

KELLY RIGGS EXHIBITS IN THE MATTER OF APPLICATION FOR TRANSFER #81800 IN THE NAME OF CASA DEL NORTE, LP.

- **EXHIBIT #201:** Cold Springs Creek Water District 61E Water Master notes, reports and emails that specifically refer to the damaging water use practices and violations of water administration by Casa Del Norte, LP.
- **EXHIBIT #202:** Idaho Department of Water Resources email that specifically refers to the violation of administration of water by Casa Del Norte, LP.
- **EXHIBIT #203:** Emails from Charles Honsinger, Attorney at Law to IDWR and Rich Neal, Water Master, showing proof of damaging water use practices and violations of water administration by Casa Del Norte, LP.
- **EXHIBIT #204:** Historical water use of Kelly and Paula Riggs property (formally Sam Blackwell) Water Master Reports.
- **EXHIBIT #205:** CDN Irrigated Ground Maps
- **EXHIBIT #206:** CDN Place of Use Maps

I hereby certify that on the 7th day of February 2020, I served a true and correct copy of the exhibits to the parties listed below by the designated method.

HAND DELIVERY:

Charles L. Honsinger
Honsinger Law, PLLC
PO Box 517
Boise, Idaho 83701

Norman Semanko
Parsons Behle & Latimer
800 West Main Street, Suite 1300
Boise, Idaho 83702

OVERNIGHT MAIL:

James Cefalo
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402



Kelly Riggs

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WATER RESOURCES
WESTERN REGION

WATER MASTER RECORD
Cold Springs Creek
Call Out by Double Anchor, July 12, 2011

Charter Mnt. Rch. Inc.	338 (1870)	1.84cfs	=1.84 (1 st priority)	
	339 (1875)	1.5 cfs		
	332 (1875)	2.72cfs	=4.22 (3 rd priority)	
			Mainline Meter reads 1110 to 1236 Gal/Min. or 2.4 to 2.75 CFS	
Charter Mnt. Has Cold Springs Creek 100% diverted into the mainline pipe. Since it is running free flow there is no firm reading for amount of water in the creek.				

Double Anchor Rchs. Inc.	322 (1871)	0.08 cfs		
	323 (1872)	1.0cfs		
	10349 (1873)	1.26 cfs	= 2.34 (2 nd priority)	
			Weir reads 1.67 CFS	
<p>Since Charter Mnt. Has the creek totally blocked, Dbl. Anchor water (1.67 CFS) must be springs and run-off. Dbl. Anchor also has the creek totally blocked and running into their mainline.</p> <p>Half Moon, who is next in line, doesn't have any more water.</p> <p>Dbl. Anchor (Harly) is happy but thought the water master should see what the creek looks like at least at the end of the water year.</p>				
			<p>Charter Mnt. is noncompliant since they aren't controlling the flow at their flow meter. Since I was never called out I can't say if they did control it at the flow meter and with the creek essentially dry it seems mute to make an issue of it now. They also never repaired the washed out weir, but, since I was never called out I don't know if it was used or not. Teresa and John were gone so I wasn't able to get an explanation.</p>	

WATERMASTER'S REPORT
Water Districts # 61C, 61E
Cold Springs Creek/Bennett Creek

I was your watermaster this past irrigation season. As your watermaster it was my responsibility to be somewhat available throughout the irrigation season; a responsibility I took seriously. Due to an abundance of water this year, there never was a call out to the Watermaster.

This report is my feelings on this past water season primarily on Cold Springs Creek, Basin 61E. The Double Anchor Ranch (Harley) finally called me out on July 12th, not because he had a complaint but he felt the water master needed to see just what the creek looked like at the end of the water season. This is my finding from the Half Moon Ranch North to Charter Mountain Ranch's upper diversion.

At this time there was no water other than some spring drainage at the Half Moon Ranch.

At the Double Anchor Ranch the weir on the ranch proper was dry. At their upper diversion the creek was totally dammed off and running 1.67 cfs at the weir which is well within their allotted amount. Since Charter Mountain Ranch Inc. also had the creek totally dammed off this water must be springs and such.

