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WATER RESOURCES
WESTERN REGION



Richard Neal <tob1ask15172@gmail.com>

Casa del Norte illegal diversion of Cold Springs Creek basin water

2 messages

Charles Honsinger <honsingerlaw@gmail.com>

Tue, Mar 28, 2017 at 11:59 AM

To: Richard Neal <tob1ask15172@gmail.com>

Cc: "Luke, Tim" <tim.luke@idwr.idaho.gov>, "Miller, Nick" <Nick.Miller@idwr.idaho.gov>

Rich:

I am sending you this message on behalf of my client Double Anchor Ranches because Casa del Norte ("CDN") is once again illegally diverting water from the Cold Springs Creek basin into the Ryegrass Creek basin. This water would otherwise benefit downstream Cold Springs Creek water right holders, including Double Anchor Ranches.

Please refer to the excerpt of an email below from Ed Squires of Hydro Logic Inc. to myself, along with the attached map and photographs. As you will recall, IDWR and the watermaster have required Mr. McCallum/CDN to ensure that water flowing from "Rock House Springs" flowing into the Cold Springs Creek drainage but captured by the Four Mile Ditch (and thus conveyed to the Ryegrass Creek drainage) was in fact flowing back into the Cold Springs Creek drainage. The attached map illustrates the situation: the site denoted as "1" shows the location where Rock House Springs flows are captured by the Four Mile Ditch.

To address this situation, Mr. McCallum/CDN installed a headgate in the Four Mile Ditch that allowed water collected from the springs to be released from the ditch back into the Cold Springs Creek drainage. Unfortunately, as you can see from the attached photographs (Figures 1a and 1b), that headgate was closed on March 23, 2017. At the same time, no diversions were being made from Cold Springs Creek into Four Mile Ditch. Thus, Rock Creek Spring water is currently flowing directly (and illegally) into the Ryegrass Creek basin out of a damaged portion of the Four Mile Ditch, into an eroded and incised drainage running downstream from the Four Mile Ditch (Figures 2 and 3), and thence into ponds and onto lands that do not have a Cold Springs Creek water right.

On behalf of my client, I am asking that you immediately address this illegal diversion. While the diversion may seem minor in the context of the current water year, it in fact deprives the Cold Springs Creek basin of water that would otherwise recharge the ground in the basin, and that would keep Cold Springs Creek flowing later into the year, thereby permitting my client (and other Cold Springs Creek water right holders) to divert their legal water right as long as possible this year.

Along with your immediate attention to this illegal diversion, I would suggest that you also address the blowout of the Four Mile Ditch on Bureau of Land Management Lands that results in Cold Springs Creek water being delivered through a large eroded incision (caused by the blowout and disrepair of Four Mile Ditch) to a large pond in the Ryegrass Creek drainage that does not appear to be within the ambit of any established Cold Springs Creek water right. Additionally, Hydro Logic, Inc. noticed what appear to be new ponds alongside Ross Road into which water is being diverted (Figure 4). We are not aware of any water rights permitting the storage of water in such ponds.

Finally, Hydro Logic, Inc. found a 23 cfs depletion of the flows of Cold Springs Creek between a location just above the CDN diversion and a location less than one mile downstream. Is CDN making a 23 cfs diversion from Cold Springs Creek? If so, pursuant to which water rights?

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Because I would like to ensure that this email and attachments are included in the Water District 61E files, and because I am particularly concerned with the recurring nature of CDN's/McCollum's illegal collection and diversion of Cold Springs Creek basin surface water flows, I am copying Nick Miller and Tim Luke of IDWR with this correspondence.

Thank you for your attention to this matter, and please contact me with any questions or concerns.

Sincerely,

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Mr. Honsinger:

On March 23, 2017 HLI personnel Kurt Newbry and Alex Hafer were conducting monitoring measurements and observations in-and-around Cold Springs Creek for Double Anchor Ranches. They observed the so-called "Rock House Springs" had been captured by CDN (by means of a closed slide gate) and that the springs water was being diverted through the Four-Mile Ditch to a point downstream in the ditch where the ditch bank had been blow out and collapsed by apparent high flows and where the diverted springs water was being allowed to flow into an ephemeral drainage of Ryegrass Creek and, ultimately, to constructed ponds on CDN property. The only water being diverted through the Four-mile Ditch at the time was the captured springs water and no water from Cold Springs Creek itself was being diverted. You may recall that the closed slide gate was made to be installed by IDWR in years past when CDN was found to be illegally diverting the springs water to the Ryegrass Creek drainage. The "blown-out" portion of the Four-Mile Ditch is at the same location where it was found to be damaged and broken in 2015 with a similar leakage of Cold Springs Creek water being diverted onto Ryegrass Creek desert lands. The attached map and annotated photographs show these locations and diversions. Of concern is that the springs flow, which would ordinarily recharge ground water and late-year surface water flows in the higher Cold Springs Creek drainage are being diverted out-of-drainage to Ryegrass Creek drainage and to desert lands that are not tributary to Cold Springs Creek and water users on that creek. It seems that these diversions and damaged ditch should be brought to the attention of the Water Master and IDWR immediately so that the tributary flows can be returned to the Cold Springs Creek drainage to prolong ephemeral flows later in the year.

All for now.

Ed Squires

April 6,2017

Charley:

I received your email concerning Casa del Norte's illegal diversion of Cold Springs Creek basin water. I forwarded a copy to Casa del Norte and asked them to address these issues and review them with me on my next water call. On Monday April 3rd, I met with Casa del Norte to address these issues.

John McCallum and I drove to the place where the unnamed stream (Rock House Spring) crosses the 4-mile ditch. Mr. McCallum had the gate removed from the headgate and inserted downstream blocking the 4-mile ditch. All spring water was flowing freely down its designated channel to Cold Spring Creek. Mr. McCallum had no explanation how/why the water had been diverted since he had no need for any water to go down the 4-mile ditch and had raised the gate to allow all water to proceed down the designated channel. Casa del Norte has 2 water rights that pertain to this unnamed spring but wasn't utilizing either of them. The spring is now running a substantial amount of water into Cold Springs Creek. Casa del Norte is well aware that work needs to be done to make the 4-mile ditch usable.

Some ponding in the area is due to the high-water table. Water in your figure 4 is used to sub-irrigate the 65 acres to the South.

Unfortunately, Hydro Logic personnel are not able to observe the stream bed between their two monitoring points. If they could they would find an undefined stream bed in many areas meandering over a relatively level coarse gravel bed. I have had experience in the past with the amount of water that is lost under such circumstances. I again walked this stretch of the creek and have included several pictures of the creek. Casa del Norte doesn't necessarily question the competence of Hydro Logic personnel but to verify their figures he is hiring his own person to measure this same area.

I hope I have addressed all your concerns and want you to know I am sending copies of this letter to Tim Luke and Nick Miller.

Sincerely,

Rich Neal, WM 61E Cold Springs Creek
Cc: Tim Luke, Nick Miller

