



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 25, 1999

Arlin Olson
9443 E Merrick
Lava Hot Springs, ID 83246

RECEIVED

JAN 27 1999

Department of Water Resources
Eastern Region

Re: Delmo Smith King Creek Diversion

Dear Arlin,

Attached is a copy of a letter sent to Delmo Smith regarding our visit to his diversion last October. This letter advises Mr. Smith of the complaints which we have received over the past years regarding the delivery of junior priority water rights to this diversion and determination of a futile call. Please review the attached letter carefully and note that we have advised Mr. Smith of our intention to instruct you to regulate his rights this year and determine a futile call.

I am assuming that you will continue as watermaster for another year. If so, please be advised that during the 1999 irrigation season, you must make every attempt possible to regulate the Delmo Smith King Creek diversion once you determine that 1902 priority rights must be cut. You must further monitor the creek, determine if or how much water reaches the Portneuf River, and reach a conclusion as to whether the regulation action results in a futile call. The monitoring effort should identify stream losses in at least two reaches. I would suggest measuring King Creek at a point near the Smith diversion and then taking several additional measurements and/or observations between this point and the river. I would think that a good intermediate point of measurement on the creek would be along the road and near the cattle gate where the creek turns north.

If your monitoring efforts determine that the regulation action amounts to a futile call, then water may re-delivered to the Delmo Smith diversion. That diversion however should be limited to no more than 2 cfs, which is the sum of his 1902 and 1969 priority rights.

I have also noted that our water right records show that there is a second claimed point diversion on King Creek. Water right 29-00128, claimed by Alan Smith, has a point of diversion located in T9S, R38E, section 14, SWSW. This appears to be about one mile east or downstream of the Delmo Smith diversion. This is about the same location along the road near the cattle guard/gate and where the creek turns north (first location where we stopped on road to Delmo Smith diversion). I do not recall specifically discussing this diversion or right during our site visit so I am uncertain if the right is still used or not. If it is used and has not been regulated by you, then it too should be regulated and subject to a futile call test.

If you have questions regarding this subject, please contact me directly at (208)327-7864.

Sincerely,



Tim Luke
Water Distribution Section

cc: Delmo Smith
Alan Smith
Harold Jones, Eastern Region
Howard Hall, McCammon Ditch Co.

Enc.
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