As mentioned above, Charter Mountain Ranch also had the creek totally diverted into their mainline. Since there is no weir to measure at the upper diversion the watermaster must rely on the digital flow meter down at the main ranch road. The digital read out flow meter at the ranch was reading between 1110 and 1235 gal./min. With this much variance (125 Gal./Min.) the water was probably free flowing through the mainline. If this reading has any significance it would be between 2.5 and 2.75 cfs which is more than Charter Mountain's first priority (1.84 cfs) but probably not enough that any extra would reach the Double Anchor. The digital flow meter down at the lower end read 0.00. The washed out weir at the ranch that John told Dan, Rob and I he was repairing the next week was still washed out. It was dry, but since I was never called out I don't know if it was ever used. Everybody pretty much felt the season was ended and I left it that way.

If I had been called out earlier and found problems, took steps to see they were corrected, am I then supposed to assume they were corrected or is the water master supposed to follow up without being called out again. A procedure for following up on problems needs to be clarified. At your August 31, 2010 regular meeting there was a motion made, seconded and carried that everyone have a lockable headgate. There is no such device at Charter Mountain Ranch's main diversion. You need to decide if the digital flow meter down by the main ranch road is satisfactory since everyone else is required to have a weir and lockable gate. IDWR evidently did tell Charter Mnt. Rchs the flow meter was adequate.

It isn't practical to have a Watermaster that is only used in a crisis situation. He has an obligation to be somewhat available yet receive no compensation for being responsible

and never used. If the Bennett Creek & Cold Springs Creek Water District feels they need a water master then they need to utilize him a minimum of once a week during the main months of irrigating so he can be on top of what is going on. It also should specify that if some water district member isn't complying with his priority rights than he should be solely responsible for any extra cost incurred to see it is corrected. This would allow the Watermaster to keep things running smoothly. After several years of finding a new Watermaster every year, it should be obvious the current system isn't working. You budget for a Watermaster, why not use him?

I would continue to be the water master under a more workable situation but if it remains as is you will need to find yet another water master at the end of the year.

Sincerely,

A handwritten signature in cursive script that reads "Richard Neal".

Richard Neal, Current Water Master Districts 61C and 61E

July 18, 2011

Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082
Attention: Mr. Rob Whitney

Dear Rob,

I wanted to write and let you know my feelings on this past water season on Cold Springs Creek, Basin 61. The Double Anchor Ranch (Harley) finally called me out on July 12th, not because he had a complaint but he felt the water master needed to see just what the creek looked like at the end of the water season.

At this time there was no water other than some spring drainage at the Half Moon Ranch and Juan didn't expect any more water from Cold Springs Creek.

At the Double Anchor the weir on the ranch proper was dry. At their upper diversion the creek was totally dammed off and running 1.67 cfs at the weir which is well within their allotted amount. Since Charter Mountain Ranch Inc. also had the creek totally dammed off this water must be springs and such.

As mentioned above, Charter Mountain Ranch also had the creek totally diverted into the mainline. The digital read out flow meter at the ranch was reading between 1110 and 1235 gal./min. With this much variance it was obvious he was letting the water just free flow through the mainline. If this reading has any significance it would be between 2.5 and 2.75 cfs which is more than his first priority (1.84 cfs) but probably not enough that any extra would reach the Double Anchor. The digital flow meter down at the pond end read 0.00. The washed out weir at the ranch that John said he was repairing the next week had never been repaired. It was dry, but since I was never called out I don't know if it was ever used. John and Teresa were gone so I couldn't get any explanation and since everybody pretty much felt the season was ended I left it that way.

If I had been called out earlier and found problems, took steps to see they were corrected, am I then supposed to assume they were corrected or is the water master supposed to follow up without being called out again. A procedure for following up on problems needs to be clarified. I feel that there will always be problems at the Charter Mountain Ranch as I feel he has you guys pretty much buffaloed and realizes that as long as the Watermaster isn't called out he has free rein to do as he pleases. I also think it is wrong that Charter Mountain Ranch is the only user without a measureable weir at the diversion.

It isn't practical to have a Watermaster that is only used in a crisis situation. He has an obligation to be somewhat available yet receive no compensation for being responsible and never used. If the Bennett Creek & Cold Springs Creek Water District feels they need a water master then they need to utilize him a minimum of once a week during the main months of irrigating so he can be on top of what is going on. It also should specify that if

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some water district member isn't complying with his priority rights than he should be solely responsible for any extra cost incurred to see it is corrected. This would allow the Watermaster to keep things running smoothly. After several years of finding a new Watermaster every year, it should be obvious the current system isn't working.

