



COPY

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

October 21, 2009

Eric Wildman  
Staff Attorney  
Snake River Basin Adjudication  
P.O. Box 2720  
Twin Falls, ID 83303-2707

RE: Partial Decree for water right 37-2243B

Dear Eric:

Water right 37-2243 was licensed in 1915 for irrigation and domestic use of 9 cfs from the waters of Mutual Tunnel on Last Chance Mine. The right was recommended in the Director's Report For Basin 37, Part 3, Irrigation and Other Uses filed on February 21, 2007, as rights 37-2243A, 37-2243B and 37-2243C. Right 37-2243A, claimed by Muldoon Ranch Co. LLC, was the only portion to be objected to. Right 37-2243B, claimed by Bruce and Sherry Price, and right 37-2243C, claimed by the George T. Merrill and Marilyn K. Merrill Family Trust, both remained unobjected to. Both unobjected to portions were identified to be overlapping rights to the A portion. Copies of the recommendations of all three portions of right 37-2243 are attached for the Court's convenience as well as a copy of the license.

In settlement of the A portion, it was discovered the Department had incorrectly recommended all three rights with a waste water source, not water from the Mutual Tunnel on Last Chance Mine as licensed—which is actually considered a ground water source. This error will be corrected in the objected to subcase, 37-2243A, through the SF5 which is currently routing among the parties. The points of diversion, rediversion and injection have also been corrected to align the right to the adjustment of the source element.

The Department will route an SF5 on uncontested right 37-2243C to the claimants with a letter of explanation as correcting the source from waste water to ground water is a definite benefit to them, and would more accurately describe the right as licensed.

Uncontested right 37-2243B was the subject of an address change NCAP filed in 2008 and unfortunately moved to partial decree on May 13, 2009. Attached is a copy of the 2009 partial decree as well as an Amended Director's Report for right 37-2243B, stamped as a draft, which reflects the B portion as it should have been recommended and decreed. The Department feels correcting the partial decree is in the best interest of the claimant. The Department is notifying the claimant of the error.

Should the Court need any further information, please don't hesitate to contact me at 208-287-4816. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vicki Kelly', with a stylized, cursive script.

Vicki Kelly,  
Paralegal

Enclosures

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

RIGHT NUMBER: 37-2243A

NAME AND ADDRESS: MULDOON RANCH CO LLC  
C/O ARLEN CROUCH  
370 E 500 N  
JEROME ID 83338

SOURCE: WASTE WATER

TRIBUTARY: DEEP GULCH CREEK

QUANTITY: 4.210 CFS

PRIORITY DATE: 08/08/1912

POINT OF  
DIVERSION:

T02N R21E S3 NENWSE Within BLAINE County  
T02N R21E S3 NENWSE Rediversion Within BLAINE County  
T02N R21E S16 SENENW Rediversion Within BLAINE County  
T02N R21E S16 SENWNW Rediversion Within BLAINE County  
T03N R21E S12 NESESW Injection Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

|               | <u>PURPOSE OF USE</u>              | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|---------------|------------------------------------|----------------------|-----------------|
|               | IRRIGATION                         | 04/15 10/31          | 4.210 CFS       |
| PLACE OF USE: | <u>IRRIGATION in BLAINE County</u> |                      |                 |
|               | T02N R21E S09 SENE 8.30            | T02N R21E S10 NENW   | 23.00           |
|               | T02N R21E S10 NWNW 12.00           | T02N R21E S10 SWNW   | 31.00           |
|               | T02N R21E S10 SENW 2.80            | T02N R21E S16 NWNW   | 4.10            |
|               | T02N R21E S16 SWNW 9.40            | T02N R21E S17 SWNE   | 33.00           |
|               | T02N R21E S17 SENE 31.00           | T02N R21E S17 SENW   | 4.90            |
|               | T02N R21E S17 NESW 32.00           | T02N R21E S17 SWSW   | 1.60            |
|               | T02N R21E S17 SESW 35.00           | T02N R21E S17 NESE   | 40.00           |
|               | T02N R21E S17 NWSE 31.00           | T02N R21E S17 SWSE   | 40.00           |
|               | T02N R21E S17 SESE 25.00           | T02N R21E S20 NWNE   | 9.90            |
|               | T02N R21E S20 NENW 23.00           | T02N R21E S20 NWNW   | 12.00           |

409 ACRES TOTAL

This right is limited to the irrigation of 210.6 acres within the place of use described above in a single irrigation season.

The rights listed below are limited to the irrigation of a combined total of 409 acres in a single irrigation season. Combined Right Nos.: 37-1046C, 37-1142, and 37-2243A.

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 - License

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

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

RIGHT NUMBER: 37-2243B

NAME AND ADDRESS: BRUCE B PRICE  
PO BOX 905  
BELLEVUE ID 83313

SHERRY L PRICE  
PO BOX 1022  
BELLEVUE ID 83313

SOURCE: WASTE WATER

TRIBUTARY: DEEP GULCH CREEK

QUANTITY: 0.060 CFS

PRIORITY DATE: 08/08/1912

POINT OF

DIVERSION: T02N R21E S3 NENWSE Within BLAINE County

T02N R21E S3 NENWSE Rediversion Within BLAINE County

T03N R21E S12 NESESW Injection Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.060 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T02N R21E S10 NWNW 2.80

2.8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 2.8 acres in a single irrigation season. Combined Right Nos.: 37-1046B and 37-2243B.

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 - License

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

The rights listed below are limited to the irrigation of a combined total of 1.6 acres in a single irrigation season. Combined Right Nos.: 37-1046A and 37-2243C.

