

11/29/2005

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 21-13013

RLF I LLC RLF II LLC RLF III LLC RLF IV LLC
CO RICHARD D DIVINE
PO BOX 2601
CRESTED BUTTE CO 81224
Telephone Number: (303)499-9964

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

COMBINED DIVERSION RATE, COMBINED ACRE LIMITATION, ⁵ INDIVIDUAL DIVERSION RATE.

2. Describe the changes you wish to make in the proposed recommendation:

ELIMINATE OR ALTER THE COMBINED DIVERSION RATE & COMBINED ACRE LIMITATION. ALSO, THE INDIVIDUAL DIVERSION AMOUNT SHOULD BE .8 CFS (40 inches), NOT .4 CFS.

3. Give a brief explanation as to why you disagree with these portions:

~~THE~~ THE PLACE OF USE MAP DOES NOT INCLUDE AREAS THAT ARE PASTURES FOR LIVESTOCK. THESE AREAS WERE IRRIGATED THROUGHOUT THE YEAR WHEN WATER WAS AVAILABLE DUE TO CROP ROTATION. ALSO, WE BELIEVE THE HISTORY OF THIS RIGHT, AS CONTAINED IN THE ATTACHED LETTER, IS INACCURATE. THE AMOUNT SHOULD BE .8 CFS (40 inches)
I AGREE with this proposed recommendation: no changes need to be made.

DATE: 1/13/2006

SIGNATURE:

Robert L. Harris

Please print your name:

ROBERT L. HARRIS

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

RECEIVED

JAN 17 2006

Department of Water Resources
Eastern Region

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
FREDERICK J. HAHN, III
KARL R. DECKER
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON**
ROBERT L. HARRIS
DEBORAH S. O'MALLEY

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL RHARRIS@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel Fred J. Hahn

**Also Licensed in Missouri & Kansas

January 13, 2006

RECEIVED

JAN 17 2006

**Department of Water Resources
Eastern Region**

Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Re: RLF, LLCs Notice of Error Reply for Water Right Recommendations

Dear Sir or Madam:

Enclosed are Notices of Error Reply for eight water rights owned by the RLF, LLCs. Also enclosed is a spreadsheet that summarizes the water right claims and IDWR's recommendations. As you can see, there is a significant disparity in the claimed individual diversion amounts and the recommended combined amounts. There is also a significant difference in the claimed individual acreages under each water right and the recommended combined amounts. These limitations affect five out of the eight water rights. The other three water rights were recommended just as they were claimed, and we have no problems with these recommendations.

However, as to the five combined rights, we have some concerns. In visiting with Mr. Rick Blanchard, the previous owner of the property, he has indicated that the acres recommended are not accurate. He has not seen a copy of the place of use map yet. I have sent one to him for his review. However, in explaining the place of use map to him over the phone, it appears to him that the Department has excluded a number of pasturing areas for livestock from being recommended. Mr. Blanchard has said that when possible he has used those water rights to irrigate those pasture areas. Once he receives the map and reviews it and indicates those pasture areas he has irrigated, we will submit that map to you with his comments. Mr. Blanchard has operated that property for many decades and is quite familiar with how the water rights have operated in the past. Given Mr. Blanchard's experience, Mr. Divine does not think these recommendations are adequate.

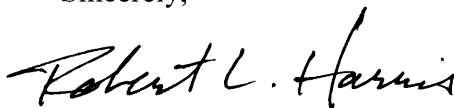
In addition, Mr. Blanchard has raised some concerns with Water Right No. 21-13013 (formerly Water Right No. 21-114). In discussing a letter from IDWR from November 2005 with Mr. Blanchard over the phone, he is quite aware of the situation concerning this water right. In his view, and in the view of George Nedrow, this water right should have 0.8 cfs as its diversion rate (40 inches of water). I have sent Mr. Blanchard a copy of the letter for his review and asked for his comments. He said he had very recently visited with George Nedrow concerning this issue and feels there is enough evidence to support an individual diversion rate of 0.8 cfs.

Once we receive any documents or hear anything from Mr. Blanchard or from others, we will forward that information on to you. We would suggest contacting Mr. Blanchard concerning these recommendations in order to best understand the history of these rights.

Lastly, the Internet does not indicate whether or not a recommendation for water right 21-10435 has been issued. Could you please inform us of the status of that water right.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

c: Rick Divine

RLF LLC WATER RIGHTS

OK?	Water Right No.	Basis	Priority Date	Source	Claimed Individual Diversion Rate (cfs)	Recommended Individual Diversion Rate (cfs)	Recommended Combined Diversion Rate (cfs)	Claimed Individual Acre Limitation	Recommended Combined Acre Limitation	Claimed Beneficial Uses	Recommended Beneficial Uses
N	21-93	Decreed	June 1, 1891	Fall River	3.6	3.6		228.7		Irrigation, Stockwater, Ground Water Recharge	Irrigation, Stockwater
N	21-13013 (21-114)	Decreed	June 1, 1890	Fall River	0.4	0.4		48			
N	21-145	Decreed	June 1, 1894	Fall River	3	3	8.44	138.7	421.8	Irrigation, Stockwater	Irrigation, Stockwater
N	21-146	Decreed	May 10, 1896	Fall River	5	4.8		134.7		Irrigation, Stockwater	Irrigation, Stockwater
N	21-12992	Beneficial Use	July 25, 1919	Fall River	2	2		100		Irrigation, Stockwater, Ground Water Recharge	Irrigation, Stockwater
					14	13.8		650.1			

DIFFERENCE between claimed individual diversion amounts and recommended individual diversion amounts (cfs):

DIFFERENCE between claimed individual diversion amounts and recommended combined amounts (cfs):

DIFFERENCE between claimed individual acreage amounts and recommended combined amounts:

0.2
5.56
228.3

Y	21-7160	Permit	Oct. 16, 1978	Springs	2	2	None	100	None	Irrigation	Irrigation
Y	21-7152	License	May 18, 1978	Ground Water	3.4	3.4	None	296	None	Irrigation	Irrigation
Y	21-106A	Decreed	July 16, 1902	Fall River	1.43	1.43	None	55 (ours is a 15 acre portion)	None	Irrigation	Irrigation

No Recommendations Submitted Yet

21-10435	Beneficial Use	Apr. 1, 1955	Unnamed Slough	2.22				111		Irrigation	Irrigation
----------	----------------	--------------	----------------	------	--	--	--	-----	--	------------	------------