

79-14238

RECEIVED

OCT 08 2009

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RDR 7/27/2010
AMENDED

1. Name of Applicant Reginald D & Shirley Rice Phone 530-626-3881
Mailing address 2240 DIAS DRIVE, PLACERVILLE, CA 95667 Email regrice@directcom.net
- * 2. Source of water supply SURFACE (SPRING) which is a tributary of N/A EHERS CREEK
3. Location of point of diversion is Township 25 NORTH Range 1 EAST Sec. 10, in the SE 1/4 1/4, NE 1/4, NE 1/4, Govt. Lot _____, B.M., IDAHO County;
additional points of diversion if any: 2 diversions in same legal location
4. Water will be used for the following purposes:
 Amount .04 0.08 cfs for domestic purposes from 1-1 to 12-31 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) .04 0.08 cfs and/or (b) _____
 cubic feet per second acre feet per year
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source 1" poly pipe 160psi
 - b. Height of storage dam N/A feet; active reservoir capacity _____ acre-feet;
total reservoir capacity _____ acre-feet
 - c. Proposed well diameter is N/A inches; proposed depth of well is _____ feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? N/A; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. 1
 - e. Other; describe fully. _____

* And EHERS Creek trib. to Johnson River

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
25N	1E	10	D	D															

Total number of acres to be irrigated: N/A

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? If there is enough water - in time we may want to use some for landscape & garden.

11. a. Who owns the property at the point of diversion? Seth and Raini Allen / Roger W. & MARTHA L. Allen

b. Who owns the land to be irrigated or place of use? Reginald D & Shirley Rice

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: see attachments (spring)

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Water pipeline from spring to parcel as listed on attached documents.

11a answer is for spring.

Creek diversion on Applicant Rice's property.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Signature of Applicant

REGINALD D. RICE

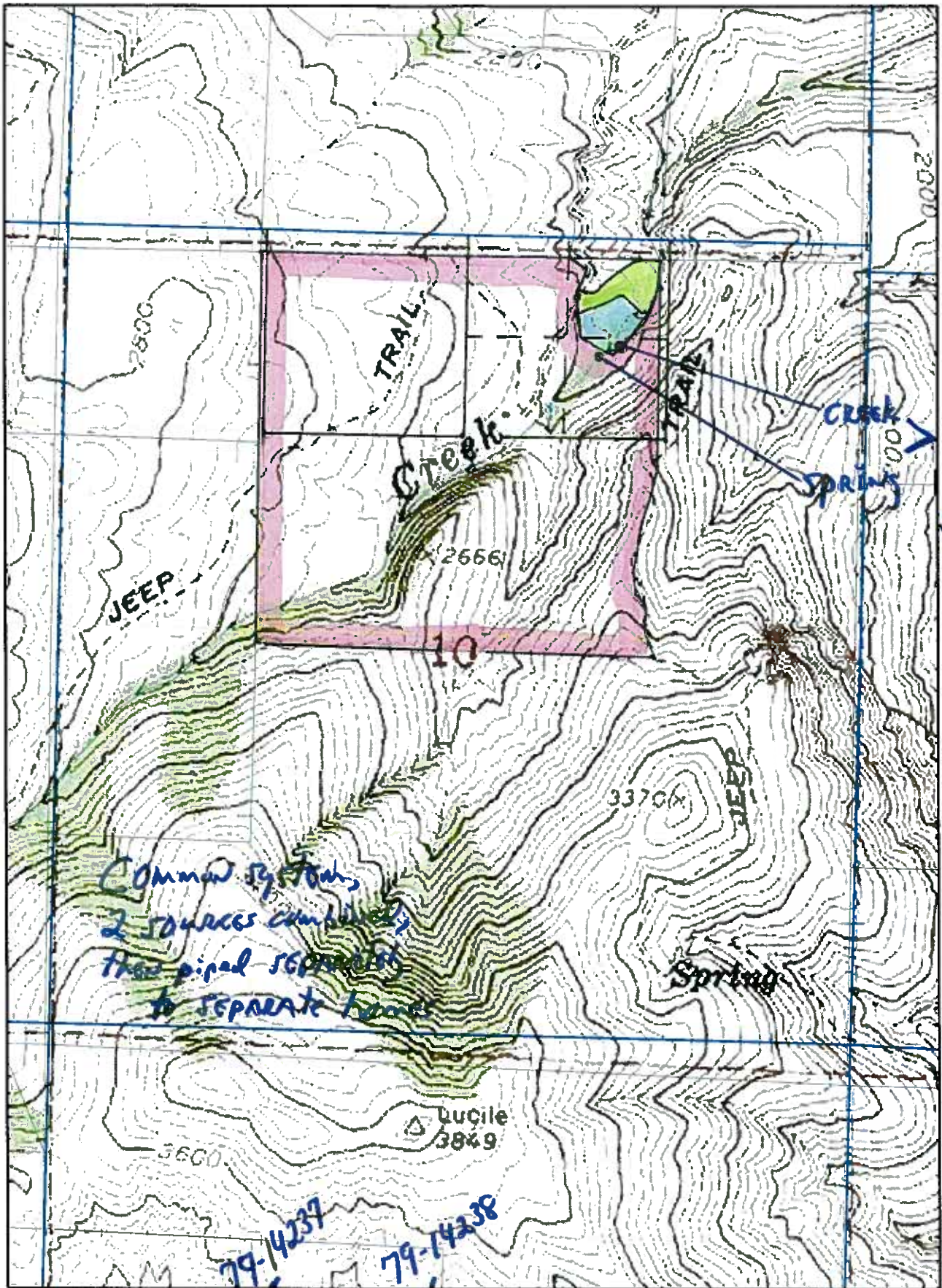
Print Name (and title, if applicable)

For Department Use:

Received by gnh Date 10-8-09 Time 10:00 AM Preliminary check by SL
Fee \$ 100 Received by DB Receipt No. W037941 Date 10-8-09

