



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

May 19, 2011

Rick Rice
Linda Rice
PO Box 285
Carmen, ID 83462

RE: SRBA Subcase Nos. 75-69L and 75-70L

Dear Mr. and Mrs. Rice:

As you likely remember, Suzy Cooley-Denney from my office previously wrote you about your exchange water rights. Due to the Department's close scrutiny of the 1875 and 1882 exchange water rights in another case, the Department discovered that Mrs. Rice had additional 1875 and 1882 exchange water rights decreed under the name of Linda Metcalf. This discovery led to a request to add a combined diversion rate condition in the water rights to clarify administration. Recently, it was brought to the Department's attention that the same problem exists as to your 1888 and 1892 water rights. There are additional water rights decreed in the name of Linda Metcalf for these water rights as well. I recognize that we should have caught and fixed this at the same time we caught the other error, but we unfortunately didn't. I realize that this issue is confusing so I will explain in further detail below.

Each of Thomas Palmer's successors-in-interest is entitled to a portion of Thomas Palmer's original 1875 and 1882 water rights and a portion of the 1888 and 1892 exchange water rights. Currently, you have portions of each of these priorities under water right nos. 75-14443, 75-14441, 75-69L and 75-70L in the name of Kevin and Linda Rice:

<u>Water Right No.</u>	<u>Priority</u>	<u>Source</u>	<u>Owner(s)</u>
75 69 L	1888-05-01	CARMEN CREEK	RICE, LINDA (Current); RICE, RICK (Current)
75 70 L	1892-05-01	CARMEN CREEK	RICE, LINDA (Current); RICE, RICK (Current)
75 14441	1882-05-01	CARMEN CREEK	RICE, LINDA (Current); RICE, RICK (Current)
75 14443	1875-05-01	CARMEN CREEK	RICE, LINDA (Current); RICE, RICK (Current)

And as shown in the chart below, there are overlapping rights in the name of Linda Metcalf:

<u>Water Right No.</u>	<u>Priority</u>	<u>Source</u>	<u>Owner(s)</u>
75 69 G	1888-05-01	CARMEN CREEK	METCALF, LINDA (Current)
75 70 G	1882-05-01	CARMEN CREEK	METCALF, LINDA (Current)
75 10061 P	1875-05-01	CARMEN CREEK	METCALF, LINDA (Current)
75 10062 M	1882-05-01	CARMEN CREEK	METCALF, LINDA (Current)

While we previously addressed overlapping rights 75-10061P and 75-10062M (in the name of Linda Metcalf) by putting a condition in water right nos. 75-14441 and 75-14443 (in the name of Rick and Linda Rice) recognizing the combined diversion rate, we now would like to do the same for water right nos. 75-69G and 75-70G (in the name of Linda Metcalf) by putting a condition in water right nos. 75-69L and 75-70L (in the name of Rick and Linda Rice) recognizing the combined diversion rate. Attached is a proposed Standard Form 5 ("SF5") with the corrected combined diversion rate condition. Also, as you can see from the above chart, it appears that 75-70G was incorrectly recommended with an 1882 priority date because the parent right 75-70 and all of the rest of the 75-70 splits have an 1892 priority date. Linda Metcalf was not decreed a 1892 portion but was recommended two 1882 portions. I have also included an SF5 with this letter that also addresses the priority date error in 75-70G.

Please review the enclosed SF5s which have the corrected combined diversion rate language and priority date. While I have tried to make the explanation as clear as possible, I realize that you might have more questions. If you have questions, please do not hesitate to contact me at (208) 287-4811. Please also feel free to contact Mr. Burns to discuss as I have been in communication with him regarding this issue. He might be able to help you further understand the issue. If you do not have any questions, please sign the enclosed documents and mail back to me. I will submit them to the SRBA court along with a letter that explains that we would like the decrees amended consistent with the SF5s.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Baxter', with a long horizontal stroke extending to the right.

Garrick L. Baxter

Deputy Attorney General

Idaho Department of Water Resources

Cc: John Burns
Enclosure

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

Subcase No. 75-00069L

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

While this water right was previously decreed on January 31, 2011, the water right holder and IDWR agree that the partial decree for 75-69L should be corrected and the combined use condition for water right 75-69L should be amended consistent with the attached recommendation. The parties and IDWR have further indicated their concurrence by initialing the attached pages.

