Date: May 21, 2014

RECEIVED
MAY 28 2014
DEPARTMENT OF
WATER RESOURCES

To: Gary Spackman, Director
Idaho Department of Water Resources
322 East Front St. P.O. Box 83720
Boise, Id. 83720-0098

From: Lynn Babington
LynClif Farms
2825 S. 1050 E.
Hagerman, Id 83332

Clifton Jensen
LynClif Farms
P.O. Box 201
Hagerman, Id 83332

RE: Water Right No. 36-7875

Dear Mr. Spackman,

December 18, 2003 Lynclif made a call on water for Water Right No. 36-7875. Director Dreher responded in his letter dated January 14, 2004. 36A Water Master Frank Erwin responded also. April 28, 2007 we submitted an Idaho Water Resource Board's Interest Assessment questionnaire. (copies are enclosed for your convenience).

In the last 10 years we have harvested (2-3) crops of sturgeon from the 4 ponds. These crops were stocked @ 40% capacity due to the diminished availability of water at our diversion point. These flows ranged from 3 c.f.s. in the Spring to 10 c.f.s. in the Winter.

At this time we are requesting information, and answers to the following:

1) A list of all ground water users up gradient from springs supplying Billingsley Creek with priority dates junior to October 24, 1979. Please include owners name, priority date, beneficial use, and diversion rate.
2) What is the status of our call for water delivery made on December 18, 2003 on water right No. 36-07875? (Please reactivate this call if necessary)
3) We will finish the harvest of the final pond of sturgeon in the near future. We recognize that we are junior to some downstream water rights. District 36A Water Master and others are not optimistic about the springs supplying water to Billingsley Creek being adequate to fill all water rights this summer. Are you and the Idaho Department of Water Resources administering water deliveries under the Conjunctive Management Rules this summer? In short, should we stock our ponds?; at what capacity?; and what water flows can we expect on a continuous basis for the next 3 – 4 years for this stocking of sturgeon.

Thanks in advance for your prompt response and attention to this matter.

Sincerely,

Lynn Babington

Cliff Jensen

enclosures

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

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

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 14, 2004

Lynn J. Babington
Lynclif Farms
2849 S 850 E
Hagerman, ID 83332

Clifton E. Jensen
Lynclif Farms
P. O. Box 201
Hagerman, ID 83332

Re: Distribution of Water Right No. 36-07875

Gentlemen:

I have reviewed your two letters dated December 18, 2003, which were received by the Department of Water Resources on December 22, 2003. The first letter described your acquisition of property including agricultural land, aquaculture rearing ponds, and associated water rights. This letter also described the lack of water available for water right no. 36-07875. You also asked whether the Department has any record of water right no. 36-07875 being invalid or forfeited and when you could expect a response to this question and to your second letter, which demanded administration of water rights in water districts to supply this right.

In response to your inquiry about whether the Department has any record of water right no. 36-07875 being invalid or forfeited, we have completed an initial review of our records and have not found information that would suggest water right no. 36-07875 is invalid or has been forfeited. However, we are continuing to look for information that would confirm the results of our initial review.

In response to your demand for administration of water rights in water districts, your demand will 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 rules are available at the following website:

http://www2.state.id.us/adm/adminrules/rules/idapa37/0311.pdf

These rules prescribe how IDWR is to respond to a call for water delivery made by a holder of a senior priority surface or ground water right against the holders of junior priority ground water rights. Rule 40 of the Conjunctive Management Rules prescribe procedures for responding to delivery calls against junior priority ground water rights that are within a water district where ground water regulation is included in the function of such district. There are two water districts upgradient of the springs supplying Billingsley Creek that regulate ground water diversions. These districts are Water District No. 120 and Water District No. 130.

Water right no. 36-07875 is diverted from Billingsley Creek through the Padgett Ditch under a priority date of October 24, 1979. Since I am currently writing an order in response to a delivery call pursuant to Rule 40 of the Conjunctive Management Rules against ground water rights in Water Districts Nos. 120 and 130 junior to July 13, 1962, your delivery call may be moot.

I anticipate issuing the order described above prior to January 31, 2004. Therefore, I intend to hold your delivery call without further action until after I have issued this order.

Sincerely,

Karl J. Dreher
Director

c: Glen Saxton – IDWR
Tim Luke – IDWR

January 19, 2004

To: Idaho Department of Water Resources

Tim Luke

From: Frank C. Erwin

Watermaster 36A

Subject: LynnCliff Call on water

Order of Events:

1. June 8, 2003 Dale Boyer contacted me to check his diversion. There was no water in Billingsley Creek at his diversion. We were able to gain a little water from upstream diversions to keep what was left of the fish alive.

2. June 9, 2003 I talked to Angie at Fish Breeders. Fish had been removed from the ponds on the Padgett Ditch. I adjusted the Padgett Ditch headgate to 9 inches head on gate. This left about 7 cubic feet per second in Billingsley Creek.

