



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000  
Phone: (208) 327-7900 FAX: (208) 327-7866

April 24, 1996

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Ken Ellis  
Aqua Life, Inc.  
Rt 5, Box 5053  
Buhl, ID 83316

Re: Call for Delivery of Water by Aqua Life, Inc.

Dear Mr. Ellis:

This letter verifies the Department's (IDWR) receipt of the three written notices for call on water of Billingsley Creek and its tributaries from Aqua Life, Inc. (Aqua Life).

Attached to this letter is a copy of IDWR correspondence dated April 24, 1996 to watermaster George Lemmon providing instructions about delivery of water pursuant to your calls of water from Tupper Spring, Big Spring and Billingsley Creek.

Also attached is a copy of an order requiring Robert, John or Esther Tupper, and instructing the watermaster, to limit the total diversion of water from Tupper Spring to 0.60 cfs allowed under decreed right 36-00115. The Tupper's are further required to show cause to the Director of the Department on or before May 10, 1996 why the Director should not instruct the watermaster of Water District 36-A to further limit the delivery of water pursuant to right no. 36-00115 to that amount which can be beneficially used for domestic, stock and irrigation purposes. The Department will provide the watermaster with specific instructions regarding delivery of these rights after the Tupper's have had an opportunity to provide a response to the Show Cause Order.

IDWR staff member Tim Luke will work with the watermaster on these calls and can assist with monitoring of diversions during both the irrigation and non-irrigation seasons. Please contact me or Tim Luke at 327-7900 if you have questions about this matter.

Sincerely,

  
Gary Spackman

cc: Southern Region



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

April 24, 1996

George Lemmon  
1050 East 2727 South  
Hagerman, ID 83332

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Re: Call for Delivery of Water by Aqua Life, Inc.

Dear Mr. Lemmon:

The Department (IDWR) has received three written notices for call on water of Billingsley Creek and its tributaries from Aqua Life, Inc. (Aqua Life). It is my understanding that Mr. Ellis delivered copies of these petitions directly to your residence and that you have reviewed the petitions.

Attached to this letter is a copy of an order instructing you, as watermaster of Water District 36-A, to discontinue any delivery of water under right nos. 36-07841 and 36-04073 owned by Robert Tupper and limit the total diversions of Robert, John or Esther Tupper to no more than 0.60 cfs as allowed under decreed right 36-00115. You should discontinue delivery of the junior priority rights as soon as soon as possible. You may want to provide Tupper and his lessee several days notice before discontinuing delivery of the junior rights and adjusting the total diversion to 0.60 cfs.

The attached order further requires the Tupper's to show cause to the Director of the Department on or before May 10, 1996 why the Director should not instruct you, as watermaster of Water District 36-A, to limit further the delivery of water under right 36-00115 to that amount of water that can be beneficially used for domestic, stock and irrigation uses. The Department will provide you with specific instructions regarding delivery of these rights after Mr. Tupper has had an opportunity to provide a response to the Show Cause Order.

In regard to the remaining two petitions, IDWR finds that there are a number of rights from Big Spring, Billingsley Creek, and Billingsley Creek tributary springs which are junior to Aqua Life's rights. A review of these junior rights show that they represent fish propagation or non-consumptive uses which either return to Billingsley Creek upstream of Aqua Life's point of diversion on Billingsley Creek, or are diverted in conjunction with senior irrigation rights and may not exceed the rates of diversion under those irrigation rights.

During the irrigation season, IDWR advises you as watermaster to monitor the Big Spring diversion and all diversions upstream of Aqua Life's Billingsley Creek diversion and adjust any diversion

that may exceed rates of diversion allowed under the water rights. IDWR does not instruct you to curtail any fish propagation or non-consumptive use while it is used in conjunction with diversion for an irrigation beneficial use. However, at the end of the irrigation season, IDWR directs you to pursue the curtailment of non-irrigation rights which are subsequent to the right held by Aqua Life. This includes curtailment of your own non-irrigation season fish propagation use from Big Spring for which the Department has no record of any water right.

Attached to this letter is a copy of a list which the Department put together showing diversions and water rights upstream of Aqua Life's points of diversion. The list is sorted by priority date. Please contact me or Tim Luke at 327-7900 if you have questions about this matter and/or the attachments.

Sincerely,



Gary Spackman

cc: Ken Ellis, Aqua Life, Inc.  
Southern Region



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000  
Phone: (208) 327-7900 FAX: (208) 327-7866

April 24, 1996

Big Spring Water Users Association  
PO Box 218  
Hagerman, ID 83332

Re: Call for Delivery of Water

Dear Gentlemen:

The purpose of this letter is to notify members of the Big Spring Water Users Association that the Department (IDWR) has received three written notices for call on water of Billingsley Creek and its tributaries from Aqua Life, Inc. (Aqua Life). One of the three petitions is specific to Big Spring. A copy of the petition is attached for your reference. The petition seeks curtailment of diversion of water for fish propagation and other non-consumptive uses which do not return to Billingsley Creek.

Aqua Life is the owner of water right license no. 36-02338 which authorizes diversion of water from springs tributary to Billingsley Creek, including Big Spring. This right is for 54.68 cfs and has a priority date of August 5, 1954. All water right holders who divert water from Big Spring whose rights are junior to August 5, 1954 may be affected by this delivery call.

The Department's records show that Big Spring Water Users Association is the holder of two water rights for irrigation, municipal and domestic purposes which are senior to Aqua Life's water right. These rights are 36-00022, for 12.9 cfs and priority of 03/01/1909, and 36-00023, for 5 cfs and priority of 04/01/1911. These rights are deliverable for the quantities and uses listed above during the irrigation season. During the non-irrigation season, municipal and domestic uses may be limited to smaller quantities. The Department's records also show that several Snake River Basin Adjudication claims have been filed for diversion of water from Big Spring. These claims, 36-11060 and 36-15462, filed by Billingsley Creek Ranch, are for recreation and fish propagation uses respectively, and are junior to Aqua Life's right. The total combined rate of diversion under these two rights as recommended by the Department is 2.04 cfs.

IDWR does not intend to curtail, or direct the water district watermaster to curtail any fish propagation use while it is used in conjunction with diversion for an irrigation beneficial use. This letter is notice, however, that at the end of the irrigation season, IDWR will actively pursue the curtailment of non-irrigation rights which are subsequent to the right held by Aqua Life.


PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

IDWR will also pursue full curtailment at the end of the irrigation season of any non-irrigation use which is not covered by a valid water right.

If you divert water from Big Spring for non-irrigation uses with water rights of priority later than August 5, 1954, please be apprised that curtailment could result in less water being available for fish propagation or other non-consumptive uses during the fall and winter months.

Sincerely,



Gary Spackman

cc: Don McFadden, Billingsley Creek Ranch  
George Lemmon, Watermaster  
City of Hagerman  
Ken Ellis, Aqua Life, Inc.  
Southern Region