

March 5, 2008

Chris Bromley
Deputy Attorney General
322 E. Front Street
Boise, Idaho 83702

**RE: WATER RIGHTS OF CLARENCE C. AND/OR MYRA E. MILLER IN THE LEMHI
RIVER DRAINAGE**

Dear Mr. Bromley:

This letter responds to your inquiry involving water rights claimed by Clarence C. and/or Myra E. Miller ("Millers") during the course of the Lemhi River Adjudication conducted by the Idaho Department of Water Administration (now the Idaho Department of Water Resources or "IDWR") in the early 1970's. This adjudication was conducted under my direct supervision from an office of IDWR located in Salmon, Idaho.

You asked that I review adjudication claims and the recommendation of rights claimed by the Millers during the adjudication. Since the adjudication took place about 35 years ago and since my memory has faded, my review of the matter and conclusions described below were reached using copies of the Miller's claims, the Proposed Finding of Water Rights in the Lemhi River Basin in Civil Case No. 4948 ("the Green Book"), and the map identified as T21N, R22E, Map D ("Map D") that was prepared during the adjudication.

It might be easiest to explain my review by using the bullet list format shown below:

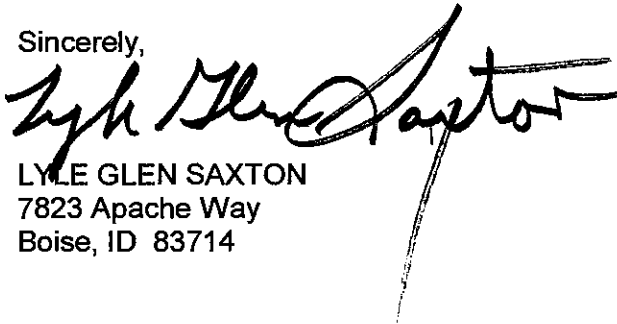
- The Millers filed 2 claims originally identified as 74-0447 and 74-0448. Claim 74-0447 was subsequently renumbered by IDWR to be 74-0321C, since the right claimed was part of previously decreed water right no. 74-0321.
- Both claim nos. 74-0448 and 74-0321C are included in the Green Book. Claim 74-0448 is for domestic purposes and is not at issue in review of the Miller rights here.
- The Green Book recommendation of claim 74-0321C includes the irrigation of 5.3 acres in the NWNW Section 15 and 1 acre in the NENW Section 15. Map D shows that the Millers irrigate 5.3 acres in the NWNW Section 15, and 9 acres in the NENW Section 15.
- The Green Book recommendation does not include the remaining 8 acres (14.3 minus 6.3 acres) located in the NENW Section 15 even though the 8

acres were claimed by the Millers and Map D shows the 8 acres to be irrigated.

I don't know why the 8 acres were not included in the recommendation of right no. 74-0321C. I can only conclude that the omission of the 8 acres was an error or oversight and should have been included as a part of the recommendation of right 74-0321C. If the recommendation had included the 8 acres, the rate of diversion recommended would have been 0.32 cfs larger for a total rate of diversion of 0.57 cfs for right no 74-0321C.

If you have additional questions about this matter or would like to further discuss it, please feel free to contact me at my home phone 853-2743.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyle Glen Saxton". The signature is stylized with a large, sweeping "L" and a long, thin tail extending downwards.

LYLE GLEN SAXTON
7823 Apache Way
Boise, ID 83714