



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN
April 7, 2010

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

APR 12 2010

By _____ Clerk
_____ Deputy Clerk

Honorable Terrance A. Dolan
Special Master
Snake River Basin Adjudication
253 3rd Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

RE: 706 report for Carmen Creek water rights (75-69A et al.) and Subcase No. 75-10061Q (Quinn)

Dear Special Master Dolan:

I am writing regarding an omission in the 706 report for the Carmen Creek water rights (75-69A et al.). It has come to IDWR's attention that the 706 report failed to identify Subcase No. 75-10061Q (Quinn) as being recommended as disallowed by IDWR. This was an oversight. The Quinn's property is south of Carmen Creek and claim no. 75-10061Q is a claim for exchange water. Thus, consistent with the narrative explanation on page 12 of the 706 report, water right no. 75-10061Q should have been included in the disallowed list in the 706 report (Exhibit P). Attached to this letter is a revised page 12 of the 706 report, listing water right no. 75-10061Q as disallowed. Also attached to this letter is a revised Exhibit P, showing water right no. 75-10061Q as disallowed.

I have brought this issue to the attention of the counsel for the parties and they agree the amendment to the 706 report does not necessitate the running of a new objection and response deadline because the Quinns believed water right no. 75-10061Q had been disallowed and they already filed an objection challenging the disallowance. Therefore, IDWR respectfully requests that the court accept the amended page 12 and amended Exhibit P of the 706 report without starting a new objection and response deadline. IDWR also respectfully requests the court to modify IWATRS to reflect water right no. 75-10061Q as recommend as disallowed. Finally, IDWR also respectfully requests the court group Subcase No. 75-10061Q with the rest of the Carmen Creek water rights for further proceedings.

Sincerely,

GARRICK L. BAXTER,
Deputy Attorney General
Idaho Department of Water Resources

cc: Rob Harris
Travis Thompson
Paul Arrington
David Negri

Revised Page 12

Attached as Exhibit O are the amended director's reports for the water rights listed above.

Exchange water rights should no longer be recommended to water users on the south side of Carmen Creek because of the accomplished transfer. Thus, the Department recommends the following water rights now be disallowed: 75-10061Q (Qwinn); 75-14441 and 75-14443 (Rice); 75-10061R and 75-10062P (Matejko); 75-10061A and 75-10062A (Burns); 75-10061Y and 75-10062W (Ernest); 75-10061AE and 75-10062AC (Clementz). Attached as Exhibit P is the amended director's report for the disallowed water rights.

Splits of Licensed Right 75-2025

The Department does not recommend any changes to the recommendations for license 75-2025.

Forfeiture

The Fols group claims that Shirley Mattis, James Hudson and Thomas Jackson have forfeited their water rights. In support of their claims, the Fols group has submitted pictures showing the point of diversion in disarray, a 1995 letter from the Department to Mr. Hudson, and an affidavit from Bruce McFarland, a former water master.

The Department has accepted the affidavit of Robert Parmenter as establishing that exchange water was used on the Parmenter property north of Carmen Creek. As Mattis, Hudson and Jackson own property north of Carmen Creek that was formerly Parmenter property, the Department starts with the presumption that Mattis, Hudson and Jackson are entitled to exchange water and that the water rights could have been lost only through forfeiture.

EXHIBIT P

04/07/2010

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
75-14441	LINDA RICE PO BOX 285 CARMEN ID 83462 RICK RICE PO BOX 285 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-14443	LINDA RICE PO BOX 285 CARMEN ID 83462 RICK RICE PO BOX 285 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10061R	GEORGE MATEJKO PO BOX 129 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10062P	GEORGE MATEJKO PO BOX 129 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10061A	RUTH C BURNS PO BOX 264 CARMEN ID 83462 JOHN E BURNS PO BOX 264 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10062A	RUTH C BURNS PO BOX 264 CARMEN ID 83462 JOHN E BURNS PO BOX 264 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10061Y	JACQUELINE D ERNEST PO BOX 132 CARMEN ID 83462 ROBERT M ERNEST PO BOX 132 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10062W	JACQUELINE D ERNEST PO BOX 132 CARMEN ID 83462 ROBERT M ERNEST PO BOX 132 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10061AE	WILLIAM W CLEMENTZ PO BOX 255 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10062AC	WILLIAM W CLEMENTZ PO BOX 255 CARMEN ID 83462	Disallowed	Recommended as accomplished transfer to other property.
75-10061Q	<u>JAMES R QUINN</u> <u>PO BOX 1473</u> <u>CARMEN ID 83462</u> <u>ROWENA D QUINN</u> <u>PO BOX 1473</u> <u>CARMEN ID 83462</u>	<u>Disallowed</u>	<u>Recommended as accomplished</u> <u>transfer to other property.</u>