Publication prepared by DB Date 10/13/2010 Published in IDAHO COUNTY FREE PRESS
Publication approved _____ Date _____ Dates Published OCTOBER 20 & 27, 2010

T25N - R1E - Sec. 10



TAX
LOTS

ALLEN

FULMORE

RICE

WARRANTY DEED

372491

THIS INDENTURE, made on this 20th day of January, 1994, by and between ROBERT SEWELL, also known as ROBERT W. SEWELL and KATHRYN SEWELL, also known as KATHRYN M. SEWELL, husband and wife, of P.O. Box 5, Lucile, ID 83542, hereinafter referred to as the Grantors, and CHARLES R. FULMORE and DONA M. FULMORE, husband and wife, and REGINALD D. RICE and SHIRLEY RICE, husband and wife, as tenants in common, of 4031 Forni, Placerville, CA 95667, hereinafter referred to as the Grantees.

COMPUTER
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TRACTED
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ASSASSIN

WITNESSETH:

That the said Grantors, for and in consideration of the sum of Ten Dollars (\$10), lawful money of the United States of America, and other good and valuable considerations to them in hand paid by the said Grantees, the receipt whereof is hereby acknowledged, having granted, bargained, sold, and by these presents do grant, bargain, sell, convey, and confirm unto the said Grantees, their heirs and assigns, all the following described real property situate in the County of Idaho, State of Idaho, to wit:

See Schedule C, attached hereto and hereby incorporated by this reference.

TOGETHER WITH, the following easement for water and water right: Township 25 North, Range 1 East, Boise Meridian, Idaho County, Idaho, Section 10: Easement to spring and water rights to said spring being described as: Beginning at the NE corner of the NW¹/₄NE¹/₄ of said Section 10, which point is located in Elfers Creek, thence along the North side of Elfers Creek in a Southwesterly direction approximately 820 feet to a flagged metal post on the North side of Elfers Creek, thence in a westerly direction approximately 86 feet.

AND THE RIGHT to travel from said spring to the property hereunder conveyed with appropriate water pipeline and the right to do reasonable maintenance on the pipeline and spring, as from time to time might be required.

TOGETHER WITH an access easement on and along Sewell's Road across portions of Section 3 and Section 10 in said Township and Range to property as shown on attached plat.

AND the Grantees shall have the right to depart from Sewell Road on a reasonable grade for purposes of accessing the property herein sold. That the expected location of that additional spur road to the property herein sold is also shown in the attached plat.

TOGETHER WITH, all and singular, the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, the remainder and remainders, rents, issues, and profits thereof, and all estate, right, title, and

interest in and to the said property as well in law as in equity of the said Grantors.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances unto the said Grantees, their heirs and assigns forever.

And the said Grantors, for themselves, their heirs, executors, and administrators, do covenant, grant, bargain, and agree to and with the said Grantees, their heirs and assigns, that at the time of the ensealing and delivery of these presents they were well seized of the premises above conveyed as of good, sure, perfect, absolute, and indefeasible estate of inheritance, in fee simple, and have good right, full power, and lawful authority to grant, bargain, sell, and convey the same in the manner and form aforesaid, and that the same are free and clear from all and former grants, bargains, liens, taxes, assessments, and encumbrances of whatever kind or nature whatsoever, EXCEPT:

- 1) General taxes for the year 1994, which are a lien, not yet due and payable.
- 2) Reservations as set forth in Warranty Deed, including the terms and conditions thereof, by and between The Federal Land Bank of Spokane, a corporation, party of the first part, and John H. Carrey and Pearl E. Carrey, husband and wife, parties of the second part, recorded March 9, 1944 under instrument no. 144341, Book 73 page 698, records of Idaho County, Idaho.
- 3) Mining Lease, including the terms and conditions thereof, by and between Golden Complex Ores, a Wyoming corporation, first part, and Robert W. Sewell and Kathryn M. Sewell, husband and wife, second part, recorded April 24, 1972 under instrument no. 244763, and corrected by instrument no. 244959, recorded May 10, 1972 and corrected by instrument no. 245211, recorded June 1, 1972, all records of Idaho County, Idaho.
- 4) Easement Agreement, including the terms and conditions thereof, by and between Robert W. Sewell and Kathryn M. Sewell, husband and wife, grantors, and Riggins T. V. Cable Co., Inc., an Idaho corporation, grantee, recorded March 4, 1974, under instrument no. 253008, records of Idaho County, Idaho.

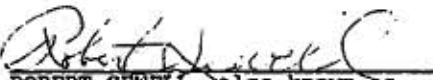
And that the above bargained premises, in the quiet and peaceable possession of the said Grantees, their heirs and assigns, against all and every person or persons lawfully claiming or to claim whole or any part thereof, the said Grantors will and shall WARRANT AND FOREVER DEFEND.

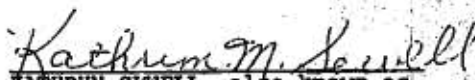
That this deed is given by Grantors to Grantees not on account of any default in any security agreements or arrangements which

WARRANTY DEED - 2

pertain to the real property hereinabove written and described, but
is given for full consideration paid by Grantees to Grantors.

IN WITNESS WHEREOF, the said Grantors have hereunto set their
hands and seals the day and year first above written.


ROBERT SEWELL, also known as
ROBERT W. SEWELL


KATHRYN SEWELL, also known as
KATHRYN M. SEWELL

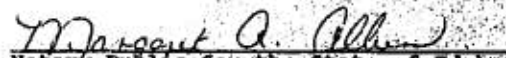
STATE OF IDAHO)
 ss
County of Idaho)

On this 20th day of January, 1994, before me, a Notary
Public in and for said County and State, personally appeared ROBERT
SEWELL, also known as ROBERT W. SEWELL, and KATHRYN SEWELL, also
known as KATHRYN M. SEWELL, husband and wife, known to me to be the
persons whose names are subscribed to the within instrument and
they acknowledged to me that they freely executed the same.

