



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

July 28, 2011

Rodney Hugh Edmiston
Susan Francine Edmiston
PO Box 155
Carmen, ID 83462

RE: Water Right Nos. 75-69Q and 75-70Q.

Dear Mr. and Mrs. Edmiston:

This is a follow up to my letter of June 29, 2011. This letter relates to an issue that has been brought to the Department's attention by another water user on Carmen Creek. It has been pointed out to the Department that because the portion of your land that was part of the original Thomas Palmer place of use (the SWNE) totals 4.0 acres, the Department should have use 4.0 instead of 3.1 when calculating the total cfs for water right nos. 75-69Q and 75-70Q. See pages 7 and 8 of the January 11, 2010 Supplemental Director's Report for charts showing how the cfs for each right was calculated. While this point has merit, the Department cannot call this change clerical in nature, given the broad impact it would have on other already decreed water rights. Thus, if you would like the SRBA District Court to make a change to your decreed rate of flow, the request to set aside and amend your partial decrees must come from you. To help you understand the impact this would have on your water rights and the water rights of your neighbors, I'm attaching two exhibits, one for water right 75-69Q and one for 75-70Q. Each exhibit first shows how the water right is currently recommended and then shows how the water right would be decreed if the decrees are set aside and you are allotted a higher rate of flow. The water rights highlighted in green are the rights that must be reopened and reduced in order to provide you a higher rate of flow.

While the Department cannot give you advice on whether or not you should seek to have the partial decrees set aside and modified, the Department did feel compelled to notify you of this issue as it had been brought to its attention.

If you should have any questions or comments, please do not hesitate to me at (208) 287-4811.

Sincerely,

Garrick L. Baxter
Office of the Attorney General
Idaho Department of Water Resources

Enclosure

75-69 (1888) 20 inches (.4 cfs)

CURRENT RECOMMENDATIONS

<u>Water Right #</u>			<u>Acres</u>	<u>CFS</u>	<u>Name</u>
75	69	A	10.9	0.054	BURNS, JOHN E ; BURNS, RUTH C
75	69	B	11.2	0.055	HUDSON, JAMES PAUL
75	69	F	2.6	0.013	TIPPETT, CATHLEEN ; TIPPETT, JAMES R
75	69	H	9.4	0.046	MATEJKO, GEORGE
75	69	K	6	0.030	MOSHER, FRANSICKA ; MOSHER, ROBERT D
75	69	L	8	0.039	RICE, LINDA ; RICE, RICK
75	69	N	1.7	0.008	ERNEST, JACQUELINE D ; ERNEST, ROBERT M
75	69	P	6.7	0.033	MATTIS, SHIRLEY J
75	69	Q	3.1	0.015	EDMISTON, RODNEY HUGH ; EDMISTON, SUSAN FRANCINE
75	69	S	2.1	0.010	CLEMENTZ, WILLIAM W
75	69	W	4.4	0.022	EISENHAUER, PHILLIP G ; ERWIN, SHELLEY L
75	69	X	4.5	0.022	HERSHEY, TERRY J ; HERSHEY, VERALYN E
75	14393		1.1	0.005	FADNESS, DANNY E ; FADNESS, ROBERTA V
75	14541		3.2	0.016	QUINN, JAMES R ; QUINN, ROWENA D
75	14591		5	0.025	YOWELL, STEVEN K
75	14593		1.4	0.007	CABIGAS, JOHNNY J ; GREENWAY, LANA J
Totals			81.3	0.400	

HOW THE RECOMMENDATIONS COULD CHANGE IF EDMISTONS MOVE TO SET ASIDE PARTIAL DECREES AND ASKS FOR INCREASED CFS

<u>Water Right #</u>			<u>Acres</u>	<u>CFS</u>	<u>Name</u>
75	69	A	10.9	0.053	BURNS, JOHN E ; BURNS, RUTH C
75	69	B	11.2	0.055	HUDSON, JAMES PAUL
75	69	F	2.6	0.013	TIPPETT, CATHLEEN ; TIPPETT, JAMES R
75	69	H	9.4	0.046	MATEJKO, GEORGE
75	69	K	6	0.029	MOSHER, FRANSICKA ; MOSHER, ROBERT D
75	69	L	8	0.039	RICE, LINDA ; RICE, RICK
75	69	N	1.7	0.008	ERNEST, JACQUELINE D ; ERNEST, ROBERT M
75	69	P	6.7	0.033	MATTIS, SHIRLEY J
75	69	Q	4	0.019	EDMISTON, RODNEY HUGH ; EDMISTON, SUSAN FRANCINE
75	69	S	2.1	0.010	CLEMENTZ, WILLIAM W
75	69	W	4.4	0.021	EISENHAUER, PHILLIP G ; ERWIN, SHELLEY L
75	69	X	4.5	0.022	HERSHEY, TERRY J ; HERSHEY, VERALYN E
75	14393		1.1	0.005	FADNESS, DANNY E ; FADNESS, ROBERTA V
75	14541		3.2	0.016	QUINN, JAMES R ; QUINN, ROWENA D
75	14591		5	0.024	YOWELL, STEVEN K
75	14593		1.4	0.007	CABIGAS, JOHNNY J ; GREENWAY, LANA J
Totals			82.2	0.400	

