

Skinner, Corey

From: Skinner, Corey
Sent: Thursday, September 27, 2007 2:36 PM
To: Luke, Tim
Cc: Merritt, Allen; Cooper, Jeff
Subject: Results of Muldoon Creek Investigation

Tim,

Jeff Cooper and I visited Muldoon Creek on September 5th and 6th as a follow up to your August 16th response (e-mail) to Gary Slette's August 10th water call on Muldoon Creek. As you recall, Mr. Slette filed the call on behalf of his client, Muldoon Ranch Co. On August 20th, Jeff and I met with representatives from Muldoon Ranch Co to discuss specific items of concern that they had and things that they wanted us to investigate.

Our September 5th and 6th visit(s) consisted of investigating specific items raised during the August 20th meeting and a general reinventory of the 12 known diversions on Muldoon Creek. Note that an inventory of these same 12 diversions was conducted in September of 2004 as a follow up to the Department's October 2003 order requiring the installation of control works and measuring devices on Muldoon Creek. **There is a memo titled "Muldoon Memo" with more detail saved on the AS00 server, specifically AS00Common\Complaints or Potential Illegal Water Use Complaints\B37\FY08 Muldoon Creek\September 5 & 6.**

During the August 20th meeting with representatives from Muldoon Ranch Co specific concerns were raised with Guy Peterson and diversion and use of water on his property, diversion and use of water on property owned by Muldoon Grazing Association, and an alleged illegal diversion of water from a Muldoon Ranch Co delivery ditch by Jim Peterson (Muldoon Creek water master).

With regards to diversion and use of water on Guy Peterson's property it appears that he is taking far more water than what his rights allow from Muldoon Creek, regardless of priority. As we discussed, our September 5th and 6th visit was unannounced and Jeff and I had the opportunity to walk Muldoon Creek through all of Guy Peterson's place below his only authorized diversion. Upon returning to the pickup, Jeff and I were confronted by Guy's wife. After the confrontation, later that day Guy's authorized diversions (one from Muldoon Creek and one from Argosy Creek) appeared to have been recently turned off. It appears that at least one stream alteration has been made below his only authorized diversion from Muldoon Creek that should be a major factor in his ditches gaining water below his diversion. We also discovered another diversion ditch on the opposite side of the creek, further downstream than his authorized diversion that is not covered by any water right. There also appears to be land that Guy does not own and is being irrigated from Guy's ditch without a water right. **There is a memo titled "Guy Peterson Memo" with more detail saved on the AS00 server, specifically AS00Common\Complaints or Potential Illegal Water Use Complaints\B37\FY08 Muldoon Creek\September 5 & 6.**

With regards to diversion and use of water on property owned by Muldoon Grazing Association there is a diversion ditch from Copper Creek (tributary stream to Muldoon Creek) that serves a handful of acres that does not appear to have a water right. There is another ditch that collects water from a marshy area adjacent to Muldoon Creek that was being used for irrigation. This ditch does not appear to have a water right, but the place of use is covered by a wastewater recommendation showing the diversion at another, unrelated, location. There also appears to be some land that is being irrigated, perhaps with wastewater from Guy Peterson's place, which does not have a water right. A small portion of pasture below Guy Peterson's ditch is on Muldoon Grazing Association property that is covered by a right with a relatively late priority date that probably only receives water because excess water is being diverted into Guy Peterson's diversion ditch. It is interesting to note that Guy Peterson is associated with the Muldoon Grazing Association according to the ISOS website. **There is a memo titled "Muldoon Grazing Association Memo" with more detail saved on the AS00 server, specifically AS00Common\Complaints or Potential Illegal Water Use Complaints\B37\FY08 Muldoon Creek\September 5 & 6.**

With regards to the alleged illegal diversion of water from a Muldoon Ranch Co delivery ditch by Jim Peterson, we did not actually observe this occurring during our visit, but the system is in place, and it appeared that it had occurred in the recent past. **There is a memo titled "Jim Peterson Memo" with more detail saved on the AS00 server, specifically AS00Common\Complaints or Potential Illegal Water Use Complaints\B37\FY08 Muldoon Creek\September 5 & 6.**

During our September 5th and 6th visit(s), we observed water from Muldoon Creek being diverted by the following parties in the following amounts....