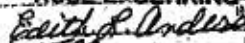
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year first above written.

(NOTARY SEAL)




Notary Public for the State of Idaho
Residing at Grangeville, therein.
My commission expires 6-26-97

WARRANTY DEED - 3

STATE of IDAHO	ss
County of Idaho	
Recorded at request of	IDAHO COUNTY TITLE CO.
at	20 minutes past 2 o'clock P.M.
this	20 day of Jan., 1994
By	ROSE E. GEHRING
Recorder	
By	
Deputy	
Fees	\$15.00

FILE NO. 9388

SCHEDULE C

Township 25 North, Range 1 East, Boise Meridian, Idaho County, Idaho

Section 10: A parcel of land located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ further described as: Beginning at the NE corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Sect on 10, which point is located in Elfers Creek, thence along the North side of Elfers Creek in a Southwesterly direction approximately 820 feet to a flagged metal post on the North side of Elfers Creek, thence in a Northwesterly direction from the creek approximately 98 feet to a green metal post with a white top, thence continuing on in a Northwesterly direction approximately 100 feet to the lower side of an access road at another flagged metal post, thence in a Northerly direction approximately 198 feet following the lower edge of the access road to a rock jack on the gate across the access road, thence continuing in a Northerly direction an additional 153 feet along the lower edge of the access road to a flagged metal stake on the edge of the access road going from Sewell's Road to the Barn, thence in a due easterly direction approximately 134 feet to a flagged rock jack in the fence, thence in a Northeasterly direction along the fence line approximately 440 feet to the Point of Beginning.

452373

WARRANTY DEED

GRANTOR, ROBERT W. SEWELL, also known as ROBERT SEWELL, and KATHRYN M. SEWELL, also known as KATHRYN SEWELL, husband and wife, of P. O. Box 5, Lucile, ID 83542, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to ROGER W. ALLEN and MARTHA L. ALLEN, husband and wife, and SETH ALLEN and RAINI ALLEN, husband and wife, of 745 Market Street, Bloomsburg, PA 17815, as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real estate located in the County of Idaho, State of Idaho, to wit:

See Exhibit "A" attached hereto and hereby incorporated by this reference.

TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances thereto.

Subject to:

1. General taxes for the year 2006, which are a lien, not yet due, but payable.

2. Reservations in Deed, including the terms and conditions thereof, by and between THE FEDERAL LAND BANK OF SPOKANE, a corporation and JOHN H. CARREY and PEARL E. CARREY, husband and wife, recorded March 9, 1944, under Instrument No. 144341, Book 73 page 698; and Quitclaim Deed, recorded May 13, 2003, under Instrument No. 0428799; all records of Idaho County, Idaho.

3. Mining Lease, including the terms and conditions thereof, by and between GOLDEN COMPLEX ORES, a Wyoming Corporation and ROBERT W. SEWELL and KATHRYN M. SEWELL, husband and wife, recorded April 24, 1972, under Instrument No. 244763; and Corrective Mining Lease, recorded May 10, 1972, under Instrument No. 244959; and re-recorded June 1, 1972, under Instrument No. 245211; all records of Idaho County, Idaho.

4. Easement Agreement, including the terms and conditions thereof, by and between ROBERT W. SEWELL and KATHRYN M. SEWELL, husband and wife, and RIGGINS T.V. CABLE CO., INC., an Idaho Corporation, recorded March 4, 1974, under Instrument No. 253008, records of Idaho County, Idaho.

5. Easements as described in Warranty Deed, including the terms and conditions thereof, by and between ROBERT SEWELL,

1 a/k/a ROBERT W. SEWELL and KATHRYN SEWELL, a/k/a KATHRYN M.
2 SEWELL, husband and wife, and CHARLES R. FULMORE and DONA M.
3 FULMORE, husband and wife, and REGINALD D. RICE and SHIRLEY
RICE, husband and wife, recorded January 20, 1994, under
Instrument No. 372491, records of Idaho County, Idaho.

4 6. Right of Way Easement, including the terms and conditions
5 thereof, by and between ROBERT W. SEWELL and KATHRYN M.
6 SEWELL, and IDAHO COUNTY LIGHT & POWER COOPERATIVE ASSOC.,
INC., a corporation, recorded March 28, 1995, under
Instrument No. 379453, records of Idaho County, Idaho.

7 7. Easements as described in Warranty Deed, including the
8 terms and conditions thereof, by and between ROBERT SEWELL,
9 a/k/a ROBERT W. SEWELL and KATHRYN SEWELL, a/k/a KATHRYN M.
10 SEWELL, husband and wife, and LORINDA LOWE and JED A LOWE,
single persons, recorded August 26, 1996, under Instrument No.
388658, records of Idaho County, Idaho.

11 8. Matters as shown on Survey No. S-1219, recorded November
12 18, 1996, under Instrument No. 389730; and Survey No. S-1533,
13 recorded August 20, 1998, under Instrument No. 401567; all
records of Idaho County, Idaho.

14 9. Subject to easement in Warranty Deed, including the terms
15 and conditions thereof, by and between ROBERT SEWELL a/k/a
16 ROBERT W. SEWELL and KATHRYN SEWELL a/k/a KATHRYN M. SEWELL,
husband and wife, and MELVIN C. GILL and MARGARET L. GILL,
husband and wife, recorded July 15, 1998, under Instrument No.
400912, records of Idaho County, Idaho.

17 10. Road Right of Way Easement, including the terms and
18 conditions thereof, recorded December 16, 1999, under
19 Instrument No. 0409738, records of Idaho County, Idaho, as
amended by Instrument No. 452370.

20 11. Rights and easements in favor of the public for
21 recreational uses of the Elfers Creek.

22 12. Subject to Sewell Road as the same now exists.

