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Teton County Board of County Commissioners
c/o Sandy Birdyshaw
200. South Willow
P.O. Box 3594
Jackson, WY 83001

Via Hand Delivery and Email to sbirdyshaw@tetonwyo.org

RE: Melody Ranch Third Well Requirement

Dear Commissioners:

I write on behalf of the Meadows of Melody Ranch Homeowners Association, Inc. ("Melody Ranch HOA") and the Melody Ranch Improvement and Service District ("Melody Ranch ISD") with respect to the Melody Ranch developer's outstanding obligation to install a third water supply well, should one be deemed necessary. This obligation is part of the approval of Melody Ranch Residential Unit Two – Phase Three (RU2-3), wherein the developer agreed to construct a third well if deemed necessary by water data. This outstanding obligation remains in place through the last plat application from Melody Ranch for Residential Unit One – Ninth Filing.

As you are likely aware, the third culinary well requirement has been a subject of disagreement between the developer and the Melody Ranch HOA for many years. The relevant analysis to date is essentially as follows:

1. The developer commissioned a study by Jorgensen Associates regarding the need for a third water supply well. That study concluded that a third well was not necessary. A copy of this report was previously provided to the Board of County Commissioners on July 29, 2011, but is being attached hereto as Exhibit A for convenience of reference.
2. Upon receipt of this study, Melody Ranch HOA hired Nelson Engineering to conduct a peer review of Jorgensen's third well study. This study addressed numerous flaws in the Jorgensen methodology and concluded that a third well should be required to be added to the Melody Ranch water system to ensure that if a well were ever to go out of service, adequate

water will be available to the users. This study was likewise provided to the Board in July 2011, but is being attached hereto as Exhibit B for convenience of reference.

3. Thereafter, Jorgensen Associates responded to the Nelson Engineering Peer Review study, and again concluded that no additional supply was needed for the Melody Ranch water system to meet the requirements of DEQ regulations. A copy of this correspondence is attached hereto as Exhibit C.
4. In response to this letter, Nelson Engineering refined its analysis of water usage data, and reiterated the following based on all available information, studies and calculations:
 - The actual usage data from Melody Ranch demonstrates that the demands are in excess of the values that WDEQ requires be used as default minimums.
 - The water use data shows that projected build-out demands during the summer have the potential to generate maximum day demand in excess of the available supply available from the two wells, which indicates the clear need for a third well.
 - While repairing system leaks will aid in reducing consumption, repairing leaks cannot be counted on to reduce total consumption to less than the currently available supply.
 - Water supply system will significantly fall short of meeting demands during summer periods if a well is out of service, and that typical demands during a summer day cannot be met with a single well.
 - If a well were to go out of service during summer months, Melody Ranch could face a lengthy period of water restrictions.

A copy of this letter is attached hereto as Exhibit D.

5. The Wyoming Department of Environmental Quality (WDEQ) thereafter analyzed the Melody Ranch water systems. In an opinion dated October 5, 2012, WDEQ concluded that while the Melody Ranch water system is capable of supplying the annual average daily flow of water in sufficient quantities to domestic users with one well out of service, WDEQ also specifically conceded Nelson Engineering's point that WDEQ only requires that the total supply [with both wells operating] be capable of providing the maximum day demand, and that where only one well is operating it need only be able to meet average demand. WDEQ agreed that since the WDEQ minimum standards are based upon average annual demands, "designing supply on this basis can often leave systems short of capacity to supply summer average day demands and significantly short of supply to provide summer maximum day demands, particularly when a well is out of service."

WDEQ further conceded that although the two existing wells satisfy DEQ regulations, “this does not guarantee that the existing water system will adequately serve current and projected maximum day demands with only one pump operating, especially with current irrigation practices.” A copy of this letter is attached hereto as Exhibit E.

6. On March 4, 2013, Sean O’Malley, Teton County Engineer, issued a letter to the Melody Ranch developer and the Melody Ranch HOA advising that he had reviewed available data, as well as the studies by Jorgensen Associates and Nelson Engineering, and concluded that a third well is not required. Of significance in Mr. O’Malley’s findings is the following:

- Mr. O’Malley acknowledges that although the water system will meet typical demand, the water system will **not** meet all demand and that in the event of high summer demand and one well out of service, water rationing would be required.
- Mr. O’Malley suggests that repairs to leaks and service lines could readily remedy the waste and overuse of water. What is not addressed, however, is the fact that the water system has been in the control of the developer since its inception. Only recently did the developer choose to preform leak testing, and the testing performed only identified probable locations of leaks, but could not specifically identify where these leaks are occurring. To further identify and repair these leaks is likely a significant expense. Thus, while it is true that repair of the leaks will save water, the method of achieving this is yet another significant cost for Melody Ranch homeowners.

A copy of this letter is attached hereto as Exhibit F.

7. Recently, 2012 water usage data became available which shows that during a dry/drought summer, water usage in Melody Ranch was 20% above normal.