Guy Peterson 8.4 -11.21 cfs (estimated amounts in ditches)

Terry Clark 1.60 cfs

Jim Peterson 5.23 cfs

Muldoon Ranch Co (and Merrill & Price on one shared ditch) 5.83 cfs

The following attached Excel spreadsheet should be sorted by priority and color-coded to show rights (SRBA recommendations) and amounts from Muldoon Creek. Review of this spreadsheet and comparing it to the diversion amounts listed above indicates that water is not being delivered according to priority and also shows that Jim and Guy Peterson were taking more than their rights allow during our September 5th and 6th visit(s)...



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Note that the diversion amounts listed above do not reflect diversions from streams tributary to Muldoon Creek (Copper Creek, Argosy Creek, Buck Creek, etc.), but these rights are listed on the spreadsheet and these streams actually contribute to flows in Muldoon Creek. I believe that Jim Peterson (water master) probably does not regulate these, because these have never been mentioned during past visits and rights from these streams do not appear to be identified in the water district/water master's proposed budget. Also note that there are also some recommendations/rights on the spreadsheet that identify other sources, but are actually diverted from Muldoon Creek.

Anyways, after reviewing all this we probably need to have a discussion on what to do from here.

Corey

MEMORANDUM

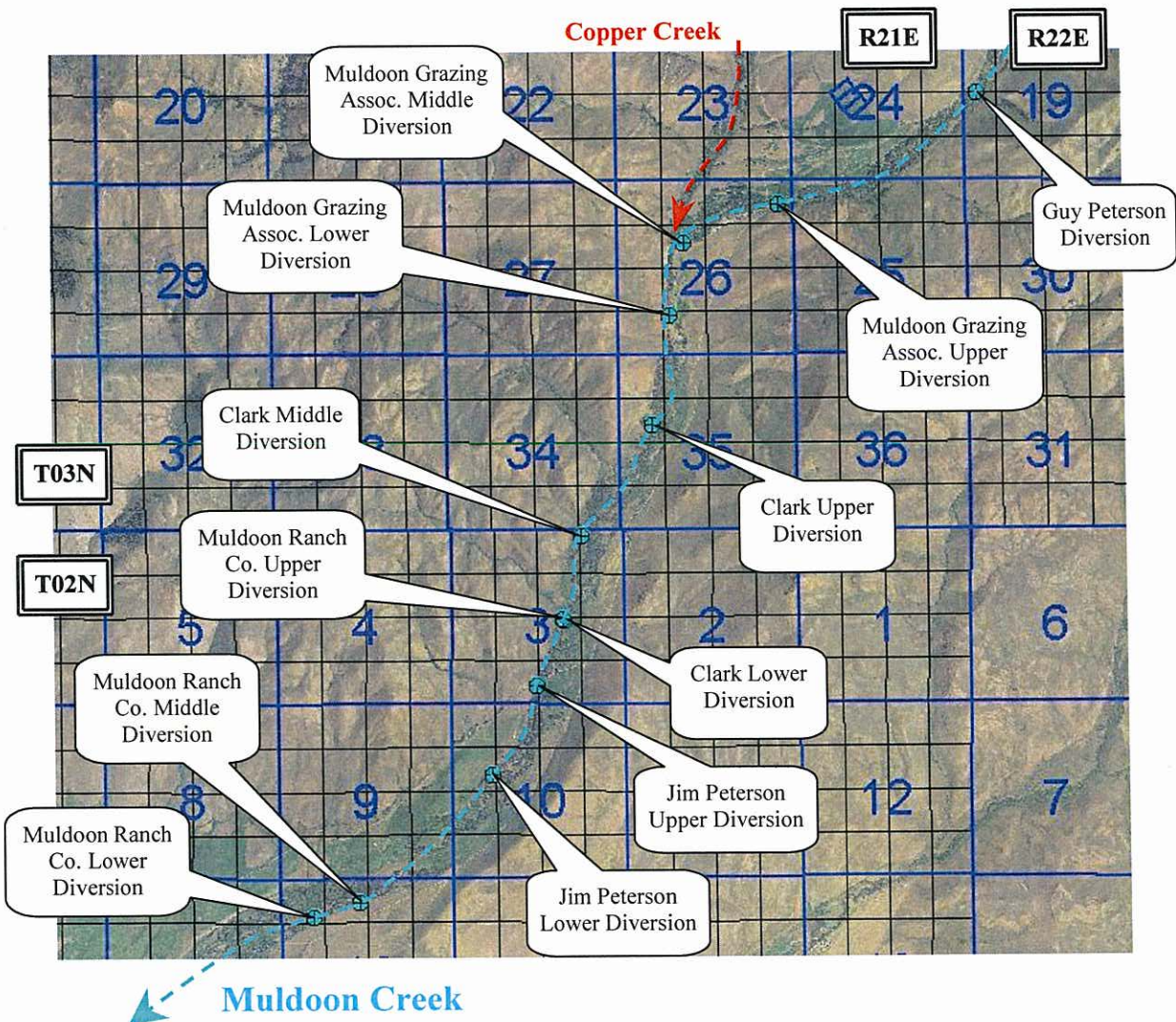
TO: Muldoon Creek Water District (37-O) File