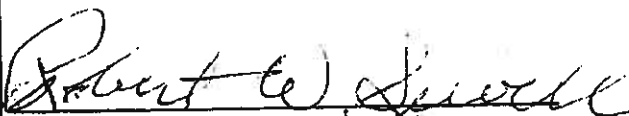
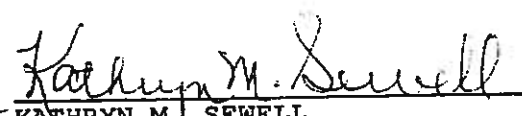
23 TO HAVE AND TO HOLD the said premises, with their
24 appurtenances, unto the said Grantees, their heirs and assigns
25 forever. And the said Grantors do hereby covenant to and with the
26 said Grantees that they are the owners in fee simple of said
27 premises; that they are free from all encumbrances, and that they
will warrant and defend the same from all lawful claims whatsoever,

1 except general taxes for the year 2006, and easements,
2 reservations, restrictions and rights-of-way of record or in use.

3 Except as otherwise expressly provided in this instrument,
4 GRANTORS, hereby declare pursuant to Title 5, Chapter 2 of the
5 Idaho Code, that in the event GRANTORS shall have permitted or
6 suffered at any time prior to the making of this instrument, any
7 person or entity to possess, use or occupy the above-described
8 premises, or any portion thereof, for any purpose, with or without
9 the knowledge of GRANTORS, it was not the intent of GRANTORS, by
10 permitting or suffering such possession, use or occupation, to
11 thereby define property boundaries or ownership thereof.

12 In construing this deed, and where the context so requires,
13 the singular includes the plural and the masculine, the feminine
14 and the neuter.

15 IN WITNESS WHEREOF, Grantors have hereunto subscribed their
16 names to this instrument this 5th day of December, 2006.

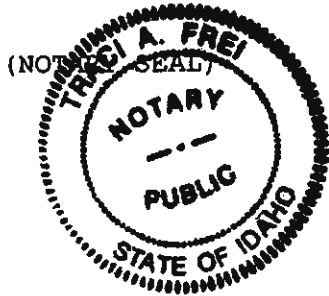
17 
18 ROBERT W. SEWELL
19 
20 KATHRYN M. SEWELL

21 STATE OF IDAHO)
22 ss.
23 County of Idaho)

24 On this 5th day of December, 2006, before me,
25 Trai A. Frei, a Notary for the said County and
26 State, personally appeared ROBERT W. SEWELL and KATHRYN M. SEWELL,
27 husband and wife, known or identified to me to be the persons whose
names are subscribed to the within instrument, and they
acknowledged to me that they freely executed the same and that the
statements therein contained are true.

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year first above written.



Tracy A. Frei
Notary Public for State of Idaho.
Residing at Grangeville, therein.
My commission expires on February 1, 2011.

RECORD OF SURVEY

A PORTION OF THE NW1/4 NE1/4 OF SECTION 10,
TOWNSHIP 25 NORTH, RANGE 1 EAST, BOISE MERIDIAN
IDAHO COUNTY, IDAHO

SW1/4
SE1/4



Reference Survey:
Inst. No. 389730 (S-1219)
Inst. No. 462113 (S-2733)

Reference Deed:
W.D. No. 372491

SCALE: 1" = 50'

LEGEND

- ALUMINUM CAP MONUMENT - FOUND
- 5/8" REBAR W/ALUMINUM CAP - FOUND
- 5/8" REBAR (L.S. 5165) - FOUND
- 5/8" x 30" REBAR - SET
- PROPERTY BOUNDARY LINE

CERTIFICATION

I, Greg L. Skinner, do hereby certify that I am a Professional Land Surveyor, licensed by the State of Idaho, and that this map has been prepared from an actual survey made on the ground under my direct supervision, that this map is an accurate representation of said survey, and that it is in conformity with the Corner Perpetuation Act, Idaho Code 55-1601 through 55-1612.



DONNA FULMORE
DONNA FULMORE

SURVEY FOR

Drawn By: J.S.

