



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

October 21, 2009

George T. Merrill & Marilyn K. Merrill Family Trust
735 Victor Ave.
Chubbuck, ID 83202

RE: Standard Form 5 for water right 37-2243C

Dear Claimant:

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 Snake River Basin Adjudication (SRBA) in February 2007 as water 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 your right, 37-2243C, both remained unobjected to. I have enclosed a copy of the original license for your convenience.

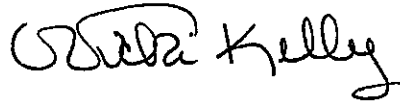
In settlement of the disagreement involving the A portion, it was discovered the Idaho Department of Water Resources (the Department) had incorrectly recommended all three rights with a waste water source, not water from the Mutual Tunnel on Last Chance Mine as licensed—which is actually considered a ground water source. The Department strongly feels the current description of the source as waste water is ambiguous and clarifying the source element to ground water should insure the water master will have the ability to deliver the right as licensed. The Department would like to correct the error and has enclosed a Standard Form 5 (SF5), the standard settlement document used in the SRBA which will accomplish the correction for your portion of the 37-2243 right.

Please review the SF5 carefully as the print out included as part of the SF5 is the corrected recommendation of your water right. The incorrect information on the recommendation is lined through—the corrected information is underlined. The points of diversion, rediversion and injection have also been corrected to align the right to the adjustment of the source element. Should you have questions about the corrected recommendation of your right, please don't hesitate to contact Carter Fritschle, Section

Manager Adjudication Bureau, at the Department's state office at 208-287-4917. He will be glad to answer any further questions you may have. If the changes made on the SF5 are acceptable to you, please initial the recommendation page and sign the first page of the form. Then return the form to me in the envelope provided and I will file the SF5 with the Court and send you a copy of the executed document for your records. The Court will eventually issue a partial decree for your water right reflecting the corrections.

The Department feels correcting recommendations of all three portions of water right 37-2243 is in the best interest of the claimants. Please contact me at 208-287-4816 with any other concerns you may have. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicki Kelly". The signature is fluid and cursive, with the first name "Vicki" written in a more stylized, looped manner and the last name "Kelly" written in a simpler, more legible cursive.

Vicki Kelly,
Paralegal

Enclosures

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

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