



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

January 30, 2009

David Huff, Vice-President  
Aquarius Aquaculture  
2674 Norwood Rd.  
Hagerman, Idaho 83332

Re: Distribution of Water to Aquarius Aquaculture Hidden Springs Hatchery

Dear Mr. Huff:

I have reviewed your correspondence of January 13, 2009, which was received by the Idaho Department of Water Resources ("IDWR" or "Department") on January 21, 2009. Your letter requests administration of water rights pursuant to Idaho Code, Title 42, Chapter 6. Our records show that you made similar requests to the Director of IDWR via correspondence dated October 7, 2003 and November 8, 2006. I have also reviewed the response to your October 7, 2003 correspondence by former IDWR Director Karl Dreher, dated October 20, 2003. Director Dreher's response indicated that your request for water rights administration would be treated as a call for water delivery under the "Rules for Conjunctive Management of Surface and Ground Water Resources" (IDAPA 37.03.11) ("Conjunctive Management Rules"). The Department continues to view your original request and your requests of January 13, 2009 and November 8, 2006 as a call for delivery under the Conjunctive Management Rules.

Director Dreher's response of October 20, 2003 notified you that additional information was needed to make certain findings required by the Conjunctive Management Rules. That letter also advised you that developing this additional information would require a site visit by the watermasters of Water Districts 36-A and 130, and several other Department employees. You were asked at that time to contact Water District 130 Watermaster Cindy Yenter to arrange the site visit referenced in Director Dreher's response. You were also asked to provide the Director with all historical records of the amounts of water diverted under your water rights. Our records do not indicate that the site visit occurred or that you contacted Ms. Yenter to arrange the visit. Our records also do not indicate that you submitted the historical diversion records requested by the Director. Our records further indicate that the Department did not respond to your delivery call letter of November 8, 2006. I wish to apologize for that lack of response by IDWR.

On May 19, 2005, the Department issued an order in response to the Rangen water right delivery call. See Second Amended Order in the Matter of Distribution of Water Rights Nos. 36-15501, 36-02551 and 36-07694, which is available on line using the following link:

[http://www.idwr.idaho.gov/Calls/Spring%20Users%20Calls/SU\\_previous\\_archives.htm#Orders](http://www.idwr.idaho.gov/Calls/Spring%20Users%20Calls/SU_previous_archives.htm#Orders) .

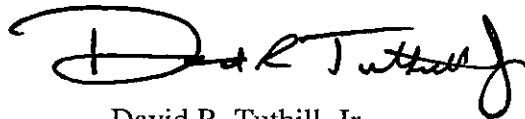
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This order addressed the delivery of Rangen's July 13, 1962 priority spring water right pursuant to the Conjunctive Management Rules against junior ground water rights in Water Districts 120 and 130. Rangen's 1962 priority water right is diverted within the same spring reach of the Eastern Snake Plain Aquifer (ESPA) as your 1969 and 1971 priority water rights. IDWR denied Rangen's delivery call based on findings that curtailment of junior priority ground water rights in Water Districts 120 and 130 would not significantly affect the quantity of water available to Rangen's 1962 priority right.

I believe the Department's prior decision in the Rangen delivery call essentially renders your delivery call moot. However, I also believe that the Department must address your most recent request in accordance with the procedures of the Conjunctive Management Rules. The Department therefore should proceed with developing the additional information that it sought to obtain through the site visits that were requested by Director Dreher's letter of October 20, 2003. Some of the information requested by that notice can be obtained or verified through the site visit and through existing Department records. Water measurement records for your facility and on file at the Department are for the period of March 1, 1995 through December 31, 2007. Neither IDWR nor Water District 130 has your 2008 water measurement report, and no data exists in our records prior to March 1, 1995 other than perhaps several miscellaneous measurements that may have been made when your rights were licensed by IDWR.

Please contact Cindy Yenter, the watermaster for Water District No. 130 at the Department's Twin Falls office (208-736-3033) as soon as possible to schedule the site visits. Also, as requested in Director Dreher's prior correspondence to you on October 20, 2003, please provide me with all historical records of the amounts of water diverted under the water rights identified in your delivery call as soon as practicable.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Tuthill, Jr.", with a stylized flourish at the end.

David R. Tuthill, Jr.  
Director

Cc: Cindy Yenter, Water District Nos. 130 and 140 Watermaster  
Frank Irwin, Water District No. 36-A Watermaster  
Gary Spackman, IDWR Water Management Division Administrator  
Tim Luke, IDWR Water Distribution Section  
Brian Patton, IDWR Water Planning Bureau  
North Snake Ground Water District  
Magic Valley Ground Water District  
Southwest Irrigation District