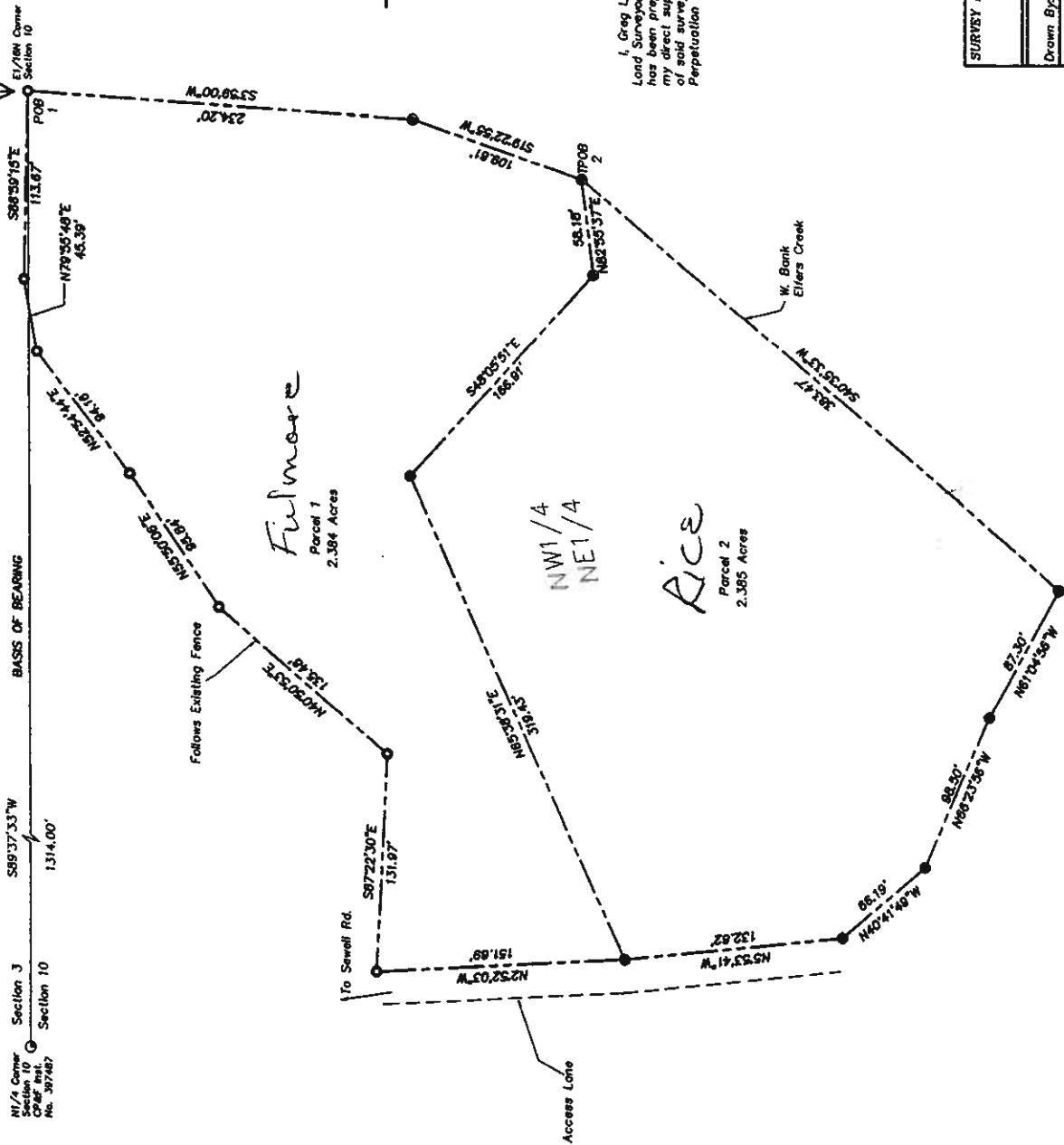
Date: Sept. 2, 2008

Surveyed By: GLS

Job No. AUG0408

Skinner Land
Survey Co. Inc.

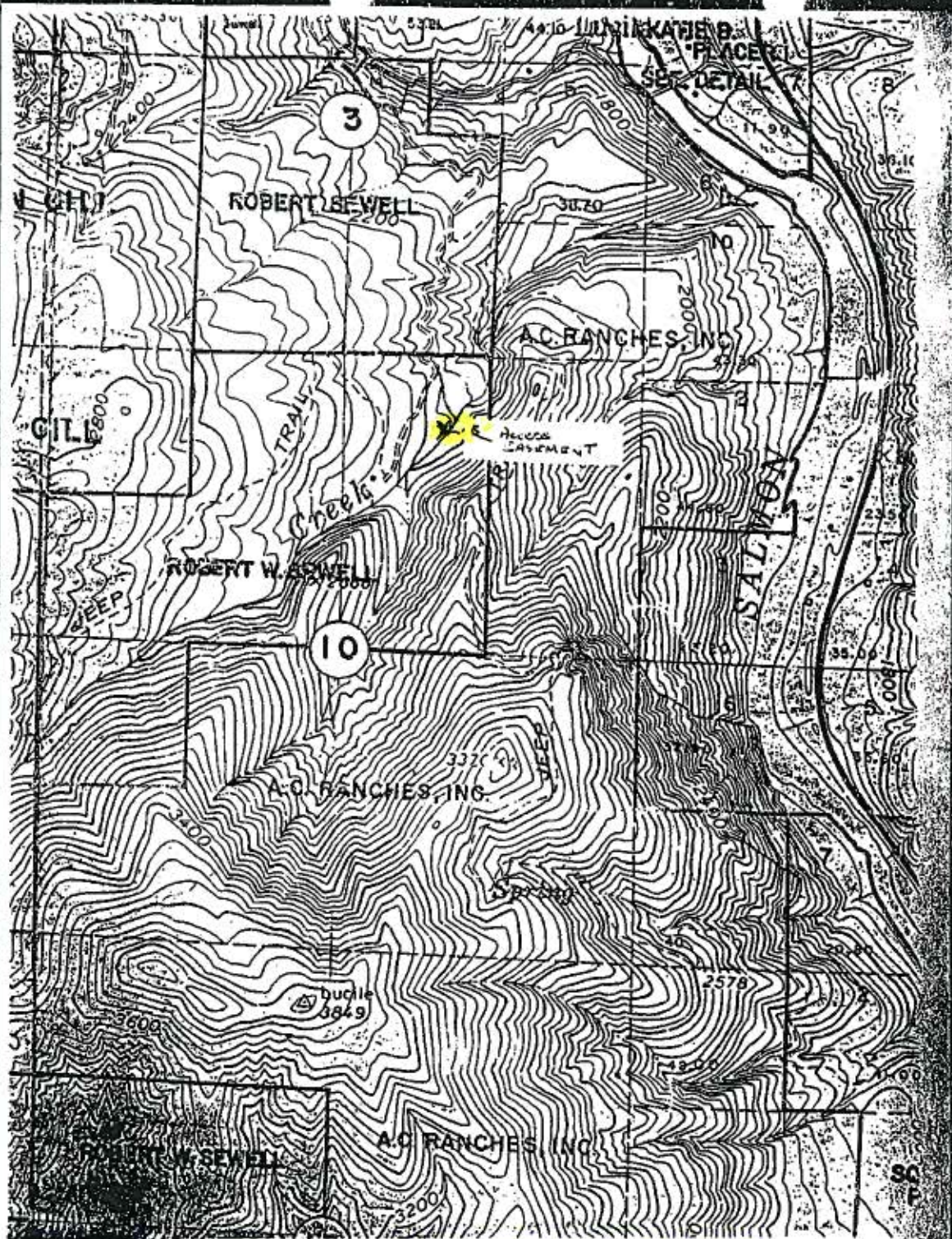
312 E South Street
Orem, Utah 84401
(801) 223-2517



