

RECEIVED

AUG 05 2011

DEPARTMENT OF
WATER RESOURCES

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

AUG - 4 2011

By

Clerk
Deputy Clerk

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

) Water Right Nos.: 75-69Q, 75-70Q, 75-
) 10061AA, 75-10062Y and 75-2025J
)
) NOTICE OF COURT'S INTENT TO
) ISSUE AMENDED PARTIAL DECREES,
) AND NOTICE OF HEARING THEREON
)
)

Partial Decrees were issued for water rights 75-69Q and 75-70Q on March 30, 2011. *Partial Decrees* were issued for water rights 75-10061AA and 75-10062Y on January 5, 2011. A *Partial Decree* was issued for water right 75-2025J on June 11, 2009. On July 29, 2011, the Clerk of the Court received correspondence from the Idaho Department of Water Resources notifying the Court that the *Partial Decrees* for the above-mentioned water rights contain an error with respect to the combined use remark contained under the place of use element for each right. A copy of the July 29, 2011 correspondence is attached hereto as Exhibit A. The correspondence asserts that "it is necessary to amend the combined use condition for [water rights 75-69Q, 75-70Q, 75-10061AA, 75-10062Y and 75-2025J] by adding water right no. 75-14337, now that the previously disallowed right is being recommended." Therefore, the correspondence asserts that the combined use remark for the above-captioned right be amended to read as follows:

The rights listed below are limited to the irrigation of a combined total of 7.1 acres in a single irrigation season. Combine Right Nos. 75-69Q, 75-70Q, 75-2025J, 75-10061AA, 75-10062Y and 75-14337.

The correspondence also asserts that the *Partial Decrees* for water rights 75-2025J, 75-10016AA and 75-10062Y contain errors with respect to the place of use element. With respect to water right 75-2025J, the correspondence asserts that while the *Partial Decree* reads as follows with respect to the place of use:

T22 N R22E S03 SWNE 4.00
T22N R22E S03 SENW 3.00

7 ACRES TOTAL

it should read as follows with respect to the place of use:

T22 N R22E S03 SWNE 4.00

T22N R22E S03 SENW 3.10

7.1 ACRES TOTAL

With respect to water rights 75-10016AA and 75-10062Y the correspondence asserts that while the *Partial Decrees* read as follows with respect to the place of use:

T22 N R22E S03 SWNE 3.10

T22N R22E S03 SENW 4.00

7.1 ACRES TOTAL

they should read as follows with respect to the place of use:

T22 N R22E S03 SWNE 4.00

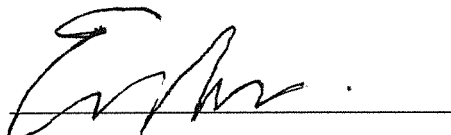
T22N R22E S03 SENW 3.10

7.1 ACRES TOTAL

Therefore, it is the intent of the Court to issue *Amended Partial Decrees* correcting the above-mentioned clerical errors in accordance with the attached Exhibit B.

Therefore, IT IS ORDERED that a hearing will be held on this matter on **November 15, 2011, at 1:30 p.m.** at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Any party wishing to object or comment on the Court's proposed action shall do so at that time. Attendance at this hearing by the claimant is not required, as the Court will take the proposed action in the absence of any objection to the contrary. Telephone participation will be available by calling 1-215-446-0193 and when prompted entering code 406128 followed by the # sign.

Dated: August 4, 2011

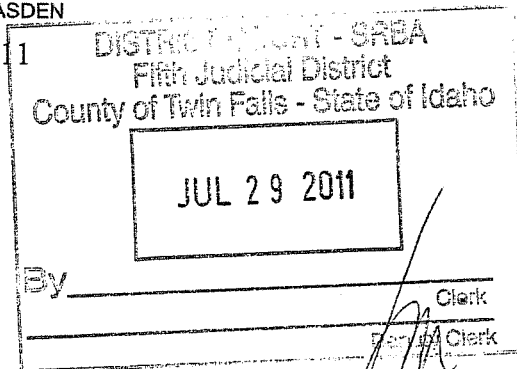


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication



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

July 26, 2011



Diana Delaney
Case Administrator
Snake River Basin Adjudication
253 3rd Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

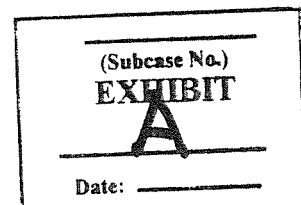
RE: Subcase Nos. 75-14337 (Edmiston)

Dear Diana:

Please find enclosed for filing a fully executed SF5 for the above-referenced subcase. Subcase No. 75-14337 was a previously disallowed high water claim and now, after further review, is being recommended by the Department.

