



WMC:MAGheleta

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General Litigation Section  
Denver Office

U.S. Department of Justice

Environment and Natural Resources Division

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March 31, 1994

A. Lynne Krogh, Esq.  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-4449

Re: Snake River Basin Adjudication - Water Right Claim No. 36-15450 -  
U.S.F.W.S. Hagerman National Fish Hatchery

Dear Ms. Krogh:

This letter pertains to the water use situation at Len Lewis Spring, where IDWR has been taking actions within the last two weeks to redirect the flow of Spring water from the Hagerman National Fish Hatchery to the Brailsford Ditch. It must be emphasized that the United States has allowed IDWR onto Hatchery property this year to administer state-law based water rights as a matter of comity. The United States objects to administration of federal water rights by IDWR to the extent that IDWR seeks authority beyond the scope of the waiver of sovereign immunity contained in the McCarran Amendment, 43 U.S.C. 666.

Please find enclosed a letter from Hatchery Manager Bryan Kenworthy to Watermaster George Lemmon requesting that 2.9 cfs spilling at the Hagerman Wildlife Management Area, and not being beneficially used, be turned back to the Hatchery, where it will be put to beneficial use. Because IDWR is charged with the duty of administering water rights pursuant to the doctrine of beneficial use, the United States expects this call to be honored.

Sincerely,

A handwritten signature in cursive script that reads "Michael A. Gheleta".

Michael A. Gheleta, Attorney

encl.