208-963-2517



Spring



X is location of spring

463008

QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this Third day of September, 2008,
 by first party, Charles R. Fulmore + Dona M. Fulmore
 whose post office address is 4031 Torni Road, Placerville, CA, 95667
 to second party, Reginald D. Rice + Shirley J Rice
 whose post office address is 2240 Dias Dr., Placerville, CA 95667

WITNESSETH, That the said first party, for good consideration and for the sum of

One Dollars (\$ 1.00) paid by the said second party, the receipt whereof is hereby
 acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest
 and claim which the said first party has in and to the following described parcel of land, and improvements and
 appurtenances thereto in the County of Idaho, State of to wit: Idaho

See attached legal description

Included spring access + road right of way.

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first
 above written.

Signed, sealed and delivered in presence of:

Witness

Charles R. Fulmore
 First Party

Witness

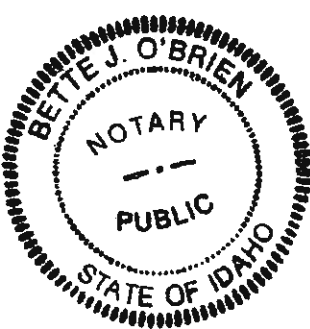
Dona M. Fulmore
 Second Party

State of
 County of

Idaho

On Sept. 2nd 2008 before me, Bette J O'Brien
 appeared Charles R. Fulmore + Dona M. Fulmore
 personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
 subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity, upon
 behalf of which the person(s) acted, executed the instrument.
 WITNESS my hand and official seal.

Signature Bette J O'Brien



Instrument # 463008

DAHO COUNTY, IDAHO,

3-2008 10:43:16 No. of Pages: 3

Recorded for : CHARLES R FULMORE

JOSE E. GEHRING

Ex-Officio Recorder Deputy

Fee: \$9.00

Affiant Known Produced ID

Type of ID Dona M. Rice

COMM exp 4-6-2013 (Seal)



**Skinner Land
Survey Co. Inc.**

312 W. South St.
Grangeville, ID 83530
(208) 983-2517
Fax (208) 983-1279
greg@skinnerlandsurvey.com

Greg L. Skinner, PLS

September 1, 2008

Description for
Reginald Rice
Job No. AUG0408

Parcel 2

This parcel is a portion of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, Township 25 North, Range 1 East of the Boise Meridian, Idaho County, Idaho, and is more particularly described as follows:

COMMENCING at the northeast corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, a found 5/8 inch rebar with aluminum cap stamped L. S. 5165 on the north bank of Elfers Creek;

thence South $3^{\circ} 59' 00''$ West along the stream bed of Elfers Creek a distance of 234.20 feet to a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627 on the westerly bank of Elfers Creek;

thence South $19^{\circ} 22' 55''$ West along said creek bank a distance of 109.61 feet to the **TRUE POINT OF BEGINNING**, a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;

thence South $40^{\circ} 35' 34''$ West continuing along said creek bank a distance of 383.47 feet to a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;

thence leaving said creek bank and traversing the boundary of the legal description in the warranty deed filed as Inst. No. 372491 as follows:

North $61^{\circ} 04' 56''$ West a distance of 87.30 feet to a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;

North $66^{\circ} 23' 56''$ West a distance of 98.50 feet to a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;

North $40^{\circ} 41' 49''$ West a distance of 66.19 feet to a point on the easterly (lower) edge of an existing access road, a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;

North $5^{\circ} 53' 41''$ West a distance of 132.62 feet to a 5/8 x 30 inch rebar with a plastic cap stamped L. S. 3627 set at an existing gate post;

thence leaving said boundary bearing North $65^{\circ} 38' 31''$ East a distance of 319.43 feet to a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;



Rice legal description
Parcel 2, Page 2 of 2

thence South 48° 05' 51" East a distance of 166.91 feet to a 5/8 x 30 inch rebar set with a plastic cap stamped L. S. 3627;

thence North 82° 55' 37" East a distance of 58.18 feet to the **TRUE POINT OF BEGINNING**, containing 2.385 acres, more or less, and being subject to all easements and rights-of-way of record or implied.



Buffington, Denise

From: Buffington, Denise
Sent: Thursday, October 14, 2010 10:07 AM
To: Rick Ward, Fish & Game
Subject: Comment Letters
Attachments: Comment Letter to Fish & Game.Doc; 3-10269 APP.pdf; 79-14237 APP.pdf; 79-14238 APP.pdf

Please review the attached information and comment as necessary. If you have any questions regarding the attached information, please feel free to contact our office.

Thank You,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

October 14, 2010

STATE OF IDAHO
DEPT OF FISH & GAME
ATTN: RICK WARD
3101 S POWERLINE RD
NAMPA, ID 83686

RE: Application for Permit: 3-10269, 79-14237 & 79-14238

Dear Mr. Ward:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days.

The Department can publish notice of the application as soon as the initial review is completed. Therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

WorkCentre 7345 Transmission Report

G3 ID

Date/Time: 10/13/2010: 04:21PM
Page: 1 (Last Page)

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FAX Transmittal Cover Sheet

State of Idaho
Department of Water Resources
Western Region
Boise, ID
PH. (208) 334-2190
FAX NO. (208) 334-2348

Number of total pages: 3

Date: October 13, 2010

To: Idaho County Free Press, Attn: Nona

From: Denise Buffington

Fax: 208-983-1336

Attached please find (1) legal notice being submitted for publication. If you have any questions about the attached information; or if you are not able to run the notice on the dates requested, please contact me immediately. This information was also sent via e-mail earlier today.