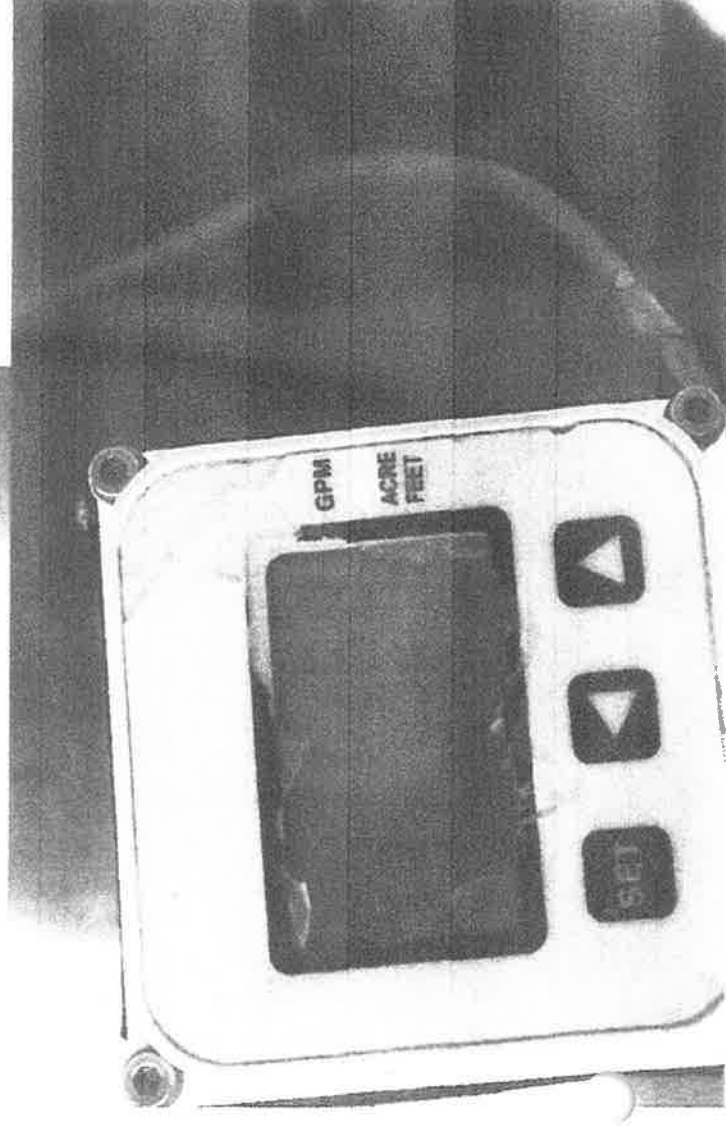
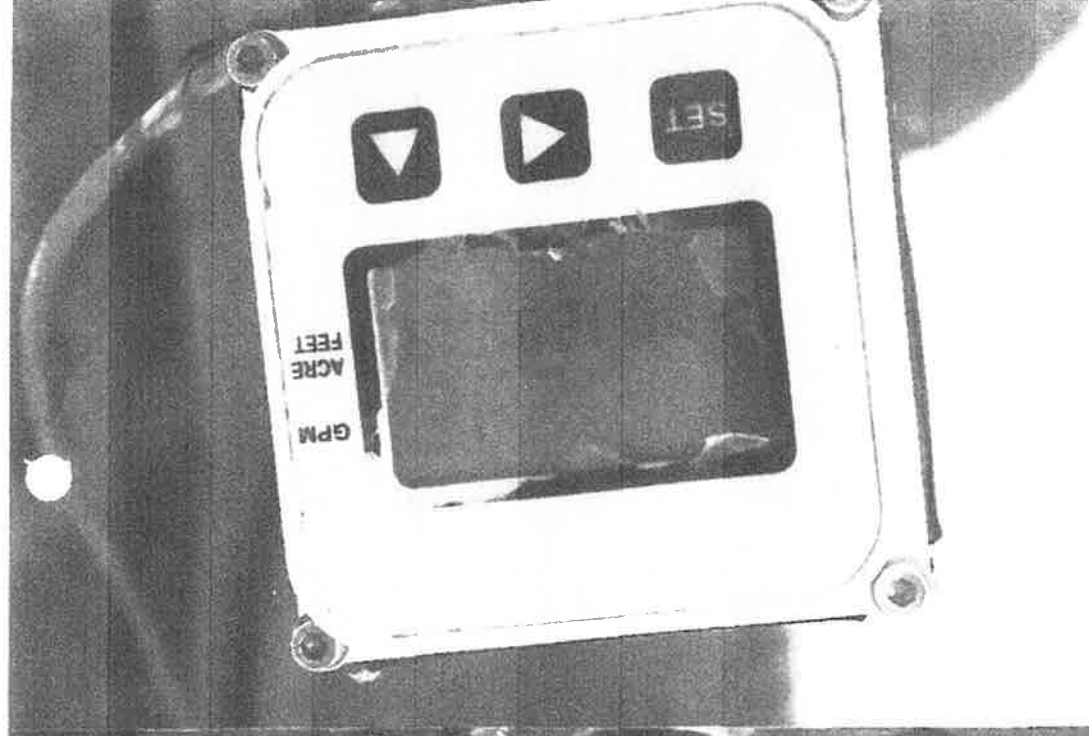
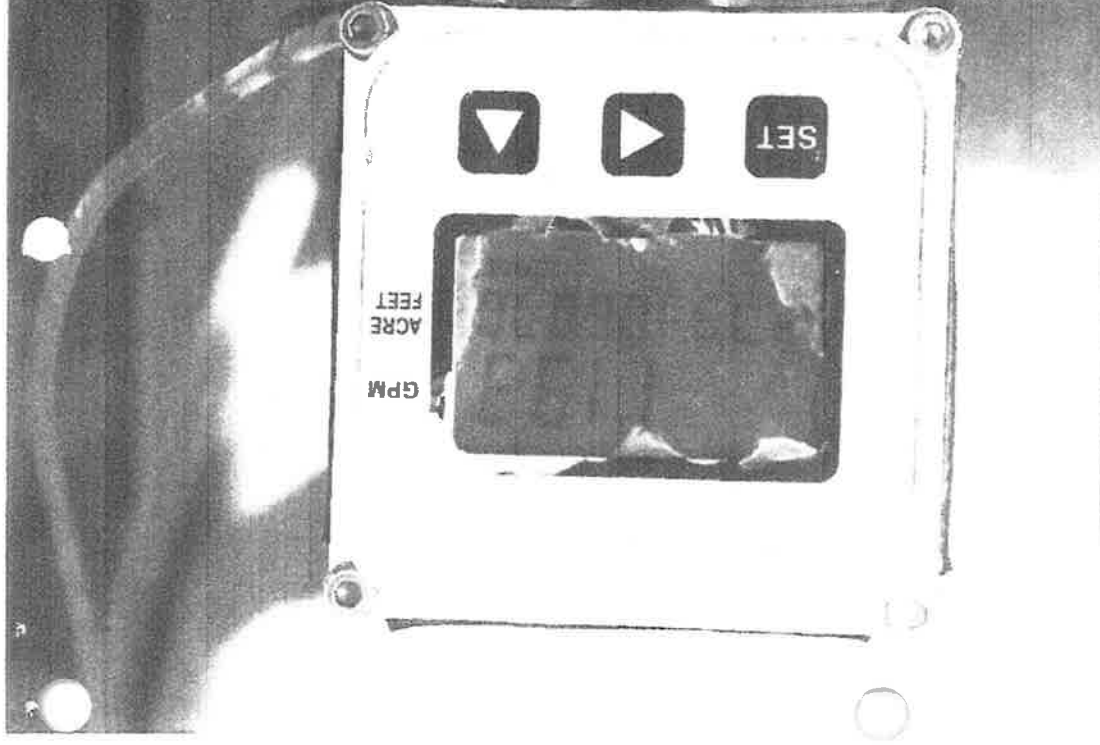
I would continue to be the water master under a more workable situation but if it remains as is you will need to find yet another water master at the end of the year.

