



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 31, 2013

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

Re: Notice Rescinding Conditional Authorization to Divert Water from the Upper
Diversion on Rock Creek - Water Right No. 65-3111X

Dear Mr. Allen:

Over the past few years, users of water diverted from Rock Creek have complained about water diversion and use. The complaints have not been resolved to date. On June 16, 2011, I signed a letter, addressed to Jim Bunce of the West Mountain Water Association, authorizing continued diversion of water from a location that was not described on water right no. 65-3111A. In the same letter, I authorized Allen Ranch LLLP to continue diverting water at a location that was not described on its water right no. 65-3111X (aka Allen's upper diversion). In both cases, I granted the interim authority while water right transfers were being processed to add or change the points of diversion. The transfer application submitted by West Mountain Water Association was approved on August 10, 2012. Transfer application no. 77121, submitted by Allen Ranch LLLP was protested, scheduled for hearing, and then withdrawn before the hearing scheduled to begin on May 8, 2012 could be conducted.

Since that time, Allen Ranch LLLP has taken other action to clarify its water rights on Rock Creek, including submittal of an application to appropriate water and a second transfer application to add the upper diversion to its water right 65-3111X. The application to appropriate water and the transfer application are currently being advertised with a protest period ending on August 19, 2013. These applications will not be resolved until at least this fall.

This summer, landowners near Rock Creek have alleged vandalism, confrontations, physical altercations, and continued complaints regarding the upper diversion used by Allen Ranch LLLP. This week, I received a call from the Valley County Prosecutor's Office regarding the same issue. I am concerned about the continued acrimony and potential escalation of confrontations regarding this issue. Because this issue will not be quickly resolved through the water right application process, I need to take action to eliminate the source of future confrontations by rescinding my prior authorization for continued diversion. This letter serves as notice that Allen Ranch LLLP is not authorized to divert water from Rock Creek at the upper diversion point located in Township 13N, Range 3E, Section 3, NWSW until such time that the

Mr. Allen
July 31, 2013
Page 2

point of diversion is appropriately identified by a valid water right. I understand that Allen Ranch LLLP currently has cattle located near the upper diversion that will need access to the water until they can be moved to a new location. The Department authorizes Allen Ranch LLLP to continue to divert water from the upper diversion for ten (10) days from the date of this letter to allow the relocation of the cattle. Continued diversion after that time will result in a notice of violation and enforcement action by the Department.

Please contact Jeff Peppersack at (208) 287-4948 if you have questions regarding this matter.

Sincerely,



Gary Spackman
Director

cc: Western Region, IDWR
Bruce Smith – attorney for Allen Ranch LLLP
Jim Bunce
Sandra Chess
Watermaster, Water District 65