Thank you in advance,

Denise
Denise Buffington
Administrative Assistant I

Total Pages Scanned: 3 Total Pages Sent : 3

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Note:
RE: Resend MB: Send to Mailbox BC: Broadcast MP: Multi Polling RV: Remote Service
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SA: Send Again EN: Engaged AS: Auto Send TM: Terminated

FAX Transmittal Cover Sheet

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Thank you in advance,



Denise Buffington
Administrative Assistant I

Buffington, Denise

From: Buffington, Denise
Sent: Wednesday, October 13, 2010 4:04 PM
To: Idaho County Free Press
Subject: LEGAL NOTICE
Attachments: Idaho County Ads - Cover Letter.Doc; Idaho County Ads - COMBINED.Doc

Attached please find (1) legal notice being submitted for publication. Please contact me immediately if you have any questions, or if you are not able to publish the ad on the dates requested.

Thank you in advance,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

October 13, 2010

LEGAL NOTICE DEPARTMENT

IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE, ID 83530

RE: Application For Permit No(s): 79-14237 & 79-14238

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/8/2010. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

79-14237

CHARLES R FULMORE

DONA M FULMORE

4031 FORNIR RD

PLACERVILLE, CA 95667

Point of Diversion SENWNE S10 T25N R01E IDAHO County Source SPRING Tributary ELFERS CREEK

Point of Diversion SENWNE S10 T25N R01E IDAHO County Source ELFERS CREEK Tributary SALMON RIVER

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 10/8/2009

Place Of Use: DOMESTIC

T25N R01E S10 NWNE

79-14238

REGINALD D RICE

SHIRLEY RICE

2240 DIAS DR

PLACERVILLE, CA 95667

Point of Diversion SENWNE S10 T25N R01E IDAHO County Source SPRING Tributary ELFERS CREEK

Point of Diversion SENWNE S10 T25N R01E IDAHO County Source ELFERS CREEK Tributary SALMON RIVER

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 10/8/2009

Place Of Use: DOMESTIC

T25N R01E S10 NWNE

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/8/2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 10/20 & 10/27/2010

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: October 8, 2010

RE: Applications 79-14237 and 79-14238

Fulmore (79-14237) and Rice (79-14238) filed their applications for the same spring at the exact same time for adjacent parcels. Neighbor Allen filed a similar application (79-14236) one month earlier. It was not clear if Allen proposed the same spring as the other two neighbors.

The site is in NWNE of Section 10. Allen owns most of the NWNE. Fulmore and Rice applications included a warranty deed granting them access to the proposed shared spring just south of the Rice parcel and within the Allen parcel.

I needed to determine if all 3 applications involved the same spring. Also, to the extent any of the applications proposed the same spring, some information was needed to determine how water shortages would be managed if they occurred. The additional information was requested in June 2010.

None of the applications involve a separate spring in Allen's right 79-10294 or a separate Elfers Creek diversion for Allen in 79-4072.

Allen application 79-14236 was voided for failure to provide the requested information.

Fulmore and Rice requested more time and followed through with several telephone calls, a 7/21/2010 office visit to amend their applications, and an 8/5/2010 letter to explain their plans. The amended applications proposed the following:

- Use the same spring diversion but include separate pipes to each owner's home.
- Add a single creek diversion on Rice's property. The creek diversion will be connected to each pipe from the spring.
- Creek water would be used to offset any water shortages from the spring.

By amending the applications and submitting the August 2010 information, Rice confirmed Fulmore will have access to the creek diversion. In their office visit, both applicants stated the spring is productive and most likely can supply enough water for both homes.

Priorities for both applications remain identical but were advanced due to adding the creek source.

By 7/8/2009 telephone conference agreement with the SO, specific minimum stream flow (MSF) conditions of approval are not needed for this area provided the file is documented for MSF issues.

Salmon-Clearwater processing and Wild & Scenic River processing are not applicable for these uses in this location. Elfers Creek does not have a MSF right. Downstream Salmon River MSF right 79-14119 (ends at confluence with Snake River) will be subordinated to the domestic uses in these applications under the future dcmi provisions of that right. Downstream Snake River right 3-8 is a standard MSF right and does not include future dcmi or future non-dcmi factors.

RECEIVED

AUG 05 2010

WATER RESOURCES
WESTERN REGION

Referring to our application to the State of Idaho's Department of Water Resources Office under Application #79-14237 & #79-14238 for the Spring water rights and Elfers Creek water rights, the Rices and the Fulmores plan to share the water as follows.

There is a 1" pipe that carries water from the Spring to the Rice parcel. A separate 1 1/2" pipe carries water from the Spring to the Fulmore parcel. In the event the Springs provision is diminished we will bring water from Elfers Creek to meet the needs of both parcels.

We will further develop the Spring area to capture more water in our combined collection system. We feel even in a drought year this will cover all household needs, however in the event of a shortage, provision will be made, by connecting the Rice run off from their storage tank to the Fulmore pipe, thus allowing the small, steady stream to be caught and dumped into the Fulmores underground tank.

If the Spring fails to meet our collective needs on both parcels, we will use the Elfers Creek water source to meet both parcels needs

Signed:

Reginald D. Rice
R. D. Rice, MD

8/3/2010
Dated

Charles R. Fulmore
Charles R. Fulmore

8/3/2010
Dated

RECEIVED
AUG 05 2010
WATER RESOURCES
WESTERN REGION



TO FULMORE
PROPERTY

TO CABIN

RICE
WATERLINE

FULMORE WATER
LINE

RICE SOUTH
PROPERTY
LINE

STAKE

40 FT

STAKE

82 FT

ELPERS
CREEK

SPRING
AREA 25#

SPRING
DEVELOPMENT

MAP OF RICE/FULMORE SPRING
DEVELOPMENT



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

July 14, 2010

CHARLES FULMORE
DONA FULMORE
4031 FORNI RD
PLACERVILLE CA 95667

REGINALD RICE
SHIRLEY RICE
2240 DIAS DR
PLACERVILLE CA 95667

Re: Application for Permit # 79-14237 & 79-14238

Dear Applicants:

Recently you requested more time to provide additional information for the above referenced applications.