Furthermore, as set forth in the SF5 coversheet, the Department and the claimant also respectfully request the Court set aside and amend the partial decrees previously entered in Subcase Nos. 75-69Q, 75-70Q, 75-10061AA, 75-10062Y and 75-2025J to make a clerical change. It is necessary to amend the combined use condition for these other rights by adding water right no. 75-14337, now that the previously disallowed right is being recommended. This clerical change is necessary to make the combined use condition for all Edmiston rights consistent. For the Court's convenience, I have attached Amended Director's Reports which show the requested change in strikeout, underline format.

Also, in the Department's review of these rights, the Department found clerical errors in water right nos. 75-2025J, 75-10016AA, and 75-10062Y. For 75-2025J, the Department discovered that the place of use is not consistent with all the Edmiston's other rights. This one has a place of use of 7.0 acres (4 acres in the SWNE, and 3 acres in the SENW). All five of the Edmiston's other rights are for 7.1 acres. The Department can see no reason why 75-2025J was limited to 7.0 acres and the rest to 7.1 acres. For 75-10061AA and 75-10062Y, the acreage count for each quarter-quarter has been transposed. These two water rights currently show the SWNE as having 3.1 acres and the SENW as having 4.0 acres. The water right should show the SWNE as having 4.0 acres and the SENW as having 3.1 acres, consistent with the Edmiston's other rights. The attached Amended Director's Reports reflect these suggested changes as well.



Please do not hesitate to contact me if you have questions with regards to this request.

Sincerely,

A handwritten signature in black ink, appearing to be "G. Baxter", written over a horizontal line.

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

cc: Rodney and Susan Edmiston
John Burns
United States Department of Justice, Environment and Natural Resources
Division

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

104

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

In Re SRBA
Case No. 39576

JUL 29 2011

Subcase No. 75-14337
(Previously Disallowed)

STANDARD FORM 5

By _____
Deputy Clerk

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.

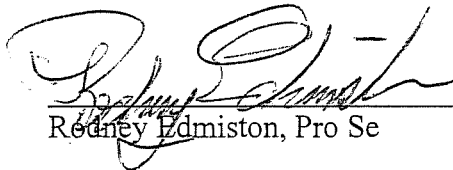
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

The parties and IDWR further agree that the combined use condition for overlapping water right numbers 75-69Q, 75-70Q, 75-2025J, 75-10061AA, and 75-10062Y should be amended to read as follows:

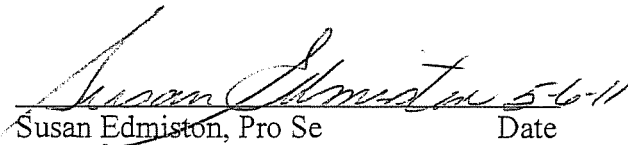
The rights listed below are limited to the irrigation of a combined total of 7.1 acres in a single irrigation season. Combined Right Nos.: 75-69Q, 75-70Q, 75-2025J, 75-10061AA, 75-10062Y and 75-14337.

It is necessary to amend the combined use condition for these other rights now that the previously disallowed right is being recommended. The parties and IDWR respectfully request that the Court amend combined use condition in the partial decrees previously entered in subcase nos. 75-69Q 75-70Q, 75-2025J, 75-10061AA, and 75-10062Y consistent with the above.

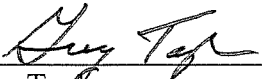
CLAIMANT
Rodney Edmiston

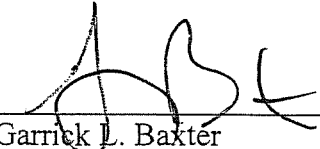

Rodney Edmiston, Pro Se Date

CLAIMANT
Susan Edmiston


Susan Edmiston, Pro Se Date

IDWR Concurrence:

 5/18/11
Greg Taylor Date
Stream Channel Protection Specialist

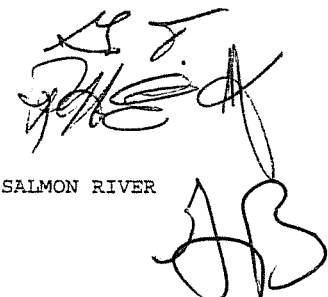
 7/26/2011
Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

06/28/2011

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

RIGHT NUMBER: 75-14337

NAME AND ADDRESS: RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
CARMEN ID 83462

Handwritten signature and initials, possibly 'JHE' and 'AB', in black ink.

