



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 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 12, 2010

Webber Creek Ranch LLC
PO Box 50
Swan Valley, ID 83449

CERTIFIED MAIL

RE: Potential Illegal Water Use

Dear Gentlemen:

Our office recently became aware of a new irrigation development or changes in an existing irrigation development involving lands and water rights that you own. Our review has utilized Geographic Information System (GIS) tools and data layers including 2009 aerial imagery and water right records on file at the Idaho Department of Water Resources (Department). The attached map shows land that appears to be irrigated without a valid water right that is adjacent to land that is irrigated by water right no. 32-7010, which lists you as the current owner (copy of right attached). There are potentially about 73 acres irrigated without any water rights. The land highlighted on the attached map is the legal place of use for water right no. 32-7010. Please note that if a change in the place of use has occurred for right 32-7010, then you must file and obtain an approved water right transfer.

We also note from review of the attached imagery that there may be a potential for using water on the lands authorized for right 32-7010 for a full irrigation season. Right 32-7010 has a junior priority date of only April 5, 1971 from Medicine Lodge Creek. The Department understands that a 1971 priority date water right is normally curtailed during the irrigation season. The Department has some concern therefore about any potential use of additional water or water rights for these lands that appear to be covered only by a 1971 priority date. We do note that you have a more senior priority right from Medicine Lodge Creek (32-13276) that is diverted from the same point of diversion on the creek as right 32-7010.

I request your cooperation to resolve this matter by:

- reviewing the attached map and contacting our office to verify your ownership status of the parcels identified on the map;
- identifying what lands are irrigated and water right or rights cover your development if our records are not correct;
- cease further diversion of water to the identified parcels if you do not have water rights;
- and/or obtain a valid water right for your irrigation development.

Please respond to our office within 14 days of the date of this letter as to the status of the lands identified in the attached map. Please note that diversion of water in Idaho without valid water right is illegal pursuant to §42-351, Idaho Code and subject to civil penalties of up to \$300 per acre of land irrigated. Please further note that any unauthorized use of water for irrigation in 2009 may be cause for the Department to issue a notice of violation and cease and desist order.

Please contact me directly at 208-287-4959 if you have questions or need assistance regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. Luke". The signature is fluid and cursive, with the first name "Timothy" being more prominent than the last name "Luke".

Tim Luke
Water Distribution Section

Enclosure: Map and copy of Water Right 32-7010

CC: Greg Shenton, Watermaster, Water District No. 32-C
Dave Carlson and James Ceffalo, IDWR Eastern Region

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Water Right Report 32-7010

WATER RIGHT NUMBER: 32-7010

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WEBBER CREEK RANCH LLC PO BOX 375 STATE HIGHWAY 31 SWAN VALLEY, ID 83449
Original Owner	TERRY EDEN 2004 GRAY EAGLE WY LAS VEGAS, NV 89117 (702)228-5470
Original Owner	TOM EDEN 2004 GRAY EAGLE WY LAS VEGAS, NV 89117 (702)228-5470
Previous Owner	ROB DOSCHADES C/O EDEN RANCH PO BOX 1130 DUBOIS, ID 83423 (208)657-2285
Previous Owner	ROSE CREEK CROSSING LLC P O BOX 461196 LEEDS, UT 84746 (435) 879-6986

Priority Date: 04/05/1971

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MEDICINE LODGE CREEK	SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	4.860 CFS	
	<u>Total Diversion:</u>	4.860 CFS	

Location of Point(s) of Diversion

MEDICINE LODGE CREEK	NE1/4NW1/4	Sec. 25, Twp 11N, Rge 34E, B.M.
CLARK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	34E	1	40.0	32.0	40.0	18.0					39.0							38.0	207.0
			L 2				L 3												
10N	35E	6											40.0						40.0
													L 7						

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 32-7010

Total Acres: 247

Conditions of Approval:

1. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
2. F06 The following rights are diverted through point(s) of diversion described above: 32-7010, 32-13276.

Remarks:Comments:

1. dcarlson 9/3/2008 1:39:59 PM POU
Comment: Updated Shape
2. dcarlson 9/3/2008 1:41:06 PM POU
Comment: Updated Shape
3. jharris 9/4/2008 2:28:42 PM POD
Comment: Updated Shape
4. psdaggs 9/18/2008 3:14:40 PM Transferred Right
Comment: This is now an approved transfer, transfer number = 73144

Dates and Other Information:

Licensed Date:
 Decreed Date: 10/27/2000
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number: 34
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant:
 Decree Plaintiff:
 Civil Case Number: 39576
 Judicial District: FIFTH
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		476

Combined Water Rights: 32-7081B , 32-13276 , 32-7010

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
6.3		

Combined Water Rights: 32-13276 , 32-7010



