

Date: 12/27/06

NOTICE OF ERROR
REPLY

RECEIVED

JAN 3 2007

DEPARTMENT OF
WATER RESOURCES

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: Date

Water right number 37-22012

Name Muldoon Ranch Co. LLC
Address c/o Arlen Crouch
Address Line 2 370 E 500 N
City, State Zip Jerome, ID 83338
Telephone Number (208) 324-3117

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source) :

This right should not be limited to 13,000 gallons per day.

2. Describe the changes you wish to make in the proposed recommendation:

The right was decreed prior to the adjudication with a flow rate of 0.12 cfs; therefore, the basis of this right should not be based on a beneficial use claim and should not be considered as a diminimis right.

3. Give a brief explanation as to why you disagree with these portions:

The right was decreed prior to the adjudication with a flow rate of 0.12 cfs; therefore, the basis of this right should not be based on a beneficial use claim and should not be considered as a diminimis right.

 I AGREE with this proposed recommendation: no changes need to be made.

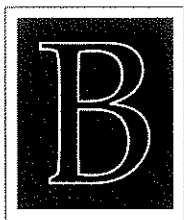
DATE: 12/27/06

SIGNATURE: ARLEN B CROUCH

Please print your name:

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

Due to the extremely short period for review and reply, and the considerable number of related preliminary recommendations currently under review by our firm, the undersigned must categorically object to, and disagree with, any and all portions of the recommendation which may be contrary to, or inconsistent with, the claim which has been filed for the above-referenced water right.



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

December 28, 2006

Matt Anders
Idaho Department of Water Resources
322 E. Front St
PO Box 83720
Boise, Idaho 83720-0098

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DEPARTMENT OF
WATER RESOURCES

Re: Muldoon Ranch Co., LLC – Recommendation Review

Dear Matt:

Please find the enclosed notice of error forms submitted on behalf of Muldoon Ranch Co., LLC, c/o Arlen Crouch. These forms hopefully should reflect the errors within the recommendations for water rights 37-20554, and 37-22012 that are appurtenant to the property owned by Muldoon Ranch Co LLC in Township 2N, Ranges 20E and 21E.

The following Notices of Error are being submitted;

37-20554: The priority date for this right should actually be 06/01/1919. We are submitting an amended claim in order to revise this date. The Muldoon Ditch was constructed and in working order on 06/01/1919. This ditch intersects Spring Creek and diverts its water onto the property.

37-22012: This right was formerly decreed prior to the Snake River Basin Adjudication for Stockwater purposes at a diversion rate of 0.12 cfs and should not be reduced to a diminimis right.

In addition, to these notices of error our office and Mr. Crouch is awaiting the recommendations for three additional water rights (37-2010, 37-22014, and 37-22015). The following is in response to your email regarding these water rights that you sent our office on Dec 15, 2006;

- 1) The filing fees (total of \$300.00) for all three claims were paid yesterday (Dec. 27, 2006) in the Twin Falls Regional Office (see attached receipt).
- 2) I have discussed your suggestion of associating water right 37-1139 to the enlargement claim with Mr. Crouch and we also believe that this right would probably be the best associative right.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

- 3) The new beneficial use claim 37-22012 should be separate from 37-20554, due to the difference in priority dates that are being claimed. In reality, 37-20554 also should have a priority date of 06/01/1919 since this is the time in which the Muldoon Ditch was constructed and the diversion of Spring Creek was first utilized on the property. If priority date for 37-20554 is changed to 06/01/1919 the right could potentially be combined with the new beneficial use claim. However, Mr. Crouch wishes to keep these two rights separate at this time. The new claim is for all the water that is intersected by the Muldoon Ditch and then utilized on the property.
- 4) We also still strongly believe that 37-2010 should not have been superseded, and that the agent who deemed it as such had no jurisdiction to do so. The place of use in which the associated rights 37-2010, 37-1142, and 37-2243 is located is very sandy (it is located on an old sand bar of Muldoon Creek), and additional water was needed in order to produce an acceptable crop on the property. This is why water rights 37-1142 and 37-2243 were applied for and granted. Without this right the property does not have a sufficient diversion rate in order to effectively irrigate the property. The decree for 37-1142 says that it is supplemental to former decrees and therefore should not supersede any former water rights associated with the property. Therefore, this right is being reclaimed and Mr. Crouch will be acquiring legal assistance in order to aid him in retaining this right.
- 5) In addition, we also followed your suggestions to change the diversion rates for the irrigation allowed under 37-2007 and 37-2247 to 0.80 and 0.50 cfs, respectively. Therefore, we have also attached the amended claims associated with these two rights.

If you have any questions regarding the enclosed documents, please feel free to give our office a call. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. T. Nelson', with a long horizontal line extending to the right.

Daren T. Nelson, Hydrologist

Attachments: Notices or Error: 37-1046C, 37-1142, 37-2243A, 37-20554,
and 37-22012
Amended Claims: 37-2007, 37-2247, and 37-20554
Receipt regarding payment of filing fees

cc. Arlen Crouch