SOURCE: CARMEN CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.112 CFS

PRIORITY DATE: 04/01/1915

POINT OF
DIVERSION:

T23N R22E S35 NENE 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	0.112 CFS
PLACE OF USE:	<u>IRRIGATION in LEMHI County</u>		
	T22N R22E S03 SWNE 4.00	T22N R22E S03 SENW	3.10
	7.1 ACRES TOTAL		

The rights listed below are limited to the irrigation of a combined total of 7.1 acres in a single irrigation season. Combined Right Nos.: 75-69Q, 75-70Q, 75-10061AA, 75-10062Y, 75-2025J and 75-14337.

Place of use does not include federal public lands

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 - Beneficial Use

CERTIFICATE OF MAILING

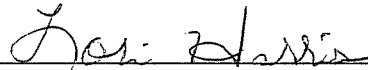
I certify that on July 28, 2011, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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

RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 75-14337

DRAFT

NAME AND ADDRESS: RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.112 CFS

PRIORITY DATE: 04/01/1915

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.112 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 SWNE 4.0 SENW 3.1
7.1 Acres Total

The rights listed below are limited to the irrigation of a combined total of 7.1 acres in a single irrigation season. Combined Right Nos.: 75-69Q, 75-70Q, 75-10061AA, 75-10062Y, 75-2025J and 75-14337. Place of use does not include federal public lands.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DRAFT

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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

AMENDED

In Re SRBA)
)
Case No. 39576)
)
Water Right 75-10062Y

NAME AND ADDRESS: RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.018 CFS

PRIORITY DATE: 05/01/1882

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.018 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 SWNE 4.0 SENW 3.1
7.1 Acres Total

The rights listed below are limited to the irrigation of a
combined total of 7.1 acres in a single irrigation season.
Combined Right Nos.: 75-69Q, 75-70Q, 75-10061AA, 75-10062Y
75-2025J and 75-14337.
Place of use does not include federal public lands.

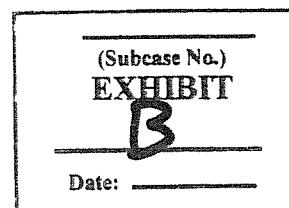
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication



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

AMENDED

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 75-10061AA

NAME AND ADDRESS: RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.038 CFS

PRIORITY DATE: 05/01/1875

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.038 CFS

PLACE OF USE: Irrigation Within Lemhi County
T22N R22E S03 SWNE 4.0 SENW 3.1
7.1 Acres Total

The rights listed below are limited to the irrigation of a
combined total of 7.1 acres in a single irrigation season.
Combined Right Nos.: 75-69Q, 75-70Q, 75-10061AA, 75-10062Y and
75-2025J and 75-14337.
Place of use does not include federal public lands.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

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

AMENDED

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 75-00070Q

NAME AND ADDRESS: RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
CARMEN, ID 83462

SOURCE: CARMEN CREEK TRIBUTARY: SALMON RIVER

QUANTITY: 0.021 CFS

PRIORITY DATE: 05/01/1892

POINT OF DIVERSION: T23N R22E S35 NENE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.021 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T22N R22E S03	SWNE 4.0
		SENE 3.1
	7.1 Acres Total	

The rights listed below are limited to the irrigation of a combined total of 7.1 acres in a single irrigation season. Combined Right Nos.: 75-69Q, 75-70Q, 75-10061AA, 75-10062Y, 75-2025J and 75-14337.

This right is limited to the irrigation of 3.1 acres within the place of use described above in a single irrigation season. PLACE OF USE DOES NOT INCLUDE FEDERAL PUBLIC LANDS.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE OF COURT'S INTENT TO ISSUE AMENDED PARTIAL DECREES AND NOTICE OF HEARING THEREON was mailed on August 04, 2011, with sufficient first-class postage to the following:

A C & LUELLA PILKERTON
ALBERT C & ALVERA C FOLS
CHARLES E & MARY N HARLING
JAMES EDGREN & JENNIFER BRADY
LLOYD A & SHERYL L TUTOR
TRACY MASCIA

Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

GEORGE MATEJKO
BOX 129
CARMEN, ID 83462

ROBERT M & JACQUELINE ERNEST
BOX 132
CARMEN, ID 83462

JAMES R & ROWENA D QUINN
BOX 1473
CARMEN, ID 83462

JOHN E & RUTH C BURNS
BOX 264
CARMEN, ID 83462

RICK & LINDA RICE
BOX 285
CARMEN, ID 83462

RODNEY HUGH EDMISTON
SUSAN FRANCINE EDMISTON
PO BOX 155
CARMEN, ID 83462
Phone: 208-756-6160

WILLIAM W CLEMENTZ
PO BOX 225
CARMEN, ID 83462

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

