

ATTACHMENT A

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Ken Ellis
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George Lemmon
Watermaster
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Robert Tupper
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Charles Johnson
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Big Spring Water Users Assoc.
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City of Hagerman
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Hagerman ID 83332

IDWR Southern Region
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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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 27, 1996

Re: IDWR Letter Dated April 25, 1996 Concerning Call For
Delivery of Water on Billingsley Creek & Tributaries

Dear Wateruser:

The Department recently received correspondence from a representative of one of the Billingsley Creek water right holders seeking some clarification about the above referenced letter. Specifically, the water right holder was asking if IDWR would curtail or change the fish propagation use under certain water rights diverted from tributary springs upstream of the point of diversion on Billingsley Creek owned by Aqua Life. Aqua Life is the owner of a 1965 priority right license who made a call for delivery of water last April.

As stated in our prior letter, the Department does not intend to curtail, or direct the water district watermaster to curtail any junior fish propagation use or other non-irrigation use where the diversion is non-consumptive and returns to Billingsley Creek at a point upstream of Aqua Life's point of diversion. IDWR does not intend to curtail such uses which return water above Aqua Life's point of diversion either in the irrigation season or non-irrigation season. Such non-consumptive type uses of-course are limited to the rates of diversion and original uses authorized by the owner's water rights.

IDWR also does not intend to curtail, or direct the watermaster to curtail any fish propagation use while it is used in conjunction with diversion for irrigation under a valid water right during the irrigation season.

If Aqua Life's rights can not be filled in the non-irrigation season and Aqua Life has a demand for water, then Aqua Life should renew its' call for water. Upon receiving a renewed call, IDWR will pursue the curtailment of fish propagation uses or other non-consumptive uses when the diversion of water is upstream of Aqua Life and does not return to Billingsley Creek, and the water rights are junior to the rights held by Aqua Life. This intent and direction also applies to those uses and rights from Big Springs which was subject to a separate call for water by Aqua Life.


IDWR was also asked if a meeting would be planned to discuss IDWR's response to the calls. IDWR does not have any immediate

plans to convene a special meeting regarding the calls. IDWR will provide some additional notice about any renewed call by Aqua Life for the non-irrigation season.

IDWR is also aware of one fish propagation use from Big Spring which will be curtailed if water is diverted to that use during the non-irrigation season. It is IDWR's opinion that the use in question is not covered by a valid water right during the non-irrigation season. A notice regarding this matter has been sent to the owner of the facility in question.

Please contact this office if you have further questions or concerns regarding delivery of rights. A copy of this letter has been sent to those parties identified on Attachment A.

Sincerely,



Tim Luke



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PHILIP E. BATT
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KARL J. DREHER
DIRECTOR

August 27, 1996

George Lemmon
1050 East 2727 South
Hagerman, ID 83332

Re: Diversion of Water Without a Valid Water Right from Big Spring for Fish Propagation

Dear Mr. Lemmon:

As you know, the Department received several calls for delivery of water earlier this year by Aqua Life, Inc. One of these calls was directed at water rights and uses from Big Spring.

Our review of water rights and uses diverted from Big Spring indicates that you divert water for both irrigation and fish propagation use from this source. The Department recognizes several senior priority water rights for irrigation, municipal and stock water use from Big Spring, but has no record of any valid water rights from this source covering your fish propagation use. The Department has not attempted to curtail your fish propagation use during the irrigation season since we recognize that you divert water from Big Spring under senior water rights for irrigation purposes.

The purpose of this letter is to notify you that the Department finds that your fish propagation use from Big Spring is not authorized by any valid water rights, and that the Department will require you to cease and desist from diverting water for fish propagation from Big Spring during the non-irrigation season. For purposes of water right administration, the Department defines the irrigation season in the Hagerman Valley from March 15 to November 15.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Luke', is written over the typed name.

Tim Luke

cc: Ken Ellis, Aqua Life, Inc.
Big Spring Water Users Assoc.
Southern Region