

Marshall, Aaron

From: Marshall, Aaron
Sent: Tuesday, November 04, 2008 3:10 PM
To: Homan, John
Cc: Keen, Shelley; Kelly, Vicki; Spencer, Nick
Subject: RE: Robert Erkins-- Devils Corral & Whate Arrow Ranches

John,

Thanks for the update. I will withhold processing of both the void order for permit 37-7426 and the license for water right 37-8165 until further notice of the pending litigation. I will place a copy of this correspondence in the water right file if you have no objection.

Aaron

From: Homan, John
Sent: Monday, November 03, 2008 12:21 PM
To: Marshall, Aaron
Cc: Keen, Shelley; Kelly, Vicki; Spencer, Nick
Subject: Robert Erkins-- Devils Corral & Whate Arrow Ranches

I talked today with Pete Eliopulos, trustee for the Meglon Trust, who claim an ownership interest in the water rights that are appurtenant to these ranches. Eliopulos claimed that there is still outstanding litigation before the Ninth Circuit involving these water rights. (Erkins deeded the water rights separately from the lands over to the trust, so the water rights did not pass with the land at the time Panagiotou acquired the ranches pursuant to the sheriff's sale from the underlying judgment. He will send a cover letter and a docket sheet from the Ninth Circuit Court to IDWR requesting that IDWR take no further action until the pending litigation is resolved. Basically, he wants IDWR to hold off licensing the one water permit and voiding the other water permit until such time as the litigation is complete. He undoubtedly has the same expectations for any matters pending in the SRBA as well.

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-08165

COPY

Date of Priority: June 30, 1983

Maximum Diversion Rate: 1.93 CFS
Maximum Diversion Volume: 1,397.3 AF

Comes now BERNARDINE M ERKINS And
ROBERT A ERKINS
PO BOX 108

BLISS ID 83314 and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 37-08165, and requests that the permit be changed as follows:

Source: WHITE ARROW HOT SPRING **Tributary:** CLOVER CREEK

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC	01/01 to 12/31	1.93 CFS	1,397.3 AF
FISH PROPAGATION STORAGE	01/01 to 12/31		1.9 AF
COMMERCIAL	01/01 to 12/31	0.25 CFS	106.3 AF
IRRIGATION	03/15 to 11/15	1.93 CFS	532.0 AF
HEATING	01/01 to 12/31	0.50 CFS	68.4 AF
DOMESTIC	01/01 to 12/31	0.06 CFS	1.8 AF
FISH PROPAGATION	01/01 to 12/31	1.93 CFS	1,397.3 AF
RECREATION	01/01 to 12/31	0.30 CFS	217.2 AF

LOCATION OF POINT(S) OF DIVERSION:

WHITE ARROW HOT SPRING NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 30, Twp 04S, Rge 13E, B.M. GOODING County
WHITE ARROW HOT SPRING NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30, Twp 04S, Rge 13E, B.M. GOODING County
(Injection)
WHITE ARROW HOT SPRING NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30, Twp 04S, Rge 13E, B.M. GOODING County
(Rediversion)
WHITE ARROW HOT SPRING SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 31, Twp 04S, Rge 13E, B.M. GOODING County
(Rediversion)

PLACE OF USE: AESTHETIC, DOMESTIC, AND RECREATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S 13E 30													X				

PLACE OF USE: COMMERCIAL AND HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S 13E 30				X									X				

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 37-08165

COPY**PLACE OF USE:** FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
04S 13E 30													X				
04S 13E 31		X															

PLACE OF USE: FISH PROPAGATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
04S 13E 30															X		

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
04S 13E 30													24.0		35.0	27.0	86.0
04S 13E 31	24.0	23.0															47.0

Total Acres: 133.0

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this _____ day of _____, 200__.

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

COPY

(For Licensing Purposes)
WATER RIGHT NO. 37-08165

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = _____ Received by _____ # _____ Date _____

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, DAVID R. TUTHILL, JR., of the Department of Water Resources hereby approve the
above Application for Amendment for Permit No. 37-08165 with the following:

CONDITIONS OF APPROVAL

1. Water diverted under this right is injected into and rediverted from an unnamed stream tributary to Clover Creek. The rate and volume of water rediverted from the unnamed stream under this right shall not exceed the rate and volume of water simultaneously injected into the unnamed stream.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
3. Rights 37-810, 37-811, 37-4040, 37-4041, and 37-8165 when combined shall not exceed the irrigation of 133 acres.
4. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial uses authorized by this right.
5. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
6. Aesthetic use is for a moat.
7. Commercial use is for a greenhouse facility.
8. Domestic use is for 3 homes. Irrigation of lawn, garden and landscaping associated with the home is authorized under the irrigation component of this right.
9. Fish propagation is for 6 raceways and an off-stream pond.
10. Heating is for 3 homes and a greenhouse facility.
11. Recreation use is for a pool.
12. Fish propagation storage is for an on-stream pond with a total capacity of 1.0 AF. This right authorizes the storage of 1.0 AF in the pond and 0.9 AF to replace evaporation losses from the pond.

Witness my hand this _____ day of _____, 2008.

DAVID R. TUTHILL, JR.
Director