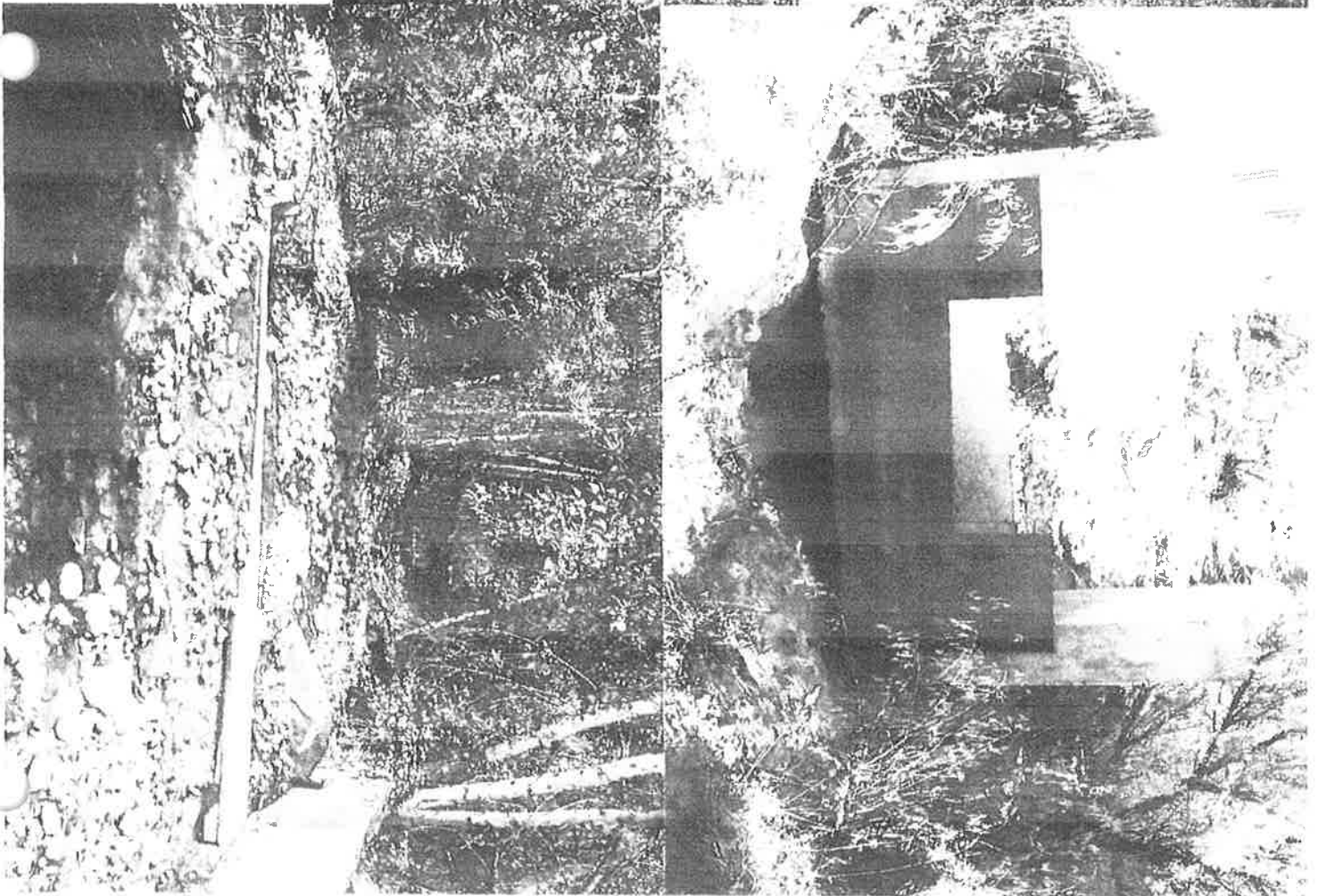
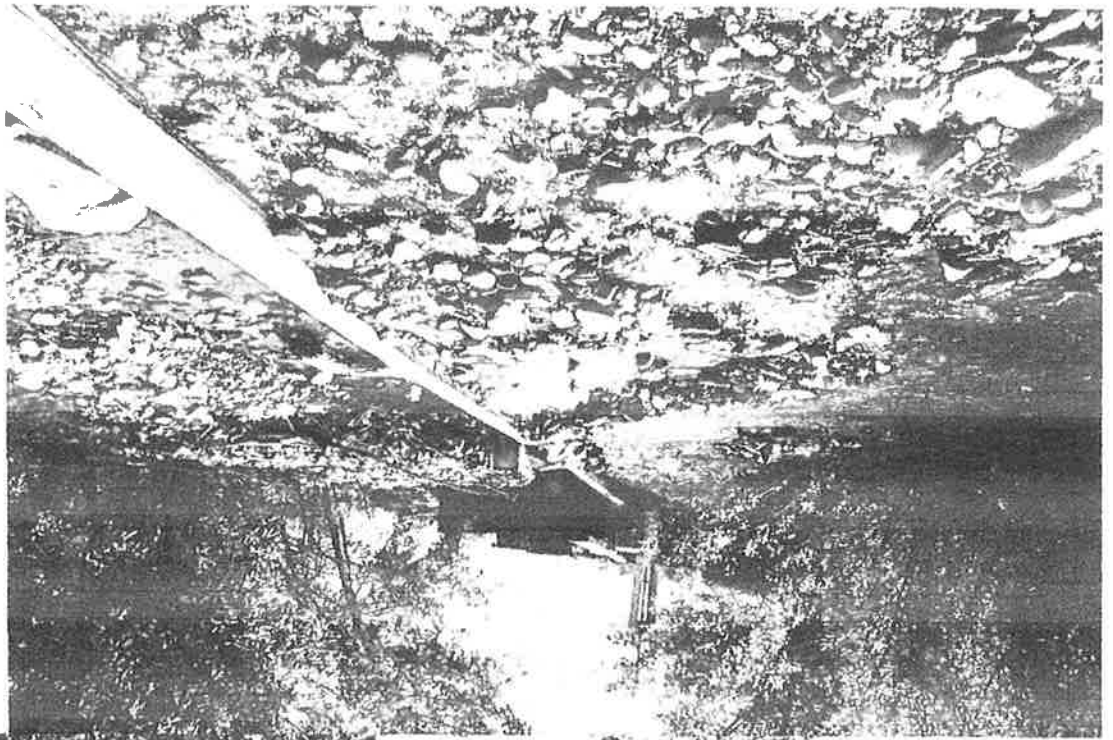
Sincerely,

