



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 24, 2005

Travis Thompson  
113 Main Ave. W. Suite 303  
Twin Falls, ID 83301-6167

RE: Warfield Hot Springs Diversions

Dear Travis:

As I indicated to you last Friday our office has received your letter dated January 17, 2005.

As you know the Warfield Hot Springs Pipeline (also known as Pace Pipeline) was observed by IDWR during a field review in 2003 precipitated by complaints of waterusers in that pipeline regarding use within the pipeline. IDWR's field review served the purpose of investigating the SRBA claims that have been filed by the various waterusers including Vierling (Stonebeck), your client. The status of the SRBA review has not changed since my August 28, 2003 letter to James Speck (Copy enclosed). In the letter I wrote: *"Depending on the finding of the SRBA court regarding the elements of the claims, the resolution of the description of the water rights may result in curtailment or limitation of current uses in the system."* I also wrote that: *"Control and measuring works may ultimately be required at the head of the pipe and for each subsystem."* The resolution of controversy among pipeline users in my opinion has been stalled until the SRBA process is finalized.

Your recent letter points to the potential or alleged impact of development of permit 37-8388 on the user(s) in the Warfield Hot Springs Pipeline. Your letter requests that IDWR conduct an investigation into the cause of the interference with the source at Warfield Hot Springs diversions.

As you know, currently in the scheme of priority pursuant to Section 42-607 of the Idaho Code, beneficial use claims (such as your client's), in times of scarcity of water are held to be subsequent to or first to be curtailed with preference being given to any decreed, permitted or licensed right. Only after your client's rights are decreed in the SRBA will interference be an issue IDWR would investigate. IDWR at this time declines to conduct a study until such time as the water rights to the uses of the water in the Warfield Hot Springs Pipeline are decreed in the SRBA Court. After that time, if the users have installed a measuring device at the head of the pipeline and it is shown that the rights as decreed are not being filled it may be appropriate to investigate further.

As you may know permit 37-8388 is conditioned that a measuring device be installed as part of its diversion works. Assuming that an investigation may be conducted in the future, it is recommended that the pipeline users install a measuring device at the head of the pipeline as well. It is also recommended that measurement of use from both diversions commence and be recorded (by a third party if possible) to aid in any future analysis.

If you have questions please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Merritt", written in a cursive style.

Allen Merritt, PE  
Southern Region Manager

CC: James Speck  
Kevin Lakey, Watermaster District 37