

15-10603
75-14531
75-14532

Van Bussum, Monica

From: Baxter, Garrick
Sent: Wednesday, November 25, 2009 8:43 AM
To: Van Bussum, Monica
Subject: FW: text of a letter I just put in the mail to you

Correspondence re:
Felton/Heltsley
Ditch from
J. Gregory

FYI...

From: muley8@juno.com [mailto:muley8@juno.com]
Sent: Tuesday, November 24, 2009 6:34 PM
To: Baxter, Garrick
Subject: FW: text of a letter I just put in the mail to you

Garrick:

This is a copy of a letter written by an expert hired by Paddy Murphy and I. We thought you might want it. Feel free to post it on the website.

Thanks

Daryl

----- Forwarded Message -----

From: "Murphy,Patrick" <patrick.murphy@idfg.idaho.gov>
To: <muley8@juno.com>
Cc: <blazetree@centurytel.net>
Subject: FW: text of a letter I just put in the mail to you
Date: Thu, 19 Nov 2009 18:44:16 -0700

Patrick Murphy
Fishery Staff Biologist
Anadromous Screen Program
Idaho Department of Fish and Game
Salmon Region
(208) 756-6022

-----Original Message-----

From: Jim Gregory [mailto:fishchief@yahoo.com]
Sent: Tuesday, November 17, 2009 12:59 PM
To: Murphy,Patrick
Subject: text of a letter I just put in the mail to you

Patrick Murphy
14 Blaze Tree Trail
North Fork, ID 83466
17 November 2009

Dear Mr. Murphy,

The purpose of this letter is to document my observations regarding whether or not a segment of spring stream located on and upstream from the Murphy property is a ditch or a natural stream. The conclusions I draw in this letter are based on my personal field observations which took place during a field tour conducted on 8 November 2009. During that field visit I observed two ditches and my observations and conclusions regarding them are outlined in the following paragraphs.

The upstream most ditch diverts water from the North Fork of the Salmon River ~1650 ft upstream (northeast) of the Murphy house at a point where the North Fork moves away from the base of the mountain slope on the northwest side of the valley (near the center of Township 25 North Range 21 East Section 15 at the green dot on the attached map). This ditch flows southwest along the base of the mountains and feeder ditches split off it to water the meadow south of the ditch. The pastures irrigated by this ditch have not been leveled and therefore there are apparent low spots where the water accumulates and runs into various sloughs and channels ultimately running primarily towards the North Fork of the Salmon River. Just north of the point where the Murphy driveway turns northwest and begins to ascend the hill, the ditch turns southeast and crosses under the driveway. The ditch proceeds out into the pasture and ends. Some water that flows into the pasture past the end of this ditch could collect in low spots and sheet flood into the spring channel located at the base of the mountain and south of the Murphy house.

The second (downstream most) ditch I observed diverts water from a natural spring channel located along the base of the mountain slope on the northwest side of the valley. The diversion point (place where the water is physically diverted from the natural channel) is directly northwest of the Forest Service guard station buildings on Forest Service land (at the yellow dot on the attached map). I observed no headgate or measuring device but an earth dam across the natural channel, though overgrown with vegetation, was clearly visible as a non-natural feature. While the spring channel flows generally from northeast to southwest the earth dam routes the water abruptly towards the northwest where it enters a ditch that flows toward the southwest in a channel (ditch) that is clearly not in the bottom of the valley.

Mr. Murphy and Mr. Hull indicated to me that a contention exists as to 1) whether the upstream ditch that I observed is part of the spring channel and downstream ditch and 2) where the actual physical diversion point of the downstream ditch is located.

The upstream ditch that diverts water from the North Fork of the Salmon River does not physically connect (inject) water into the spring channel which feeds the downstream ditch, as evidenced by the lack of a ditch routing water into that spring channel. Overland flow from the ditch may enter the spring if high flows are present at the end of the ditch. However, that does not constitute an injection of water but rather a collection of wastewater. Therefore, the upstream ditch does not feed and is not a part of the spring channel and downstream ditch.

A diversion point is defined as a point where water is removed from a natural channel. The water in the spring discussed is clearly in the natural channel from the spring source downstream approximately 1000 feet to the point where an earth dam removes it from the natural channel. Not only is this the observed point where water is removed from the natural spring channel, it is the expected point where water would be removed from the natural channel. It is the expected point because diverting water from the actual spring would result in non-diversion of additional water that enters the spring channel as groundwater inflow between the spring and the earth dam. Additionally, during my field visit I observed no evidence that the spring channel upstream from the earth dam had been modified in any way that could be construed as making it into a ditch. Therefore, the physical point of diversion is clearly located on Forest Service land northwest of the Forest Service guard station.

If I can be of further assistance please let me know.

Jim Gregory
Gregory Aquatics
5306 Zollinger Rd.
Mackay, ID 83251

Phone 208-588-2447

Fax 208-246-5505