

Eastern



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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September 23, 1996

John Andrews  
U.S. Forest Service  
Boise National Forest  
1750 Front Street  
Boise, ID 83702

RECEIVED  
SEP 26 1996  
Department of Water Resources  
Eastern Region

Re: Beneficial use of water rights owned by the Forest Service

Dear Mr. Andrews:

Several years ago, the Forest Service spent substantial money to purchase the Busterback Ranch in the Sawtooth National Recreational Area and the water rights associated with the ranch. I was informed the Forest Service also acquired other water rights. For instance, I understand the Forest Service believes it acquired a water right on Carmen Creek, near Salmon, Idaho, in exchange for the construction of an inverted syphon on the Big Flat Canal Co. ditch. I also understand that some of these water rights are presently not being diverted, and the flows remain in the stream.

Shortly after the Busterback Ranch was acquired, the Department of Water Resources and the Forest Service met to discuss what could be done to protect the water rights but nothing was resolved.

In Idaho, a water right which is not beneficially used for a period of five consecutive years is forfeited. An instream flow is deemed a beneficial use of water if the instream flow contributes to a particular public value set forth in Chapter 15, Title 42, Idaho Code. A minimum stream flow can only be established pursuant to Chapter 15, Title 42, Idaho Code through approval of an application for appropriation, filed by the Idaho Water Resource Board. In recent years, several entities have attempted to promote legislation that would allow existing water rights to be changed to instream flows. However, the bills proposed to the Idaho Legislature have never been enacted.

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There may be other ways of protecting the Forest Service water rights. The staff of the Department of Water Resources is willing to discuss alternatives. Water rights currently owned but not diverted by the Forest Service could be lost through nonuse unless the Forest Service implements a plan to protect them.

Respectfully,

A handwritten signature in cursive script that reads "Gary Spackman". The signature is written in dark ink and is positioned above the printed name.

Gary Spackman

GS/dde

cc: Bob Foster  
Eastern Region  
Southern Region