



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 29, 2012

J R ALLEN
ALLEN RANCH LLP
2624 S INGLENOOK PL
MERIDIAN ID 83642

Re: Water Right No. 65-3111X, Cease and Desist Unauthorized Diversion from Rock Creek

Dear Mr. Allen:

Idaho Department of Water Resources ("IDWR" or "Department") staff visited the site of the above referenced water right on May 22, 2012. During the site visit, staff observed that approximately 1.7 cfs of water was being diverted from the upper diversion on Rock Creek and conveyed to the place of use for Water Right No. 65-3111X. The upper diversion is located in Township 13N, Range 3E, Section 3, NWSW.

As you know, Water Right No. 65-3111X was the subject of a transfer application (Application No. 77121) to add or correct the point of diversion to include the upper diversion as an authorized point from Rock Creek. In a letter to Jim Bunce dated June 16, 2011, the Department indicated that Allen Ranch may continue diverting from its upper diversion under Water Right No. 65-3111X while the Allen Ranch transfer application is pending. A copy of the letter was mailed to your attorney, Bruce Smith. Transfer Application No. 77121 was withdrawn on May 2, 2012. Since the transfer application has been withdrawn, the Department is not aware of any action before IDWR or otherwise seeking authorization for Allen Ranch LLP to divert water from the upper diversion for irrigation use during the normal irrigation season.

Diversion of water not in conformance with a valid water right is an unlawful diversion pursuant to Idaho Code §42-351. You are instructed to immediately cease and desist diversion of water for irrigation use from the upper diversion on Rock Creek located in Township 13N, Range 3E, Section 3, NWSW. The Department may consider providing authorization to resume diversion of water from the upper diversion if you take formal action to add or correct the point of diversion under a valid water right. If you fail to cease and desist diversion as instructed in this letter, the Department may commence administrative enforcement action and issue a Notice of Violation which may include civil penalties and/or other restitution.

Please contact me at 208-287-4948 if you have any questions or additional information regarding this matter.

Sincerely,

Jeff Peppersack
Chief, Water Allocation Bureau

cc: Western Region, IDWR
Bruce Smith – attorney for Allen Ranch LLP