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OF COUNSEL:

JOHN A. THULSON

March 8, 2007

Ms. Holly McLain  
Moon Run Ranch  
8276 Snowmass Creek Road  
Snowmass, CO 81654

**Re: Water Rights Associated with Moon Run Ranch**

Dear Holly:

We have completed a review of the water rights associated with your property at Moon Run Ranch, Snowmass, Colorado. In performing our investigation, we reviewed our files, the various decrees pertaining to your water rights, the Division Engineer's diversion and tabulation records and deeds of record in Pitkin County, Colorado.

We have not engaged in a review of title to the water rights, the status of easements or rights-of-way associated with the water rights, nor engaged in an environmental, wetlands or water quality audit for the property and offer no opinion as to these matters.

Based upon our examination of the materials described above and subject to the limitations and exceptions set forth below, we have concluded the water rights associated with your property to be as follows:

**Irrigation Water Rights**

1.6 c.f.s. of the Powell-McKenzie Ditch with a date of appropriation of June 1885 and 0.3 c.f.s. of the Powell-McKenzie Ditch with a June 1887 date of appropriation decreed for irrigation of approximately 92.5 acres.

The Powell-McKenzie Ditch was decreed in Civil Action No. 1079. Therein, the Court awarded Edwin Powell 1.5 c.f.s. absolute for irrigation of 75 acres and an additional 0.3 c.f.s., conditional, for irrigation of 15 acres with a date of appropriation of June 1887 (hereinafter, the "1887/Powell rights"). The Court also awarded Ann McKenzie, an intervening applicant, a 1.10 c.f.s. absolute right for irrigation of 55 acres and 0.5 c.f.s., conditional right, for irrigation of 22.5

**BALCOMB & GREEN, P.C.**  
ATTORNEYS AT LAW

Ms. Holly McLain  
Moon Run Ranch

March 8, 2007  
Page 2

acres<sup>1</sup> with an appropriation date of June, 1885 (hereinafter, the "1885/McKenzie rights"). All of the 1885/McKenzie rights appear to be associated with the Moon Run Ranch. In addition 0.3 c.f.s. (the conditional portion) of the 1887/Powell rights appear to have been used on the property.

The Snowmass Water & Sanitation District changed the 1.5 c.f.s. absolute 1887/Powell rights in Case No. 81CW29 to the Snowmass Pipeline for use by the District. In that case, the Snowmass Water & Sanitation District originally sought to change the conditional 0.3 c.f.s.; however, the Court found it did not have jurisdiction over the 0.3 c.f.s. conditional portion of the 1887/Powell rights and as such these rights remained unchanged. Moon Run Ranch filed an application to make the 0.3 c.f.s. absolute based on irrigation of an additional 15 acres in Case No. 06CW112. Snowmass Water & Sanitation District did not appear in the case and the Water Court did not make any determination as to ownership of the rights as the Water Court is without jurisdiction to do so.

It is worth noting that the Special Warranty Deed dated July 23, 1992 and recorded on July 24, 1992 in Book 684, Page 351 at Reception No. 347028 and the Quit Claim Deed dated April 21, 2005 and recorded at Reception No. 50928 on April 22, 2005 with the Pitkin County Clerk & Recorder purported to convey the "McKenzie Right from Snowmass Creek, Priority No. 455 together with an appurtenant right in the Powell-McKenzie Ditch to carry such water... ." According to the Decree in CA1079 and the Division Engineer's tabulations, the Powell-McKenzie Ditch is Priority No. 123AA, not Priority No. 455; and, the amount of the McKenzie Right is 1.6 c.f.s. rather than 1.5 c.f.s. as discussed above.

**Surface & Storage Water Rights**

Moon Run Ranch currently uses the following surface and storage water rights:

- Powell-McKenzie Ditch; 1.9 of 3.4 c.f.s. as discussed above.
- Moon Run Ranch Feeder Ditch; Case No. 90CW143; 1.5 c.f.s., absolute, to fill and refill the Moon Run Ranch Pond, appropriated June 30, 1981 and adjudicated October 19, 1990.
- Moon Run Ranch Pond; Case No. 90CW143; 1.4 acre feet, absolute, for fire protection, piscatorial and aesthetics, appropriated June 30, 1981 and adjudicated October 19, 1990. No irrigation use from the pond is allowed.

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<sup>1</sup> The 0.5 c.f.s. was decreed absolute by the Court in Case No. W-79.

**BALCOMB & GREEN, P.C.**  
ATTORNEYS AT LAW

Ms. Holly McLain  
Moon Run Ranch

March 8, 2007  
Page 3

- Moon Run Spring Nos. 1 and 3, more particularly described as follows:

	Approp.	Adj.	Amt	Case No.	Uses	Location
Moon Run Spring No. 1	6/1975	4/2/1982	0.0022cfs	80CW28	Irrigation	NW1/4NE1/4 S34 T9S R86W 108' S nsl; 3,755' E wsl
Moon Run Spring No. 3 <sup>2</sup>	12/31/1975	2/2/1981	0.10 cfs	80CW30	Irrigation	NE1/4NE1/4 S34 T9S R86 1,004' S nsl; 1,546' E wsl

**Water Wells**

The Colorado Division of Water Resources' records include two well permits for wells located on Moon Run Ranch as follows:

Well	Permit No.	Issued	Amount	Case No.	Uses	Location	Depth
Moon Run House Well	78771 (only well on 35 ac)	4/21/1975	0.033 cfs	80CW63; approp. 6/3/1974	Domestic, in-house only (1 Single family dwelling)	NW1/4NE1/4 S34 T9S R86W 737' S of nsl; 3,416' E of wsl S34	55'
Moon Run Barn Well	78772 (only well on 35 ac)	4/21/1975	0.033 cfs	80CW63; approp. 4/11/1975	Domestic; livestock	NW1/2NE1/4 S34 T9S R86 587' S of nsl; 2,856' E of wsl, S34	32'

Our opinion in this matter is limited to our review of the information contained within the documents discussed. It is possible that information exists which we have not reviewed that might alter our opinions. In addition, our review of the documents was for the limited purpose of determining the water rights associated with the Moon Run Ranch. This letter does not constitute an opinion as to title or legal status of the water rights and should not be relied upon for those purposes.

Specifically excluded from our opinion, and outside the scope of our research are claims of adverse possession related to the water rights, title matters relating to the land underlying the subject water rights, opinions regarding rights of way and easements for the water rights, adequacy of the physical water supply for the intended purpose, matters that may be disclosed by an accurate survey of the real property, statutory liens, easements, or claims not shown by the public record. Copies of the deeds and decrees are available upon request.

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<sup>2</sup> Moon Run Springs No. 3 is intercepted by the Powell-McKenzie Ditch and transported therein to its place of use.

**BALCOMB & GREEN, P.C.**  
ATTORNEYS AT LAW

Ms. Holly McLain  
Moon Run Ranch

March 8, 2007  
Page 4

We appreciate the opportunity to work with you on this matter. If you have any questions, please do not hesitate to call.

Very truly yours,

BALCOMB & GREEN, P.C.

By: *Sara M. Dunn*  
Sara M. Dunn

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