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August 1, 1996

Idaho Department of Water Resources
Attention: Tim Luke
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

RE: Rangen Water Rights/Aqua Life River Call

Dear Tim:

I am just writing this letter to confirm our telephone conversation on August 6, 1996, wherein you indicated that you have been the person from the department that has been working with this particular call with Aqua Life on Billingsley Creek. You indicated that it was not the intent of the department to curtail Rangen's water rights with regard to this call because Rangen's water was being returned to the creek above Aqua Life.

It is my understanding from our conversation that perhaps there may be a meeting set up in the future to discuss not only the call being made by Aqua Life but also such things as water quality in Billingsley Creek (which were not part of the present call). I just wanted you to know that we would be willing to be present at any meeting and would work with the department in any way possible to do our part in this regard.

I also understand that you might be sending out a letter in the next few weeks or so to clarify some of the issues that I raised in my letter. I guess basically what I am wanting to do is confirm that at least for the present there is nothing that Rangen needs to do to preserve the status quo with regard to the Aqua Life river call. If that changes at sometime in the future, could you please let me know right away so we can do whatever is necessary to protect that right.

Thanks for your help and cooperation in this matter.

Very truly yours,

ELLSWORTH, MAY, SUDWEEKS, STUBBS,
IPSEN & PERRY

J. DEE MAY

JDM:mab
cc: Rangen

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August 1, 1996

Idaho Department of Water Resources
Attention: Gary Spackman
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

RE: Letter Dated April 25, 1996 Concerning the Call
For Delivery of Water on Billingsley Creek

Dear Gary:

I have read and reread the April 25th letter and am writing this letter for a clarification with regard to the last paragraph on page 1 of that letter. That paragraph seems to indicate that the department does not intend to curtail, or direct the water district watermaster to curtail any junior fish propagation use or other non-irrigation use where the diversion is non-consumptive and returns to Billingsley Creek at a point upstream of Aqua Life's point of diversion. It goes on to say that the department also does not include to curtail, or direct the watermaster to curtail any fish propagation use while it is used in conjunction for diversion for irrigation. What I do not understand is the last sentence in the letter which seems to directly oppose the first part of the paragraph and that is that this letter of April 25th is notice, however, that at the end of the irrigation season, and I am assuming that is the 1996 season, the department will pursue the curtailment of non-irrigation rights (which would include I am assuming fish propagation) which are subsequent to the rights held by Aqua Life.

I cannot tell whether or not the department is not going to curtail or change in any way the fish propagation use that my client, Rangen, has or whether or not that is just going to be for this irrigation season and then at that time the department is going to start the curtailment of non-irrigation rights, including fish propagation.

The last paragraph of the letter seems to indicate that the interpretation would be that the non-curtailment is only going to be for the 1996 irrigation season; however, it must be simply my lack of understanding but I am not able to discern whether or not my client should be doing something at this point to protect their rights.

Rangen does hold some water rights, that are non-consumptive and for fish propagation, which have a priority date later than October 5, 1965, and we do not want those simply shut off without some opportunity to meet with the department and discuss what actually is going to be done.

I was also wondering if there is going to be any meeting whereby we would get a chance to come and participate before the department simply shows one day on our doorstep and shuts us down. Since a few months have gone by, I am assuming that the department has perhaps a little better idea at this point in time as to what their plans are going to be to carry out the call on the river initiated by Aqua Life.

Could you please help me with some added information so that I will know how to proceed on behalf of my client.

Thank you very much.

Very truly yours,

ELLSWORTH, MAY, SUDWEEKS, STUBBS,
IPSEN & PERRY

J. DEE MAY

JDM:mab
cc: Rangen