A handwritten signature in cursive script, appearing to read "Richard Neal".

Richard Neal, Current Water Master Districts 61D and 61E

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EXHIBIT #201 pg 6





Garceau, Sarah

From: Whitney, Rob
Sent: Thursday, June 21, 2012 12:57 PM
To: Garceau, Sarah
Subject: FW: Cold Springs Creek
Attachments: Cold Springs Creek Log.doc; 2012 Letter to Users.doc

We should have a file for this. Please include these attachments and e-mail string in our records. THX, RW

From: to:blask1@q.com [mailto:to:blask1@q.com]
Sent: Thursday, June 21, 2012 12:49 PM
To: Whitney, Rob
Subject: Re: Cold Springs Creek

Howdy Rob,

You don't mention whether you received the copy of the letter, etc. that I sent to all the water users on May 3rd. That letter is attached. It mandated that all users would be compliant with DWR restrictions on Cold Springs Creek by May 15th. Everyone was compliant and I made my last weekly call-out on May 23rd as all water available in the creek was accounted for.

My annual report to the water district will be my daily log plus maybe a cover letter. The daily log has each weeks water use readings. If this isn't sufficient for your records I have the little booklets for April and May. Dan had said you were trying to get away from the little booklets.

My weekly tour of the creek kept everyone informed as to what was happening so nobody could make imagined accusations of wrong doings. It worked very well and I didn't have a single complaint.

Rich Neal, WM, Cold Springs Creek
Attachments: 2

From: "Rob Whitney" <Rob.Whitney@idwr.idaho.gov>
To: to:blask1@q.com
Sent: Wednesday, June 20, 2012 4:04:28 PM
Subject: RE: Cold Springs Creek

Hey Rich, How's it going down there? RW

From: to:blask1@q.com [mailto:to:blask1@q.com]
Sent: Sunday, April 29, 2012 12:15 PM
To: Whitney, Rob
Subject: Re: Cold Springs Creek

Howdy Rob,

Since both Charter Mountain and Half Moon are non-compliant by not having a workable means of measuring their water use I am going to give them a realistic time frame to comply and then close and lock their head gate and valve. I am assuming that Water Resource will back me on this issue. Mcallum has already had three weeks to fix his magnetic flow meter and has done nothing. Juan seems to think counting sprinkler heads is sufficient. Please inform me if there is any alternative approach to solving this.