3. June 10, 2003 Checked Padgett Ditch headgate. Adjusted orifice to 1 3/4 inches high. The width is set at 5 feet. The head was 10 inches which equals approximately 3.3 cubic feet per second.

Reasons to curtail LynnCliff fish propagation rights in Padgett Ditch:

1. Irrigation and fish propagation water rights down stream from Padgett Ditch diversion on Billingsley Creek are senior in priority.

2. There are no upstream water rights that divert water out of Billingsley Creek that are junior in priority to LynnCliff's fish propagation water right.

3. LynnCliff's fish propagation water right does not return flow to Billingsley Creek. It flows to the Snake River.

4. Springs flowing into Billingsley Creek are too low to deliver LynnCliff's fish propagation water right.

Frank C. Erwin

Frank C. Erwin

THOUSAND SPRINGS AREA WATER RIGHTS
IDAHO WATER RESOURCE BOARD'S
INTEREST ASSESSMENT QUESTIONNAIRE
GENERAL INFORMATION SHEET

Please return form by May 1, 2007

(Please type or print with ink)

A. General

1. Water Right Holder Name(s) Lynn J. & Kathy L. Babington & Clifton E. & Suzanne K. Jensen, DBA LynClif Farms, LLC

2. Is your potential interest in: a Sale x or Subordination _____.

3. Type of ownership:

_____ Single individual	_____ Corporation
_____ Joint owners	x LLC
_____ Partnership	_____ Irrigation district
_____ Other_____	_____ Irrigation/Canal Company

4. Mailing address: P.O. Box 201

City/Town Hagerman Zip Code 83332

5. Phone number: Daytime 208-837-6116 208-837-4860
Cell 208-539-4890
Fax _____

6. E-mail address: _____

7. For the water right, which you may be interested in selling or subordinating, do you own the land or facility associated with it?
x Yes ____ No

If you own the water right but not the land or facility, what is your relationship with the landowner/facility? N/A

B. Water Right Information

If more than one water right is being proposed, please copy this page and fill out one page for each water right.

Water Right Number 36-7875 SRBA Claim Number _____
Explanation of renumbering if applicable: _____

1. Type of use for water right: Irrigation _____ Other x
   If other, please explain Fish propagation
2. Proposed price for water right $ N/A per acre or $235,303 per cfs.
3. Number of acres to be idled N/A acres or name of facility or other entity _____.
3. Type of water right: _____ Permit
   x License
   _____ Decree
   _____ Beneficial use claim
4. Priority date of the water right. 10/24/79
5. Water use authorized by this water right. Fish propagation
6. Does this right have a permissible place of use? x Yes _____ No
7. Is the number of acres authorized for irrigation under this right limited within the place of use in a single irrigation season? N/A Yes N/A No
8. List any other water rights appurtenant to the lands that are not included in this proposal and identify whether they are supplemental rights.
   N/A

C. SUBMITTAL

SUBMITTING THIS QUESTIONNAIRE FORM DOES NOT OBLIGATE THE APPLICANT TO SELL OR SUBORDINATE ITS WATER RIGHTS. THE PURPOSE OF THE QUESTIONNAIRE IS TO IDENTIFY WATER RIGHTS THAT MAY HAVE AN INTEREST IN PARTICIPATING IN THE PROCESS AND TO GATHER BASIC INFORMATION ABOUT THOSE WATER RIGHTS.

NOTE: To support your submittal you may be asked to supply additional information. The applicant represents that the information provided in this questionnaire is true and accurate to the best of its knowledge. A member of the Board's staff will notify the right holder shown above if additional information is required. Should you have any questions about this questionnaire or about the process, please contact Brian Patton at (208) 287-4837.

Clifton Jensen
Suzanne Jensen

Lynn Babington
Kathy Babington Owners

Name and title of applicant submitting information.

Date of Submittal: April 28, 2007

For questions about sale or submittal contact:
Brian Patton
Phone: (208) 287-4837
Email: brian.patton@idwr.idaho.gov

Return Form to: Idaho Water Resource Board
Attn: Patsy McGourty
322 E. Front Street
P.O. Box 83720
Boise, ID 83720

To aid the Idaho Water Resource Board in gathering basic information about water rights, we submit the following.

Our water right is non-consumptive and is diverted out of the lower end of Billingsley Creek. The source of Billingsley Creek, and consequently the water for our water right is composed of many non-consumptive spring water rights upstream of our diversion.

If these upstream non-consumptive water rights are not filled, ours is most likely not filled either as indicated by our water call submitted to IDWR December 18, 2003. It would seem that if any upstream non-consumptive rights qualify for compensation that our water right would also qualify since it is basically the same water. Thank you for considering our comments.