CLAIMANT
Rick Rice

CLAIMANT
Linda Rice

Rick Rice, Pro Se Date

Linda Rice, Pro Se Date

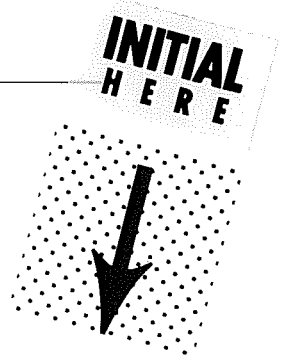
IDWR Concurrence:

Carter Fritschle Date
Adjudication Section Manager

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

05/05/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW



RIGHT NUMBER: 75-69L

NAME AND ADDRESS: RICK RICE
PO BOX 285
CARMEN ID 83462

LINDA RICE
PO BOX 285
CARMEN ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.039 CFS

Right Nos. 75-69G, 75-69L, 75-70G and 75-70L are limited to a total combined diversion rate of 0.093 cfs.

PRIORITY DATE: 05/01/1888

POINT OF
DIVERSION: T22N R22E S2 NWNW Lot 4 Within LEMHI County
T22N R22E S2 SWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.039 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T22N R22E S03	NESE	7.40	T22N R22E S03	SESE	0.60
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8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 8 acres in a single irrigation season. Combined Right Nos.: 75-69L, 75-70L, 75-14442, 75-14441 and 75-14443.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

CERTIFICATE OF MAILING

I certify that on _____, 2011, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

RICK & LINDA RICE
BOX 285
CARMEN, ID 83462

Signature of person or attorney mailing form

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

Subcase No. 75-00070L

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

While this water right was previously decreed on January 31, 2011, the water right holder and IDWR agree that the partial decree for 75-70L should be corrected and the combined use condition for water rights 75-70L should be amended consistent with the attached recommendation. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT

Rick Rice

CLAIMANT

Linda Rice

Rick Rice, Pro Se

Date

Linda Rice, Pro Se

Date

IDWR Concurrence:

Carter Fritschle
Adjudication Section Manager

Date

Garrick L. Baxter
Deputy Attorney General
Attorney for IDWR

Date

05/05/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-70L
NAME AND ADDRESS: RICK RICE
PO BOX 285
CARMEN ID 83462

LINDA RICE
PO BOX 285
CARMEN ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER
QUANTITY: 0.054 CFS
PRIORITY DATE: 05/01/1892

Right Nos. 75-69G, 75-69L, 75-70G and 75-70L are limited to a total combined diversion rate of 0.093 cfs.

POINT OF
DIVERSION:

T22N R22E S2 NWNW Lot 4 Within LEMHI County
T22N R22E S2 SWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.054 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T22N R22E S03	NESE	7.40	T22N R22E S03	SESE	0.60
---------------	------	------	---------------	------	------

8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 8 acres in a single irrigation season. Combined Right Nos.: 75-69L, 75-70L, 75-14442, 75-14441 and 75-14443.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed



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DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

RICK & LINDA RICE
BOX 285
CARMEN, ID 83462

Signature of person or attorney mailing form

In Re SRBA	)	Subcase No. 75-00070G
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

While this water right was previously decreed on September 8, 2000, the water right holder and IDWR agree that the partial decree 75-70G should be corrected and the combined use condition and the priority date for 75-70G should be amended consistent with the attached recommendation. The parties, IDWR and the water right holder, have further indicated their concurrence by initialing each of the attached pages.

05/05/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-70G
NAME AND ADDRESS: LINDA METCALF
PO BOX 285
CARMEN ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER
QUANTITY: 0.060 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

Right Nos. 75-69G, 75-69L, 75-70G and 75-70L are limited to a
total combined diversion rate of 0.093 cfs.

PRIORITY DATE: ~~05/01/1882~~ 05/01/1892

POINT OF
DIVERSION: T22N R22E S2 SENWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	1/01 12/31	0.020 CFS
DOMESTIC	4/01 11/01	0.060 CFS

PLACE OF USE: STOCKWATER in LEMHI County

T22N R22E S03 NESE

DOMESTIC in LEMHI County

T22N R22E S03 NESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed
2 HORSES RP 00138001002A A



CERTIFICATE OF MAILING

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Signature of person or attorney mailing form