75-70 (1892) 30 inches (.6 cfs)

CURRENT RECOMMENDATIONS

<u>Water Right #</u>			<u>Acres</u>	<u>CFS</u>	<u>Name</u>
75	70	A	10.9	0.073	BURNS, JOHN E ; BURNS, RUTH C
75	70	B	11.2	0.075	HUDSON, JAMES PAUL
75	70	F	2.6	0.017	TIPPETT, CATHLEEN ; TIPPETT, JAMES R
75	70	H	9.4	0.063	MATEJKO, GEORGE
75	70	K	6	0.040	MOSHER, FRANSICKA ; MOSHER, ROBERT D
75	70	L	8	0.054	RICE, LINDA ; RICE, RICK
75	70	N	1.7	0.011	ERNEST, JACQUELINE D ; ERNEST, ROBERT M
75	70	P	6.7	0.045	MATTIS, SHIRLEY J
75	70	Q	3.1	0.021	EDMISTON, RODNEY HUGH ; EDMISTON, SUSAN FRANCINE
75	70	S	8.4	0.056	JACKSON, DONNA K ; JACKSON, THOMAS M
75	70	T	2.1	0.014	CLEMENTZ, WILLIAM W
75	70	X	4.4	0.029	EISENHAUER, PHILLIP G ; ERWIN, SHELLEY L
75	70	Y	4.5	0.030	HERSHEY, TERRY J ; HERSHEY, VERALYN E
75	10678		1.4	0.009	CABIGAS, JOHNNY J ; GREENWAY, LANA J
75	14387		1.1	0.007	FADNESS, DANNY E ; FADNESS, ROBERTA V
75	14592		5	0.033	YOWELL, STEVEN K
75	14539		3.2	0.021	QUINN, JAMES R ; QUINN, ROWENA D
Totals			89.7	0.600	

HOW THE RECOMMENDATIONS COULD CHANGE IF EDMISTONS MOVE TO SET ASIDE PARTIAL DECREES AND ASKS FOR INCREASED CFS

<u>Water Right #</u>			<u>Acres</u>	<u>CFS</u>	<u>Name</u>
75	70	A	10.9	0.072	BURNS, JOHN E ; BURNS, RUTH C
75	70	B	11.2	0.074	HUDSON, JAMES PAUL
75	70	F	2.6	0.017	TIPPETT, CATHLEEN ; TIPPETT, JAMES R
75	70	H	9.4	0.062	MATEJKO, GEORGE
75	70	K	6	0.040	MOSHER, FRANSICKA ; MOSHER, ROBERT D
75	70	L	8	0.053	RICE, LINDA ; RICE, RICK
75	70	N	1.7	0.011	ERNEST, JACQUELINE D ; ERNEST, ROBERT M
75	70	P	6.7	0.044	MATTIS, SHIRLEY J
75	70	Q	4	0.026	EDMISTON, RODNEY HUGH ; EDMISTON, SUSAN FRANCINE
75	70	S	8.4	0.056	JACKSON, DONNA K ; JACKSON, THOMAS M
75	70	T	2.1	0.014	CLEMENTZ, WILLIAM W
75	70	X	4.4	0.029	EISENHAUER, PHILLIP G ; ERWIN, SHELLEY L
75	70	Y	4.5	0.030	HERSHEY, TERRY J ; HERSHEY, VERALYN E
75	10678		1.4	0.009	CABIGAS, JOHNNY J ; GREENWAY, LANA J
75	14387		1.1	0.007	FADNESS, DANNY E ; FADNESS, ROBERTA V
75	14592		5	0.033	YOWELL, STEVEN K
75	14539		3.2	0.021	QUINN, JAMES R ; QUINN, ROWENA D
Totals			90.6	0.600	