Your request is approved. The information requested by the Idaho Department of Water Resources (IDWR) on June 15, 2010 is therefore due by **October 31, 2010** to prevent the applications from being voided.

More information about water rights and other matters administered by IDWR is available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions.

Sincerely,

For: Steve Lester
Water Rights Supervisor

RECEIVED

JUL 08 2010

WATER RESOURCES
WESTERN REGION

June 21, 2010
4031 Forni Road
Placerville, CA 95667

Steve Lester
Water Right Supervisor
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Spring water permit application #79-14237 and #79-14238

Dear Steve Lester:

We are writing in response to your letter dated June 15, 2010.

This is to notify you that we wish to continue with the application process for a spring water permit on our property near Lucile, ID. We would like to request an additional six months extension on time allowed to get this matter finalized, just to give a cushion on the time deadline.

We will be traveling through Boise the last part of July and would like to stop in to meet you at your office and work on the details that you need. I understand you will be gone for the next couple of weeks so we will call you after you get back in the office and see if we can set up an appointment with you.

Sincerely,



Reg Rice and Charles Fulmore



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
GARY SPACKMAN, Interim Director

June 15, 2010

To: Attached Distribution List

Re: Applications for Permit for Springs

Dear Applicants:

The Idaho Department of Water Resources (IDWR) can process your applications after clarifying several details discussed in this letter. Please review the following items and provide timely written replies to keep your applications valid and allow the water right process to continue.

All the applications should be amended to conform to IDWR standards. Some additional information is needed for most of the applications. I have enclosed a map and a copy of your application(s) in which the items to be corrected are highlighted. The enclosed map shows the proposed spring locations based on all the application maps, although it is not clear if Allen proposes to use the same spring proposed by Fulmore and Rice. Based on your responses to this letter, I will prepare amended applications for your signatures. The amended applications can then be processed.

Allen Application 79-14235

- Maximum rate of flow for 25 cattle is 0.02 cfs.
- Place of use is in the NENW according to the application map.

Allen Application 79-14236

- Maximum rate of flow for 25 cattle is 0.02 cfs.
- Minimum rate of flow for 4 acres irrigation is 0.04 cfs, and standard season is 2/15-11/30.
- Total amount can be 0.04 or 0.06 cfs. Which should it be?
- Allen property also has right 79-10294, domestic use from a spring. Is the application spring the same one as 79-10294?
- Is the application spring the same one as Fulmore application 79-14237 &/or Rice application 79-14238?

Also, for irrigation to be considered in this application, Allen must provide additional information regarding water availability, impact on other rights, local public interest and so forth. The necessary information is detailed in the "Rule 40" attachment included in the mailing for Allen. Rule 40 information is not required if irrigation is deleted from the application.

Whether irrigation is included or not in application 79-14236, please provide information showing additional water is available from the spring if the spring is also used for any other existing or proposed rights, regardless of who owns the rights.

Fulmore Application 79-14237

- The spring is near Elfers Creek and is presumed to be tributary to the creek unless shown otherwise by the applicant.
- Springs are required to be shown to the 10-acre ($\frac{1}{4} \frac{1}{4} \frac{1}{4}$) location unless it cannot be determined. The spring appears to be located in NENWNE.
- The maximum rate of flow for one home is 0.04 cfs.
- The place of use is located in NWNE.
- This is apparently the same spring proposed by Rice. Is it also the same spring proposed by Allen in application 79-14236? Is it the same spring already approved for Allen under right 79-10294?
- Please provide information showing the spring can produce enough water for your use and for any other uses already developed from this spring or proposed from this spring. Describe how water will be shared by different owners if the supply is sometimes not adequate for the demand.

Rice Application 79-14238 (same items as Fulmore)

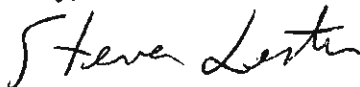
- The spring is near Elfers Creek and is presumed to be tributary to the creek unless shown otherwise by the applicant.
- Springs are required to be shown to the 10-acre ($\frac{1}{4} \frac{1}{4} \frac{1}{4}$) location unless it cannot be determined. The spring appears to be located in NENWNE.
- The maximum rate of flow for one home is 0.04 cfs.
- The place of use is located in NWNE.
- This is apparently the same spring proposed by Rice. Is it also the same spring proposed by Allen in application 79-14236? Is it the same spring already approved for Allen under right 79-10294?
- Please provide information showing the spring can produce enough water for your use and for any other uses already developed from this spring or proposed from this spring. Describe how water will be shared by different owners if the supply is sometimes not adequate for the demand.

The following options are available to respond to this letter.

1. Please use the enclosed form if you want to withdraw the application and receive a refund of the filing fee (\$100 per application). A refund should be requested in writing.
2. Provide your replies to the questions listed for your application(s). Please feel free to reply individually or to reply together since some of the applications are somewhat related.
3. You may request up to six months additional time to provide the information.

Please provide your written response within the next sixty (60) days. An application is typically voided without any refund unless a written reply is submitted in a timely manner. More IDWR information is available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. I will be out of the office from June 18 through July 1 but otherwise will be available.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure

APPLICATIONS 79-14235 THROUGH 79-14238

JUNE 15, 2010

DISTRIBUTION LIST

SETH, RAINI, ROGER & MARTHA ALLEN
PO BOX 325
LUCILE, ID 83542

CHARLES & DONA FULMORE
4031 FORNI RD
PLACERVILLE, CA 95667

REGINALD & SHIRLEY RICE
2240 DIAS DR
PLACERVILLE, CA 95667

Process Together

79-14235

> Allen

79-14236

79-14237 - Fulmore

79-14238 - Rice

See overlap etc notes in 79-14237

-JR 10/16/09