

**MEMORANDUM**

**TO:** Water District 36-A File

**FROM:** Tim Luke

**DATE:** 2/14/1997

**RE:** Phone Conversation with Ken Ellis of Aqualife

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Ken Ellis of Aqualife called me this morning and requested copies for a number of water right files in Water District 36A. Some of the rights in question are decreed rights, for which we may not have actual files. I advised him that he go to the regional office and copy the SRBA files for those rights. We will send him copies of whatever we have in the state office for those rights.

Ellis mentioned that he was gathering this information for some kind of civil action regarding junior priority diversions which 'are taking water at their leisure' and effecting water quantity, quality and temperature. He gave me the impression that the action may be directed at junior water right holders, not the Department. He seemed to indicate that other water users or interested parties were either supporting him or working with him on this matter. He would not answer whether such action amounts to a call on the aquifer.

I asked him if he had planted fish in his ponds diverting from Billingsley Creek. He said fish had not been planted yet, but that they are still planning to plant. He has concerns about the effect of stream flow and temperature fluctuations on this facility. I got the impression that perhaps the diversion has been used more for monitoring purposes.

I discussed with him concerns about upstream diversions, particularly Curren Ditch. I mentioned that I thought that there could be additional regulation, but I was not sure what to recommend given the fact that he does not have fish planted and that other users in the area were raising questions about whether he was making beneficial use of water. I mentioned that the Department had not received any calls from him over the past month regarding delivery concerns or whether any direction needed to be given to the watermaster. I also reminded Ellis that if regulation is needed, it has to be coordinated with the watermaster.

I did not sense from our conversation that Ellis is particularly dissatisfied with the Department. I don't believe that he directly stated that his rights were not being satisfied. I did not feel he was making any demands of the Department at this time other than requesting information from water right files. However, he obviously seems concerned about the lack of control on Billingsley Creek and the quality of water in the creek itself. I again advised him that the control question can be addressed through the water district and the Department.

cc: Norm Young, Glen Saxton, Alan Merritt