



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 14, 2003

Big Spring Water Users Association
2727 South 1050 East
Hagerman, ID 83332

Re: Call for Delivery of Water; Notice to Curtail Water Right No. 36-15681

Dear Gentlemen,

On May 15, 2003 the Idaho Department of Water Resources (IDWR) received a written call for delivery of water right no. 36-7725 from Fisheries Development Corporation (FDC) and Clear Lakes Trout Company (CLT). CLT is the water right holder of record for water right 36-7725. This right authorizes diversion of 100 cfs from Billingsley Creek for fish propagation. The priority date of this right is November 29, 1976. The point of diversion for this right is located downstream of the Big Spring Water Users Association (BSWUA) pipeline diversion from Big Springs, tributary to Billingsley Creek.

One of the water rights that are diverted from the BSWUA pipeline is right no. 36-15681, owned by the BSWUA for fish propagation. The fish hatchery is located on land owned by George Lemmon. This right has a priority date of September 30, 1987 and authorizes a diversion rate of 6.0 cfs. This right is junior in priority to CLT's water right on Billingsley Creek, 36-7725. Use of right 36-15681 with right 36-22, a senior priority right owned by BSWUA, is limited to a total combined diversion rate of 12.9 cfs. Right 36-22 has a priority date of March 21, 1901. BSWUA also owns water right no. 36-23, which is also diverted to the Big Springs pipeline for irrigation purposes and has a priority of April 1, 1911. The use of water under right 36-15681 is completely consumptive with respect to Billingsley Creek because water that discharges from the hatchery does not return at all to the creek. Water that discharges from the hatchery is used for irrigation purposes on lands owned by George Lemmon under the BSWUA senior priority rights and/or discharges to a waste water ditch that injects to the Buckeye Ditch.

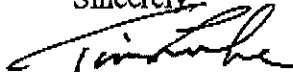
On July 2, 2003, the Water District 36-A watermaster and representatives from IDWR measured the flow of the BSWUA Big Spring pipeline diversion near the spring source. A measurement was also made of the BSWUA hatchery discharge. IDWR measured the flow of the Big Springs pipeline at 12.9 cfs using a portable ultrasonic flow meter. IDWR and the watermaster confirmed that the City of Hagerman, a BSWUA shareholder, was diverting just under 2 cfs from the BSWUA pipeline to the city storage tank at the time the pipeline was measured. IDWR and the watermaster also measured about 3.3 cfs discharging from the BSWUA/Lemmon hatchery. All of this flow was discharging to the waste ditch and ultimately injected to the Buckeye Ditch. An additional amount of water was diverted from the tail end of

the hatchery and above the hatchery discharge weir to an irrigation pump owned by George Lemmon. It was observed that the pump was operating a small pivot and one wheel line. Two additional pumps located off the tail end of the hatchery were not in use at the time of the visit but it appeared that they had been in use this season.

The purpose of this letter is to notify you of the call for water made by CLT on Billingsley Creek for water right 36-7725. IDWR further wishes to notify you that diversion of water from Big Springs for fish propagation under water right 36-15681 is both junior and consumptive to CLT's downstream water right on Billingsley Creek. IDWR recognizes that BSWUA has the right to call for delivery of its senior priority water rights but those rights must be used for the purposes described under the rights. Fish propagation is not a use described under the BSWUA 1901 and 1911 senior priority rights. Water can only be diverted to the hatchery under right 36-15861 if full beneficial use is made for the authorized purposes under the senior rights, 36-22 and 36-23.

By copy of this letter, the department hereby directs the watermaster of Water District 36-A to contact you and inform you that you must cease and desist the diversion of water from Big Springs for fish propagation use if you are not using the BSWUA senior priority rights for their authorized purposes. The watermaster will advise you that your hatchery diversion from Big Spring and the BSWUA pipeline must be curtailed by July 28, 2003. You therefore have about 14 days from the date of this letter in which to make arrangements to move fish before the water is shut off. This letter is being sent by facsimile to the watermaster on July 14th with instructions to hand deliver the letter to you as soon as possible.

Sincerely,



Tim Luke
Manager, Water Distribution Section

cc: Frank Erwin, Watermaster
City of Hagerman
IDWR Southern Region
Clear Lakes Trout Co.