



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

July 27, 2004

Robert and Diana Nielson  
PO Box 591  
Mackay, ID 83251

Re: Petition for Reconsideration of Idaho Department of Water Resources Order in the Matter of Distribution of Water Rights 34-372A, 34-372B, and 34-690B, Dated July 12, 2004; Mitigation Plan for 2004 Irrigation Season

Dear Mr. And Mrs. McAfee,

The Idaho Department of Water Resources ("Department") is in receipt of your letter dated July 20, 2004 requesting reconsideration of the above referenced order. The Department received your correspondence on July 23, 2004, and acknowledges this as a petition for reconsideration.

The Department received a petition for hearing and a request for stay of the Department's order on July 20, 2004 from the law firm of Rigby, Thatcher, Andrus, Rigby and Moeller ("Rigby") on behalf of numerous individual ground water right holders in Water District 34. Mrs. Nielson's name appears on an attachment to the petition from Rigby in which she is identified as being represented by the Rigby law firm. On July 23, 2004, the Department amended the above referenced order and issued a Notice of Status Conference in response to the Rigby petition. A copy of the amended order and Notice of Status Conference was mailed to you on July 23, 2004. Specifically, the Department scheduled a status conference for the contested case created by the Rigby petition on August 2, 2004, at 10:00 a.m., at the Mackay High School Auditorium, 411 Rose Ave., Mackay, ID. Your petition will be discussed at the Status Conference scheduled on August 2<sup>nd</sup>. The hearing officer may consolidate your petition with the Rigby petition since it appears that Rigby already represents you. You are encouraged to attend the Status Conference on August 2<sup>nd</sup> for further information about this matter.

Please also be advised that the Department's amended order delays the date in which ground water rights bearing a priority date junior to June 30, 1883 must be covered by an effective mitigation plan or else be subject to curtailment. The amended order requires that holders of these junior ground water rights that are not covered by an effective mitigation plan shall cease and desist diverting ground water on the later of: a) the date that the Jensen water rights are no longer deliverable; or b), August 3, 2004. Please refer to the amended order of July 23, 2004 for more detailed information.

Please contact me directly at the above office if you have further questions regarding this matter.

Respectfully,

Tim Luke

Manager, Water Distribution Section

Cc: Gary Spackman, IDWR  
Ray Rigby, Rigby, Thatcher, Andrus, Rigby and Moeller  
Bob Duke, Water District 34 Watermaster