

## Rushing, Emalee

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**From:** Peppersack, Jeff  
**Sent:** Wednesday, May 16, 2012 4:03 PM  
**To:** Rushing, Emalee  
**Subject:** FW: IMPORTANT QUESTION

Emalee,  
Please put a copy of this email in the water right file (65-3111X).

Thanks,  
Jeff

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**From:** Peppersack, Jeff  
**Sent:** Wednesday, May 16, 2012 3:09 PM  
**To:** 'Bruce M. Smith'  
**Cc:** Baxter, Garrick; Westra, John; Luke, Tim  
**Subject:** RE: IMPORTANT QUESTION

Bruce,  
The current record is the SRBA decree. It does not authorize the upper diversion. The Department corresponded with Mr. Allen (and copied you) in December, 2010 to let him know that the diversion point should be corrected and that could be accomplished by filing a transfer. In addition, the Department corresponded with Sandra Chess in December, 2010 (and copied Mr. Allen and you) indicating that a transfer must be filed to reflect the current diversion points. As you know, another option would be to pursue a change before the SRBA court, if you believe there is an error in the decree.

I will assume from your response that the claim and application were filed as intended and there is nothing pending before the department or the SRBA court seeking to change or authorize the upper diversion for irrigation during mid-April to mid-October. Consequently, the upper diversion is not currently authorized for irrigation.

Jeff

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**From:** Bruce M. Smith [<mailto:BMS@msbtlaw.com>]  
**Sent:** Wednesday, May 16, 2012 2:16 PM  
**To:** Peppersack, Jeff  
**Subject:** RE: IMPORTANT QUESTION

Jeff—It was my understanding the IDWR records were in error about the location of the diversion point so the transfer we had filed was not necessary. It was a physical misdescription in the records, not a change in pod. I believe the IDWR records showed a pod in the middle of the woods and wasn't even on the creek. The late claim had to do with the season, correctly described the pod, and corrected the stockwater use which was not included in the Payette decrees. If IDWR thinks a transfer is necessary to correct the records please let me know. Bruce

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**From:** Peppersack, Jeff [<mailto:Jeff.Peppersack@idwr.idaho.gov>]  
**Sent:** Wednesday, May 16, 2012 2:01 PM  
**To:** Bruce M. Smith  
**Subject:** RE: IMPORTANT QUESTION

Bruce,

After looking at this issue again, I found that the claim (65-23481) does not include irrigation during the majority of the irrigation season, just early and late. Is that an error? I understand from John Westra that the new application for irrigation and stockwater also does not include irrigation during the majority of the season. If that is true, then there is nothing pending to seek authorization from the upper diversion for irrigation between mid-April and mid-October. Let me know if I'm missing something.

Jeff

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**From:** Bruce M. Smith [<mailto:BMS@msbtlaw.com>]  
**Sent:** Friday, May 04, 2012 5:11 PM  
**To:** Peppersack, Jeff  
**Subject:** RE: IMPORTANT QUESTION

I had hoped there would be some peace for a while. Thanks for your efforts. Have a good weekend.  
Bruce

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**From:** Peppersack, Jeff [<mailto:Jeff.Peppersack@idwr.idaho.gov>]  
**Sent:** Friday, May 04, 2012 4:53 PM  
**To:** Issy Bunce  
**Cc:** Bruce M. Smith  
**Subject:** RE: IMPORTANT QUESTION

I'll refer you to the letter dated June 16, 2011 discussing the subject (see attached). The letter indicates that both West Mountain Water Assoc. and Allen Ranch may continue diverting from their present locations while the transfer applications are pending. The Allen Ranch transfer application has been withdrawn and replaced by a claim in the Snake River Basin Adjudication. The Department will continue to allow the Allen Ranch diversion under the conditions explained in the letter, while the claim is pending in the adjudication. Since there are no measuring devices, the diversions must be reasonable and the Department will continue to monitor as necessary.

Jeff Peppersack  
Water Allocation Bureau Chief  
208-287-4948

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**From:** Issy Bunce [<mailto:ibcascade@hotmail.com>]  
**Sent:** Friday, May 04, 2012 4:25 PM  
**To:** Peppersack, Jeff  
**Subject:** IMPORTANT QUESTION

Jeff,

Since Allen pulled all of his applications and transfer, he doesn't have a point of diversion, why is he getting ANY water from up above?

Please let us know since he is getting more water than we are.

Jim & Issy