

**State of Idaho****DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 28, 2004

Mike Chambers
705 E Toponce Canyon Rd
Bancroft, ID 83217

Re: Your Correspondence of June 14, 2004 Regarding King Creek Pipeline

Dear Mr. Chambers,

I am in receipt of your letter dated June 14, 2004 regarding use of the King Creek pipeline for delivery of water rights owned by Jim and Ken Andrus ("Andrus") and the Thelma Redford Trust ("Redford"). The Department's records indicate that King Creek Grazing Association ("KCGA") is the current owner of record of the Redford rights. Your letter is essentially a complaint against the Idaho Department of Water Resources ("IDWR") for allowing Andrus and KCGA to use the pipeline this year for conveying their water rights from Toponce Creek. A similar letter of complaint was sent to Ron Carlson, IDWR Eastern Regional Manager. Although you did not ask for a response from either Ron or myself, I feel that I should reply.

The approval that IDWR gave to Andrus and KCGA this year to change their water right points of diversion on Toponce Creek to the pipeline was a Temporary Change Application of Water Rights. This is a temporary and expedited transfer process authorized by Section 42-222A, Idaho Code. Such temporary changes can only be authorized when the Director of IDWR declares a county a drought emergency and the declaration is then approved by the Governor of Idaho. The Governor approved Caribou County as a drought emergency county on April 27, 2004. The approved Temporary Change Applications were approved on May 10, 2004. The approval legally authorized Andrus and KCGA to change their points of diversion on the creek to the pipeline. The temporary approvals expire at the end of this year.

I realize the approval of the Temporary Change Applications may not agree with your opinion or concerns regarding these water rights. As you may recall, IDWR did send a notice to Andrus and the Redford Trust on October 31, 2003, advising them that their water rights did not authorize the pipeline as the point of diversion. The right holders were advised to formally change their points of diversion by obtaining approved water right transfers or other valid water rights. It is my understanding that Andrus and KCGA have filed permanent water right transfer applications but those applications are on hold pending resolution of objections filed against these rights in the Snake River Basin Adjudication ("SRBA"). When processing of the water right transfers proceed, you will have an opportunity to protest those transfer applications and have your concerns voiced at a settlement meeting with the applicants, and ultimately a hearing before the Department if the settlement conference provides no resolution of the matter.

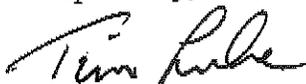
If you believe that you are aggrieved or injured as a result of IDWR's approval of the Temporary Change Applications, you can consider filing a contested case with IDWR pursuant to Section

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Eastern Region

42-1701A, Idaho Code. However, the timing of a hearing and any subsequent decision may have little impact on the temporary approvals as those changes are only in affect until the end of the irrigation season.

Please contact me directly at 327-7864 if you have further questions concerning this matter.

Respectfully,



Tim Luke

Water Distribution Section

Cc: Ron Carlson and Roger Warner, IDWR Eastern Region
Steve Hebdon, Water District 29 Watermaster
Jim and Ken Andrus
King Creek Grazing Association
Cindy Bird, IDWR Soda Springs Field Office