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.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

County: Blaine  
Stream: Mutual Tunnel  
Amount: 4.3 sec. ft.  
Use: Irrigation  
Priority: 8-8-1912

SEP 0-9 2003

## STATE OF IDAHO

Water License No. 8596.....

WHEREAS, On the 8th day of August, A. D. 1912, James Laidlaw, of Bellevue, County of Blaine, State of Idaho, duly made application (No. 12932) to me for a permit to use, nine (9) cubic feet per second of the waters of Mutual Tunnel on Last Chance Mine, County of Blaine, State of Idaho, for irrigation and domestic purposes, and,

WHEREAS, On the 24th day of August, A. D. 1912, Permit No. 8596 was issued to said applicant for the diversion of said water and providing for the completion of the works of diversion therein described on or before the 24th day of August, A. D. 1913, and for the application to beneficial use of said water on or before the 24th day of August, A. D. 1914, and,

WHEREAS, On the 21st day of August, A. D. 1913, James Laidlaw, the holder of said permit, duly made proof of the completion of adequate works for the diversion of nine (9) cubic feet per second of said waters, as evidenced by my Certificate No. 8596, dated December 6, 1913, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use nine (9) cubic feet per second of said water, with date of priority of August 8, 1912, and

WHEREAS, On the 18th day of June, A. D. 1914, James Laidlaw, the holder of said permit, duly made proof of the application to beneficial use of 4.3 cubic feet per second of said water;

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to

James Laidlaw

of Bellevue, County of Blaine, State of Idaho, the holder and owner of said Permit No. 8596, a perpetual right, dating from August 8, 1912, to the use of 4.3 cubic feet per second of the waters of Mutual Tunnel on Last Chance Mine,

in the County of Blaine and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted as follows: #1 in the NW $\frac{1}{4}$  of SE $\frac{1}{4}$ , Sec. 3, and #2 in the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , Sec. 9, both in T. 2 N., R. 21 E.B.M.,

and conducted to and upon 215 acres, divided as follows: 35 acres in NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , 40 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$  NW $\frac{1}{4}$  and 3 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$ , all in Sec. 10; 17 acres in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9; 5 acres in NW $\frac{1}{4}$  SE $\frac{1}{4}$ , 40 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$ , 20 acres in SW $\frac{1}{4}$  SE $\frac{1}{4}$  & 15 acres in SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Sec. 17, all in T. 2 N., R. 21 E.B.M.

for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho, applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source or supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 5th day of January, A. D. nineteen hundred and fifteen.

Herbert Wing,

(Seal)

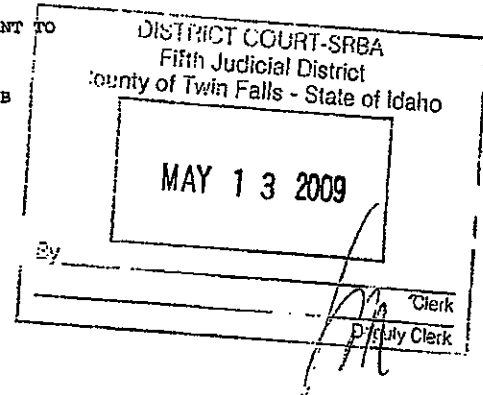
Acting State Engineer.

37-2243

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 )  
 )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 37-02243B



NAME AND ADDRESS: BRUCE B PRICE  
SHERRY L PRICE  
PO BOX 326  
CAREY, ID 83320

SOURCE: WASTE WATER TRIBUTARY: DEEP GULCH CREEK

QUANTITY: 0.06 CFS

PRIORITY DATE: 08/08/1912

POINT OF DIVERSION: T02N R21E S03 NENWSE (Rediversion) Within Blaine County  
NENWSE  
T03N R21E S12 NESESW (Injection)

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 04-15 TO 10-31 | 0.06 CFS |

PLACE OF USE: Irrigation Within Blaine County  
T02N R21E S10 NWNW 2.8  
2.8 Acres Total

The rights listed below are limited to the irrigation of a combined total of 2.8 acres in a single irrigation season.  
Combined Right Nos.: 37-1046B and 37-2243B.

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.

John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

10/09/2009

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

RIGHT NUMBER: 37-2243B

NAME AND ADDRESS: BRUCE B PRICE  
PO BOX 326  
CAREY ID 83320

SHERRY L PRICE  
PO BOX 326  
CAREY ID 83320

**DRAFT**

SOURCE: ~~WASTE WATER~~  
GROUND WATER

TRIBUTARY: ~~DEEP CULCH CREEK~~  
TRIBUTARY:

Point of injection into Copper Creek. Point of redirection from Muldoon Creek.

The source of this right is ground water flowing from the Mutual Mine Tunnel.

QUANTITY: 0.060 CFS

PRIORITY DATE: 08/08/1912

POINT OF  
DIVERSION:

~~T02N R21E S3 NENWSE Within BLAINE County~~  
~~T03N R21E S12 NESESW Injection Within BLAINE County~~  
~~T02N R21E S3 NENWSE Rediversion Within BLAINE County~~  
T03N R21E S1 SWSW Within BLAINE County  
T03N R21E S11 NWSW Injection Within BLAINE County  
T02N R21E S3 NWSE Rediversion Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| IRRIGATION            | 04/15 10/31          | 0.060 CFS       |

PLACE OF USE: IRRIGATION in BLAINE County

T02N R21E S10 NWNW 2.80

2.8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 2.8 acres in a single irrigation season. Combined Right Nos.: 37-1046B and 37-2243B.

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 -

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.