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DEC 22 2003
Department of Water Resources

Date: 12/18/03

To: Karl Dreher, Director
Idaho Department of Water Resources

From: Lynn Babington, Owner
Cliff Jensen, Owner
Lynclif Farms

Re: Water Right No. 36-7875

In July 2003 Lynclif acquired a piece of property that includes agriculture land, aquaculture rearing ponds, and water rights 36-10283A and 36-7875. August 15, 2003 Jeff Peppersack of IDWR acknowledged receipt and modified records to reflect the change in ownership of water rights 36-7875 and 36-10283A to Jensen's and Babington's.

The agriculture land is currently in production and Lynclif Farms desires to make repairs to the aquaculture facility and then culture, sturgeon and trout as allowed by water right 36-7875.

Leo Ray was the previous operator of the aquaculture facility having fish in the ponds up until the early summer of 2003, at which time the Water master of District 36A requested that Leo remove the fish because he was going to curtail the diversion of water from Billingsley Creek of water right 36-7875. This was done to allow Senior down stream water right owners to help fulfill their prior rights as prescribed by Idaho law, with which we fully agree. Our understanding is that Senior water rights downstream were unable to full fill their water rights and expensive sturgeon being cultured died due to the lack of water available in the lower reaches of Billingsley Creek. According to the Idaho Department of Environmental Quality and others Billingsley Creek had a flow of "0" c.f.s. into the Snake River at times during the summer of 2003.

Fish like any other crop requires much advanced planning, and expenditures to assure a successful harvest. Sturgeon even more so due to the fact that caviar is not harvested from mature female sturgeon until 10-13 years of age in Idaho's cool water. It is common for sturgeon to live and grow in the same pond for 2, 3, and 4 year periods.

To culture fish in water provided for by the Idaho Department of Water Resources water right 36-7875 it is essential that an uninterrupted flow be available to our diversion point from the Eastern Snake River Plain Aquifer System. Given the current situation we are forced to make a call on our water and expect the state of Idaho and you as the director of the Water Resources Department to curtail any upstream diversions of our water supply

that are junior to water right 36-7875. Time is of the essence and to help facilitate this situation we are requesting a response to the following:

1) Does IDWR have any record of water right 36-7875 being invalid or forfeited?
2) When can we expect a response from IDWR regarding their decision on the call, and item 1 above?

Thank you in advance for your help in this matter.

Lynn Babington

Clifton E. Jensen

December 18, 2003

Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Re: Delivery of Water to Water Right No. 36-7875

Dear Mr. Dreher:

Water Right No. 36-7875 is entitled to delivery of 10.0 c.f.s from Billingsley Creek for fish propagation under a priority date of October 24, 1979.

The Water master of District 36-A was unable to make full delivery of the entitled 10.0 c.f.s during the summer of 2003.

Demand is hereby made that you direct the District Water masters to administer water rights in the Water Districts as required by Idaho Code δ 42-607 in order to supply this prior right. This demand is for the period of January 1 to December 31 as specified in the water right.

Sincerely,

Lynn Babington

Clifton E.Jensen