



United States
Department of
Agriculture

Forest
Service

Intermountain Region

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NICK

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Mr. Tim Luke
Water Distribution Section
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED
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DEPARTMENT OF
WATER RESOURCES

Dear Mr. Luke:

This is the United States Department of Agriculture, Forest Service (Forest Service) response to the Preliminary Order issued by the Idaho Department of Water Resources (IDWR) in *The Matter of Requiring Measuring Devices and Controlling Works on Diversions From the Salmon River and Tributaries in Water District No. 170* (Order) dated February 20, 2007.

Item 1(c) of the Order states the following:

1c. "In some situations, the Department may exempt points of diversion on Attachment A from the requirements of item (1) above, or may allow deferred compliance for points of diversion on Attachment A. The Department will consider each request for exemption or deferral on a case-by-case basis. **Conditions that may result in exemption or deferral include**, but are not limited to, the following:

"Abandonment, **non-use**, or consolidation of diversions that results in a diversion on Attachment A being unused **in 2008**, or reduces the total diversion rate to less than 0.24 cfs and irrigation of less than five acres...." (emphasis added)

Attachment A of the Order identifies 25 Forest Service water rights in Basin 71. Water right numbers 71-41, 71-42B, 71-43B, 71-49B, 71-50, 71-59, 71-61, 71-64B, 71-66, 71-68, 71-2004D, 71-2053A, 71-7002, 71-10277, 71-10278, 71-10728, 71-10766, 71-10772 and 71-10871 are currently subject to approved Applications for Extension of Time to Avoid Forfeiture (dated August 17, 2004) and will not be diverted in 2008. In addition, water right numbers 71-26A, 71-27A, 71-4036A, 71-10723, 71-10724, and 71-10726 will not be diverted by the Forest Service in 2008.

Pursuant to Item 1(c) of the Order, the Forest Service requests an exemption for the points of diversion listed on Attachment A from the requirements of the Order. The Forest Service has determined that the 25 water rights listed on Attachment A will not be diverted in 2008.

The Forest Service will come into compliance with the Order at such time that any of these water rights are diverted.

Sincerely,

JEANNE A. EVENDEN
Director, Lands

