



State of Idaho
DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 17, 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:

I sent you a letter dated April 7, 2000, expressing concern about diversion of water from Cold Springs Creek from a point of diversion not described by a water right. The letter also generally warned about the use of water on lands that are not described as a place of use by a water right or the use of water on lands that are described by a water right recommended for disallowal in the Snake River Basin Adjudication (SRBA).


Your attorney, Bruce Smith, called me on Monday, April 10, 2000. You also called me shortly after my conversation with Bruce. Based on my discussions with you, I asked Dan Nelson to visit the site of the point of diversion on Tuesday, April 11, 2000.

Dan Nelson reports he met with you and the watermaster, Cheryl McCallister, at the headworks you built in Cold Springs Creek on ARK property, located in the SW1/4SE1/4 of Section 32, T04S, R09E. He observed diversion boxes constructed on the north side of the fence separating the ARK property and Double Anchor Ranch (Riggs) property. Water was being diverted through the boxes on the Riggs property, which IDWR presumes is the NW1/4SE1/4, Section 32. The NW1/4SE1/4 of Section 32 is described by several water rights as a point of diversion for Cold Springs Creek water. As a result of Dan Nelson's investigation, IDWR determines that water is being diverted from a valid point of diversion (according to the location of the fence line), and IDWR will not instruct the watermaster to shut off the diversion at the present time.

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The lands being irrigated by the Cold Springs water are described as a place of use by several water rights recommended by IDWR for disallowal in the SRBA. The watermaster should deliver water to a decreed water right currently described by IDWR records until a court finds the decreed water right is no longer valid. Water users owning water rights authorizing diversion of water from Cold Springs Creek could petition the SRBA court for an order requiring interim administration of the water rights based on the director's report filed by IDWR with the SRBA court. If an order of interim administration is issued, the rights recommended for disallowal would no longer be delivered.

Respectfully,



Gary Spackman

cc. Bruce Smith
Cold Springs Creek Waterusers
Norm Young
Dan Nelson