



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

June 8, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MR JAN DENLINGER
RICH BROTHERS HATCHERY
1213 W 600 S
PINGREE ID 83262

RE: Notice of Change of Water Right Ownership, Claim nos. A27-04001A,
A27-07013, A27-07020
Extension of Time to Avoid Forfeiture of Water Rights
Participation Requirements of Water Measurement Program

Dear Mr. Denlinger:

Thank you for your call. I have researched water right records for the Rich Brothers hatchery and have enclosed proof copies of water rights and claims. I have also included information regarding protection of the rights against forfeiture due to non-use. During my search, I found that some general housekeeping needs to be done regarding the listed ownership of the rights.

I have located three different recorded water rights for the hatchery at Indian Springs. All have proper claims filed as required in the Snake River Basin Adjudication (SRBA). Unfortunately, the owner of record on the two latest rights appears to be the former lessee and not the property owners, which caused me to initially overlook the rights in my search. In order for the owners to request an extension of time to avoid forfeiture of all the rights, the ownership records must be updated.

Please refer to the attached copies of the water rights for the following discussion:

Claim no. A27-04001A, in the name of Roland and/or Violet Rich, represents the earliest claimed right totaling 41.1 cfs, with a date of priority of 1952. This right has not been previously verified by IDWR but will be confirmed as a part of the SRBA decree process. Ownership of this right should not need to be modified.

Water right permit nos. 27-07013 and 27-07020 were made in 1971 by Thousand Springs Trout Farms, to increase the total authorized diversion at the facility to approximately 250 cubic feet per second (cfs) when combined with the earlier right. Some development occurred under the permits and a partial water right examination was conducted by the department in 1977, but water right licenses have not been issued. This was due to uncertainty over total developed storage volume and is not related to non-use of the rights. However, the licenses must be finalized as a part of the SRBA. I have recently spoken with Mr. Keith Wilson of our Eastern Region office about the status of the permits. Mr. Wilson may contact you in the near future to request your assistance in computing total facility volume as it was last operated.

Claims to the above permits were filed in the SRBA in the name of Aqua Life, Inc. of Buhl. According to a copy of a 1968 lease agreement found in the water right files, the lease to Thousand Springs/Aqua Life expired in 1994. From our discussion, it is my understanding that the facility is not leased at this time and the former leaseholders no longer have any interest in the hatchery. In order for the owners to take any further action on these rights, the rights must be placed in their names. At the very least, SRBA claim ownership must be changed. You should also attempt to have permit ownership updated.

I have enclosed a **Notice of Change of Water Right Ownership** form which must be completed by the present property owners. This form may be used for ownership change on the two SRBA claims A27-07013 and A27-07020 (presently Aqua Life). A single form may be used for both claims. The form must be accompanied by a copy of the valid warranty deed or other evidence of ownership which describes the property. There is no filing fee for this form.

Ownership change of the outstanding permits 27-07013 and 27-07020, which are the basis for the above claims, requires an **Assignment of Permit** form be completed by the original permit holder, in this case, Thousand Springs hatchery. This is not a mandatory change so long as ownership of the SRBA claims is changed. It will, however, make licensing of the rights easier. Without the assignment, the water right license must be issued in the name of the permit holder, but will remain appurtenant to the hatchery. If you feel you can acquire the assignment, please forward the enclosed form to the appropriate party.

Attached is the text of Section 42-222, Idaho Code, which defines forfeiture of a water right and explains when forfeiture may have occurred. I have highlighted the portions which most directly apply to your situation. An **Application for Extension of Time to Avoid Forfeiture of a Water Right** is also enclosed. Use this form to explain in detail the conditions surrounding non-use of the water right(s), from the time the use was discontinued to the present. The form also requires an estimate of the year in which use of the rights will resume. **There is a \$100.00 processing fee required with the application.** This application should be filed as soon as possible, as you are nearing the end of your fifth year of non-use.

Participation in the Water Measurement Program as I described in my last letter is mandatory for your facility. However, active participation is dependent upon an actual diversion of water and therefore your compliance may be delayed because of the current non-operation of the facility. At this time, IDWR is prepared to waive participation and measurement requirements for the Indian Springs hatchery while the facility is under reconstruction.

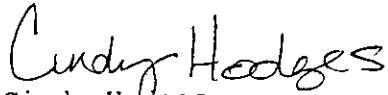
If your Application to Avoid Forfeiture is filed in a timely manner and approved, you will receive a temporary exclusion from the Water Measurement District and will not be assessed. As use of the rights resumes, IDWR will again consider a formal request for exclusion based on a measurement plan which you will submit. If you would like assistance in designing or selecting appropriate measuring devices, please let me know.

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For convenience, you may return all forms to my attention at the above address. I will make sure each is routed to the correct section for processing. Please don't hesitate to call again if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Hodges".

Cindy Hodges
Sr. Water Resource Agent
Water Distribution Section

cc: Violet Rich
Roland Rich
East WMD