



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 14, 2004

Lynn J. Babington
Lynclif Farms
2849 S 850 E
Hagerman, ID 83332

Clifton E. Jensen
Lynclif Farms
P. O. Box 201
Hagerman, ID 83332

Re: Distribution of Water Right No. 36-07875

Gentlemen:

I have reviewed your two letters dated December 18, 2003, which were received by the Department of Water Resources on December 22, 2003. The first letter described your acquisition of property including agricultural land, aquaculture rearing ponds, and associated water rights. This letter also described the lack of water available for water right no. 36-07875. You also asked whether the Department has any record of water right no. 36-07875 being invalid or forfeited and when you could expect a response to this question and to your second letter, which demanded administration of water rights in water districts to supply this right.

In response to your inquiry about whether the Department has any record of water right no. 36-07875 being invalid or forfeited, we have completed an initial review of our records and have not found information that would suggest water right no. 36-07875 is invalid or has been forfeited. However, we are continuing to look for information that would confirm the results of our initial review.

In response to your demand for administration of water rights in water districts, your demand will be treated as a call for water delivery under the "Rules for Conjunctive Management of Surface and Ground Water Resources" (IDAPA 37.03.11) ("Conjunctive Management Rules"). The rules are available at the following website:

<http://www2.state.id.us/adm/adminrules/rules/idapa37/0311.pdf>

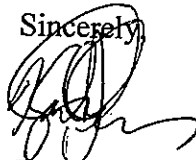
These rules prescribe how IDWR is to respond to a call for water delivery made by a holder of a senior priority surface or ground water right against the holders of junior priority ground water rights. Rule 40 of the Conjunctive Management Rules prescribe procedures for responding to delivery calls against junior priority ground water rights that are within a water district where ground water regulation is included in the function of such district. There are two water districts upgradient of the springs supplying Billingsley Creek that regulate ground water diversions. These districts are Water District No. 120 and Water District No. 130.

Lynn J. Babington and Clifton E. Jensen
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Water right no. 36-07875 is diverted from Billingsley Creek through the Padgett Ditch under a priority date of October 24, 1979. Since I am currently writing an order in response to a delivery call pursuant to Rule 40 of the Conjunctive Management Rules against ground water rights in Water Districts Nos. 120 and 130 junior to July 13, 1962, your delivery call may be moot.

I anticipate issuing the order described above prior to January 31, 2004. Therefore, I intend to hold your delivery call without further action until after I have issued this order.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karl J. Dreher', written over the word 'Sincerely,'.

Karl J. Dreher
Director

c: Glen Saxton – IDWR
Tim Luke – IDWR