



State of Idaho
DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 7, 2000

ARK Properties, LLC
C/O John B. McCallum
Rt. 1 Box 451
Glenns Ferry, ID 83623

Re: Construction of Diversion Works on Cold Springs Creek; Illegal Use of Water

Dear Mr. McCallum:

On March 9, 2000, an employee of the Idaho Department of Water Resources (IDWR) visited a construction site on Cold Springs Creek near the boundary of properties owned by ARK Properties, LLC (ARK) and Double Anchor Ranch (Riggs). IDWR found a concrete structure constructed just south (downstream) of the Riggs-ARK property boundary. The structure appears to have been built for the purpose of diverting water from Cold Springs Creek. On April 7, 2000, IDWR received a report that you are diverting Cold Springs Creek water from this structure. While the structure is constructed very close to the property boundary, IDWR concludes it is located on property owned by ARK in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, T04S, R09E.

The records of IDWR do not contain a water right or water right claim describing a point of diversion from Cold Springs Creek in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, of Sec. 32. On July 14, 1999, I sent a letter to you because an IDWR investigation found a pump with a diesel motor pumping water from Cold Springs Creek in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32. I warned you at the time that diversion of water within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32 is illegal.

Six claims filed in the Snake River Basin Adjudication (SRBA), numbered A61-00309, A61-00312, A61-00316, A61-0328, 61-10578, and A61-10579, assert the right to divert water from Cold Springs Creek. The claims assert the right to divert water in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, T04S, R09E. This property is owned by Riggs. An old diversion structure is located on the Riggs property. IDWR has recommended to the SRBA court that the claims described above and other claims irrigating the property from other sources be disallowed. You have contested these recommendations in the SRBA court, and these matters are currently pending.

In addition to the construction of the concrete headworks, IDWR has received reports that you are placing sprinkler lines on lands recommended for disallowal.

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The purpose of this letter is to inform you that IDWR will ask the watermaster for Cold Springs Creek to shut off diversion of water from the newly constructed diversion structure on Cold Springs Creek. IDWR will also pursue additional administrative and legal remedies to prevent diversion of water from a point of diversion not described by your water rights and water right claims. Finally, IDWR will pursue administrative and legal remedies to prevent diversion and use of water under claimed rights recommended for disallowal during the pendency of the contested cases to determine the validity of the claims. Should you have any questions regarding this letter, I would be happy to visit with you.

Respectfully,



Gary Spackman

GS:st

CC: Bruce Smith, Attorney at Law (Fax & U.S. Mail)
Cheryl McCallister, Watermaster
Dan Nelson, IDWR
Norm Young, IDWR
Susan Hamlin, IDWR