

MEMORANDUM

TO: Harold Jones

October 12, 2000

FROM: Keith C. Wilson

RE: Letter dated April 19, 2000, from Harry Hartwigsen

On April 25, 2000, in response to a letter from Harry Hartwigsen (Hart Company Partnership), I met with Harry Hartwigsen & Jim Hart. They were concerned about land development and diversions upstream of their diversions on Little Pocatello Creek (Sec 08 NE ¼, T06S, R35E,) and stockwater diversion from an Unnamed Spring (Sec 05, SE¼, T06S, R35E).

Little Pocatello Creek:

- Photo page 1 - Silted in Reservoir.
- Photo page 2 - Silted in Reservoir.
- Photo page 3 - Plank walk to Reservoir control structure
- Photo page 4 - Road culvert upstream of Reservoir w/PVC Pipe through culvert, & stock tanks.
- Photo page 5 - Photo of water quality just above PVC pipe to domestic trailer.
- Photo page 6 - Stream with black PVC pipe supplying water to domestic trailer.

Mr. Hartwigsen and Mr. Hart were concerned with the clearing of land above the reservoir. They claim that before the clearing of the land above the reservoir that they had only had to clean out the silt in the reservoir once in $\approx$ 20 years. They said that after the land was cleared the reservoir silted-in (Photo pages 1, 2, & 3), in only one year. They feel that the current owner will continue developing and using water, and will use the water of Little Pocatello Creek, with or without filing for water rights, thus infringing (stealing) their water rights from Little Pocatello Creek. Mr. Hart and Mr. Hartwigsen also noted that other than their water rights there were no other water right filings for either stockwater or domestic. [Point of Diversion in NE¼ Sec 08, T06S, R35E: 29-02041 / A29-02041 (Hartwigsen & Hart).]

It appears that the black PVC pipe through the culvert (Photo page 4) has been used to fill the stock tanks (Photo page 4); however, there was no diversion into the stock tanks at the time of the field inspection.

I do not know what to make of the black PVC pipe going to the domestic trailer (Pages 5 & 6). The poor water quality of Little Pocatello Creek (Photo page 5 & 6) would make it unsuitable for domestic purposes. No evidence of irrigation was observed. Without irrigation I have no idea as to what the water is being used for or whether or not beneficial use is occurring.

The USGS map of the area indicates that Little Pocatello Creek is an intermittent stream (Map #1). In discussion with Greg Taylor, Little Pocatello Creek would not come under the stream alteration section of the Idaho Code.

It appears that the reservoir capacity and hydraulic height of the reservoir would not place it under the Safety of Dams program. According to Lewis Rounds there are no files in the Safety of Dams program for any reservoirs on Little Pocatello Creek.

I informed Mr. Hartwigsen & Mr. Hart that the silting-in of the reservoir on Little Pocatello Creek was a civil matter, however, they should contact the BLM, DEQ, and any other regulatory agency about the clearing of the land and the resulting decrease in water quality.

As far as the diversions from Little Pocatello Creek I informed them that this office would contact the current owner and inform him of the requirements to file for a diversion from a surface water source.

Memorandum (cont.)

To: Harold Jones

October 12, 2000

From: Keith C. Wilson

RE: Letter from Harry Hartwigsen - Little Pocatello Creek/Unnamed Spring

Unnamed Spring:

Photo page 7 - Old stock tank and pipe from spring location.

Photo page 8 - Black PVC pipe flowing water just below old stock tank.

According to Mr. Hartwigsen and Mr. Hart, the current land owner had fenced in his property and had cut off their access to a supply of water for stockwater from the spring. They indicated that the spring was on BLM ground that they had leased for years, and the tank was on the other land owners property. They wanted to know if they could pipe the water to another location for stockwater.

Point of Diversion & Place of use in SE¼ Sec 05, T06S, R35E:

A29-10589 (Hartwigsen & Hart) Spring, Allotment # 06094

Source AKA Cement Trough Spring

A29-12587 (BLM) Spring, Record # 2903700190

A29-12588 (BLM) Spring, Record # 2903700190

A29-12590 (BLM) Spring, Record # 2903700191

I informed Mr. Hartwigsen and Mr. Hart that they would need to contact the BLM about the BLM requirements on diverting the spring for stockwater (i.e. special use permit). They could also check with the BLM to see if the owner had a special use permit to divert the water from BLM land.

Mr. Hartwigsen and Mr. Hart were also informed that a transfer would have to be filed with IDWR to change the place of use.

I told Mr. Hartwigsen and Mr. Hart that I did not know of any way that they could force the current owner of the land to allow them access to the spring water for stockwater purposes.



Keith C. Wilson
Senior Resource Agent



Date