Best Regards,

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MAY 07 2012

WATER RESOURCES
WESTERN REGION

COLD SPRINGS CREEK WATER DISTRICT
WATERMASTER: RICHARD NEAL
MAY 3, 2012

Attention all water users on Cold Springs Creek

Please be advised that after May 15, 2012 all sources of water diversion from Cold Springs Creek must meet the minimum acceptable standards for open channel and closed conduit measuring devices as outlined in the enclosed information from the Idaho Department of Water Resources (IDWR).

As your elected Watermaster I intend to see that all users meet the minimum standards required by the Department of Water Resources. If you have an individual problem let me know so I can arrange a meeting with you, myself and a representative from IDWR.

Sincerely,



Richard Neal, Watermaster Cold Springs Creek District # 61E

Cc:

Half Moon/Barber-Caven Ranchs

Arc Properties/Charter Mountain Ranchs

A N Bean

Sam & Lee Blackwell

Double Anchor Ranch

Ellis Trust, c/o Gary Ellis

Hammett Livestock, c/o Ann Wilson

Mule Shoe Ranch, c/e Chuck Shenk

Cold Springs Creek Water Users, Dist. 61E, Teresa McCallum, Pres.

Idaho Department of Water Resources c/o Rob Whitney

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

**IN THE MATTER OF REQUIRING MEASURING
DEVICES AND CONTROLLING WORKS ON COLD
SPRINGS CREEK, WATER DISTRICT NO. 61E**

)
)
)
)
**PRELIMINARY
ORDER**

FINDINGS OF FACT

1. Diversions of water from Cold Springs Creek and its tributaries are controlled and regulated by the watermaster of Water District no. 61E, Cold Springs Creek.
2. The water rights authorizing diversion of water from Cold Springs Creek were decreed in the case of Stanfield v. McGinnis, (4th Judicial District, 1903). The rights authorizing diversion of water from Cold Springs Creek have been or will soon be decreed by the Snake River Basin Adjudication Court.
3. Not all of the waterusers owning water rights authorizing the diversion of water from Cold Springs Creek and its tributaries have installed, constructed, and maintained adequate measuring devices and controlling works for the administration by the watermaster and delivery of water to the waterusers.
5. The watermaster of Water District no. 61E has been required, in some cases, to determine water deliveries by estimating diversion rates based on imprecise methods of measurement or control.

CONCLUSIONS OF LAW

1. Idaho Code § 42-701 states, in part:
 - (1) The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other

source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources.

(3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices. . . , upon receiving ten (10) days' notice from the director of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices.

(4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

2. An order should be issued again requiring the water users of Cold Springs Creek and its tributaries to install, construct, and maintain adequate measuring devices and controlling works.

ORDER

IT IS HEREBY ORDERED that on or before February 15, 2002, the water users diverting water from the main stem of Cold Springs Creek shall install, construct, and maintain measuring devices and lockable controlling works of a type acceptable to IDWR, unless expressly exempted by IDWR after a showing by a water right holder that the structures are unnecessary.

IT IS FURTHER ORDERED that, after February 15, 2001, the watermaster of Water District no. 61E shall shut off and refuse to deliver water from Cold Springs Creek and its tributaries to any water user authorized to divert water from Cold Springs Creek and its tributaries who has not installed, constructed, and properly maintained adequate lockable controlling works and measuring devices.

Dated this 18th day of January, 2002.


GARY SPACKMAN
Western Regional Manager

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CERTIFICATE OF MAILING

I hereby certify that on this 18th day of January, 2002, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER to those listed below:


Sue Taylor
Senior Secretary

ANNABETH N BEAN
315 S HARDING ST
BOISE, ID 83705

HALF MOON RANCH
6874 FAIRVIEW AVE
BOISE, ID 83704

CHARTER MOUNTAIN RANCH INC
RT 1 BOX 451
GLENN'S FERRY, ID 83623

JOE BLACK & SONS
PO BOX 67
HAMMETT, ID 83627

DOUBLE ANCHOR RANCH INC
LYNN OR ELSIE RIGGS
RT 1 BOX 445
GLENN'S FERRY, ID 83623

BARBER CAVEN RANCHES
6874 FAIRVIEW
BOISE, ID 83704

ARK PROPERTIES LLC
RT 1 BOX 451
GLENN'S FERRY, ID 83623

LESLIE D GENNETTE
ELLA MAE GENNETTE
HC 85 BOX 103
BRUNEAU, ID 836049701

GARY ELLIS LIVING TRUST
FRANCES ELLIS LIVING TRUST
C/O ANNE M REYNOLDS
HC 63 BOX 18
HAMMETT, ID 83627

SAMUEL D BLACKWELL
PO BOX 398
KING HILL, ID 836330398

OTTO NEUER
COLD SPRINGS RANCH
HAMMETT, ID 83627

From: Richard Neal [mailto:rob1ask15172@gmail.com]
Sent: Tuesday, July 08, 2014 12:04 PM
To: Whitney, Rob
Subject: Examining Cold Springs Creek.

