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Department of Water Resources

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January 24, 2003

Norm Young
Department of Water Resources
P.O. Box 83720
1301 North Orchard Street
Boise, Idaho 83720-0098

RE: Williams Creek - Lemhi County

Dear Norm,

Since your letter dated December 23, 2002, I have gone over this matter with the water users and owners of the Highline Ditch. Collectively, they have made the decision that they will not allow Mr. Benzon to divert any further water from the Highline Ditch.

Last year is the only year that water was ever diverted to the Benzon property and only because the owners of the Highline Ditch were under the belief that the Department had required them to do so over their objection. I have already indicated to you why we believe Mr. Benzon does not have a water right in the first place and I agree that the final determination of said water right (75-27L) will be determined in the SRBA Court. I also agree with you that the further issue of Mr. Benzon's right to be in the Highline Ditch is independent of whether or not he has a valid water right

Because the water users and those who constructed the ditch to begin with are absolutely convinced that such use has never occurred in the Highline Ditch, they feel comfortable in taking the position that the water right will not be allowed to be diverted from the Highline Ditch.

I am attaching herewith a copy of the letter from Bill Gattung, Secretary of Williams Creek Water District, recognizing such position. The one clarification I would make to the letter is a recognition by Mr. Gattung that water right 75-27L may "still be good." The only reason for that statement is an understanding Mr. Gattung has that the Department may continue to recognize it until such time as the adjudication begins and a director's report is finalized. Because we believe the water right was lost many years ago, we will be contesting the water right in the future at the appropriate time.

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We appreciate your quick response to our letter and agree that there is no present need for a hearing or meeting with the Department. We only want the Department and those involved with this matter to understand our position. If you have any questions or concerns regarding this letter, feel free to give me a call.

Sincerely yours,



Jerry R. Rigby

JRR/jjs

enclosure

cc: Bill Gattung

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