spring Valley Lake Reservoir

The Spring Valley Lake Reservoir water right was originally adjudicated by Tom Vilelli's entity Rancho Durango, Ltd ("Rancho Durango") in Case No. 83CW19 (Water Division 7), so Rancho Durango was the original owner. Rancho Durango conveyed this water right to Gorton under the deed recorded on 10/14/2005 under Reception No. 920330, attached hereto.

Spring Valley Pipeline

The Spring Valley Pipeline water right was originally adjudicated by Rancho Durango in Case Nos. 83CW19 and 83CW114 (Water Division 7), so Rancho Durango was the original owner. Rancho Durango conveyed this water right to Gorton under the deed recorded on 4/23/2003 under Reception No. 855094, attached hereto.

Ogden Shirmer Ditch

Rancho Durango conveyed the Ogden Shirmer water right to Gorton through the deed recorded on 4/23/2003 under Reception No. 855094, attached hereto. I have reviewed the deeds in the chain of title of this water right, which consistently conveyed the water right down through the chain of title to Gorton, the latest owner.

Summary of Ownership

The above research and analysis shows that Gorton has obtained record ownership of the above-described water rights, and can convey them to the District.

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For additional information on these water rights, including decreed uses, amounts and priorities, please see my letter to you and Tom Gorton dated January 14, 2008.

Conveyance Deed

I understand that a quit claim deed has been discussed for the conveyance of the water rights. I recommend that a bargain and sale deed be used. Neither deed contains warranties but a bargain and sale deed also conveys after acquired title, while a quit claim deed does not. Both of these deeds are common for water rights conveyances. I typically use bargain and sale deeds for water conveyances. It is uncommon for buyers of water rights to obtain warranty deeds, due to the nature of water rights.

Please contact me with questions or comments, or if there are other issues you would like me to address.

Sincerely,

THE CRAIG LAW FIRM P.C.

By: /s/ Geoffrey M. Craig
Geoffrey M. Craig

enclosures