Howdy Rob,

I received your voice message. This has been an interesting year as I have been making two calls a week for the past month or so. Last year Double Anchor (Riggs) didn't receive any water at all. This year they have had me come out once a week through April into May and then Charter Mountain (McCallum) requested I come out twice a week. Double Anchor has had minimal water until this week and contribute that to my being on top of what is happening on Cold Springs Creek. Double Anchor now has hired a water expert (Ed Squire) and a water attorney (Charles Hunsicker). I need to be brought up to date on just what they are contesting with each other. Every user except Mule Shoe and Charter Mountain have weirs and lockable gates. From a letter I received from IDWR it sounds like Mule shoe is perhaps putting in a diversion and as of next year hope to utilize their creek rights.

Since Charter Mountain Has installed their sophisticated water system, which I have been told was designed by IDWR, and are monitored only by magnetic meters there has been a constant suspicion that Charter Mountain is doing suspicious things through the manipulation of Cold Springs water in the mainlines. To add to this I now have to measure the bubble screen and calculate the flow and compare it to the magnetic meter readings. There is always a great discrepancy some of which is accounted for by return water bubbling back into the creek through the bubble screen. This problem could be solved if Charter Mountain would simply install a weir, like everybody else has, at the head of the creek. However they evidently have your blessing to be different and use the magnetic meters. These are lockable but just different. With the mis-trust among the users of how this system is being used and I having no knowledge of the systems design it has caused me a few headaches.

My call out yesterday found no water coming over Double Anchors weir and only 1.5 cfs calculated going through the bubble screen. So I am declaring that any further call outs by Double Anchor are futile calls.

The outcome of all of this is leading to next year all gates will be locked and the Water Master will be in control of their being changed. I would appreciate your coming so I can ask questions and we can find any changes to anybody's systems that might need implementing before next year. You might consider including Hunsicker and Squire and anybody representing Charter Mountain to come along. My time is flexible so you please choose a date and I will confirm it.

Best Regards,

Rich Neal WM Cold Springs Creek

INTERROGATORIES # 6.2
EXHIBIT # 202

PVI-ROB

Shurte, Jan

From: Shurte, Jan
Sent: Friday, July 02, 2010 4:26 PM
To: Westra, John
Subject: Watermaster for Cold Springs, Bennett & Little Canyon Creek

On Friday, 7/2, Ramiro Garza called to state that he was going to resign as watermaster for the above three creeks. Kay had office day and received the call. We spoke with Nick Miller at the state office as Tim was busy and he said he would talk with Tim and possibly call Mr. Garza back.

Tim called me back because Kay was on the phone and afterwards I called Mr. Garza. It appears that he was recruited by Teresa McCallum and had not received a watermaster list or any training. He started getting calls and Harley Riggs took him on a watermaster training expedition, plus he had been talking to John McCallum (who he works for part time) and felt that the jobs were not for him.

I tried to talk with him about training that we could give him, plus a watermaster list and all sorts of things, but the bottom line is that he just wants to quit. So, after a long talk I told him to go ahead and send in his resignation.

In between these conversations, Tim and I spoke, plus I also called Elsie Riggs. She agreed that Mr. Garza wanted to and had told everyone he was resigning. He had not been threatened (he told me) just that it was too complicated in every way including the paperwork. Tim corroborated this when he spoke with Harley Riggs. He was told the same thing, the poor guy just wants to quit it all.

There is an illegal pivot by McCallum in the NW1/4 S. 21, T4S, R9E that Elsie told me about and Tim and I checked on. We both looked at Arcmap and I even doublechecked by legal description. No water right. So, Tim is thinking about an NOV. You will need to talk with him about that.

Bottom line – Tim may go out tomorrow (Saturday) and look at the situation, a new watermaster is needed and a possible NOV to McCallum. That is what Tim and I came up with. Plus watermaster training for the new watermaster.

Jan