At this time, a determination must be made as to whether the outstanding condition and obligation for a third well has been met. The Melody Ranch HOA and ISD respectfully request two determinations from the Board at this time. First, the Melody Ranch HOA and ISD contend that the decision as to whether this obligation has been met be a Board level, rather than a staff-level decision. Because of the significant impact that the decision will have on the over 350 homeowners of the Melody Ranch subdivision, it is necessary and appropriate that fulfillment of this condition be considered and decided upon by the Board.

The Melody Ranch HOA and ISD further respectfully request that the Board, while acknowledging Sean O'Malley's decision that a third well may not be technically required, determine that based on the totality of the circumstances particular to Melody Ranch in the summer months, either in a drought situation or where one of the existing well fails, warrants the imposition of installation of a third well by the developer. The Board of County Commissioners is not bound to WDEQ standards, but rather must consider the precise reason the condition was imposed upon the developer. Based on the various and competing expert opinions set forth above, there is certainly ample evidence in the record for the Board to rely upon in requiring a third well.

The HOA and ISD maintain that a third well is necessary for the following reasons:

1. Two wells will not provide adequate service to Melody Ranch, both as currently developed, and as projected at build-out, in the event a pump or well fails or is lost. While understanding that both DEQ and the County Engineer have concluded that the current system should be able to meet average flows with one pump out of service, both acknowledge that this differs from an analysis of peak/maximum flows. While understandable that DEQ standards look at average daily demand and maximum daily demand using a standardized gallons-per-day measure, the Board of County Commissioners' consideration as to whether the Melody Ranch PUD outstanding condition and obligation has been met is not limited to DEQ standards, which do not analyze Melody Ranch's particular circumstances. Rather, the Board's determination should consider the actual peak flows data, real levels of water use given the existing conditions for landscaping, potential for well failure, and the additional strain on the water supply shown to occur in a dry/drought summer and when final build-out occurs. Nelson's analysis of this information, as set forth above and in Exhibits B and D, is compelling as to why the Board should require the third well.
2. The Board should also take into consideration Mr. O'Malley acknowledgment that even if the existing leaks are repaired to a reasonable level, if a pump is lost in the summer months Melody Ranch will not have adequate fire flows or culinary water for the 367 owners, plus the County Munger View Park and the Park and Ride that are served by this water flow. This situation will get worse as the remaining 30 yet-to-be developed lots and the full County playfields are built. Even WDEQ acknowledges that although the two existing wells satisfy Chapter 12 regulations, "this does not guarantee that the existing water systems will adequately serve current and projected maximum day demands with only one pump operating, especially with current irrigation practices." See Exhibit E.

3. In determining whether a third well requirement should be imposed upon the developer, it is likewise significant to recognize that the current irrigation practices, which the HOA and ISD agree result in significant water use, are a direct result of the requirements put in place by the developer, who required that all lots have lawns with underground sprinkler systems and a certain amount of landscaping, and supported a system wherein residents were fined and penalized for failing to maintain these landscaping standards. The developer likewise required landscaping within the road right-of-ways (15-feet back from the road edge). The developer greatly benefited from these minimum landscaping standards as it developed and sold the different phases of the subdivision. Likewise, the developer's profitable sale of a tap to the Glory View has exacerbated the high water usage. In sum, the developer's actions and conditions for development within the subdivision are the cause of the high water use, which costs will be passed onto the homeowners in Melody Ranch if they, and not the developer, must pay for the installation of a third culinary well.
4. Lastly, Mr. O'Malley suggests that in the event of a pump or well failure during summer months, water rationing would be available. While perhaps feasible on a theoretical level, water rationing in Melody Ranch is neither practical, manageable, nor enforceable by the Melody Ranch HOA and ISD.

In closing, we ask the Board to consider that the owners who purchased lots and homes in Melody Ranch are entitled to a water system that can adequately satisfy the demands placed on the system at build-out, including all additional demands that have been imposed upon the system by the connections to the water system by the Sage Meadows and Glory View subdivisions. If the developer is not required to install a third well, the cost of which is approximately \$150,000.00 to \$200,000.00, the Melody Ranch HOA and ISD will undoubtedly have to cover the costs of installation in the near future. The expenses will necessarily be passed on to residents, at an estimated \$400.00 to \$500.00 per household. As the Commissioners know, over 45% of the homes served by Melody Ranch's water supply are permanently deed restricted affordable and part of the Teton County Housing Authority, Jackson Hole Community Housing Trust, or Habitat for Humanity of the Greater Teton Area programs. Over 90% of Melody Ranch's homes are occupied by people who live and work full-time in Teton County.

We respectfully request that the Board require the developer to install a third culinary well in Melody Ranch. Thank you for your consideration, and please do not hesitate to contact me with questions.

Regards,

A handwritten signature in blue ink, appearing to read 'Nicole G. Krieger', with a long horizontal flourish extending to the right.

Nicole G. Krieger

cc: David Larson, Sean O'Malley, Paula Stevens, Rich Bloom, Larry Pardee, Keith
Gingery