FROM: Corey Skinner

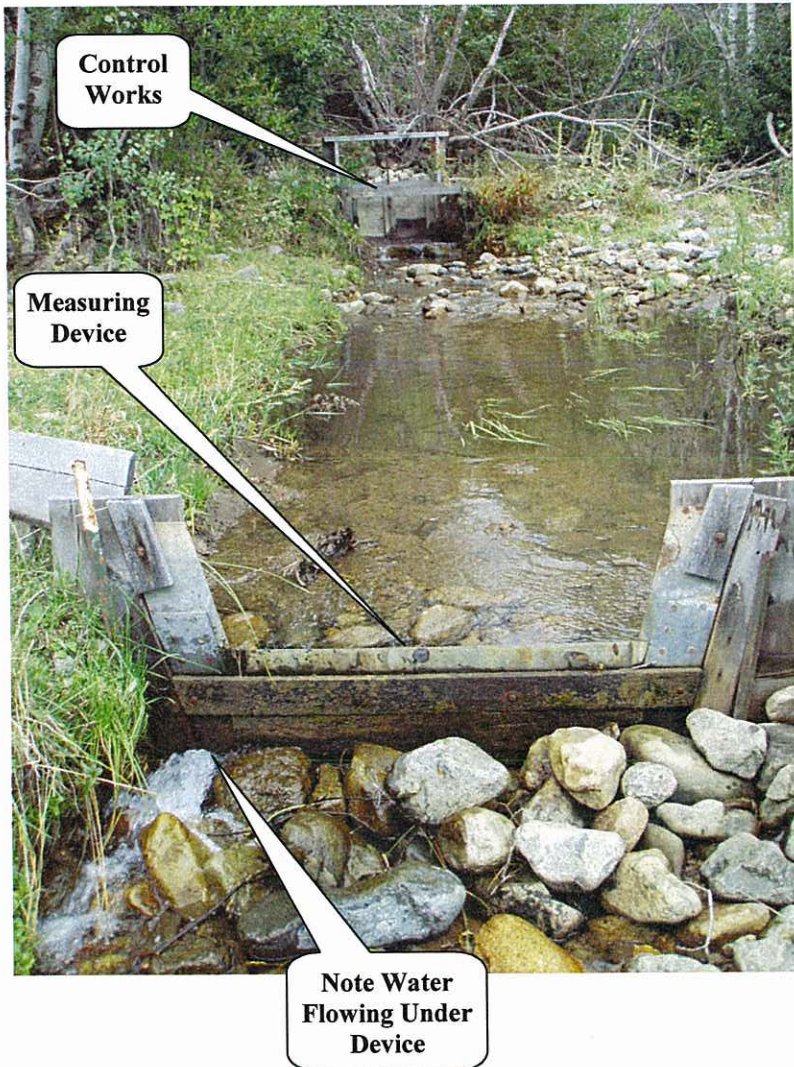
DATE: September 17, 2007

SUBJECT: Field Visit and Inventory of Diversions

On September 5th and 6th, Jeff Cooper and I visited the Muldoon Creek area as a follow up to the August 10th water call filed by Gary Slette on behalf of his client, Muldoon Ranch Co LLC, and the August 16th response from IDWR (e-mail from Tim Luke). As part of our visit an inventory of the 12 diversions identified in the September 23, 2004 memo was conducted. Note that the September 23, 2004 memo detailed an inventory of the diversions and was prepared as a follow up to the Department's October 2003 order requiring the installation of control works and measuring devices. The following map provides an overview of the area and the locations of the various diversions detailed in the following pages of this memo....



Guy Peterson Diversion



ABOVE: View on 9/5/2007 looking down Muldoon Creek at Guy Peterson's diversion (Site Tag #A0011848) with the control works visible at the head of Guy Peterson's ditch. The control works consist of a wooden gate structure with wooden gate and metal gate stem.

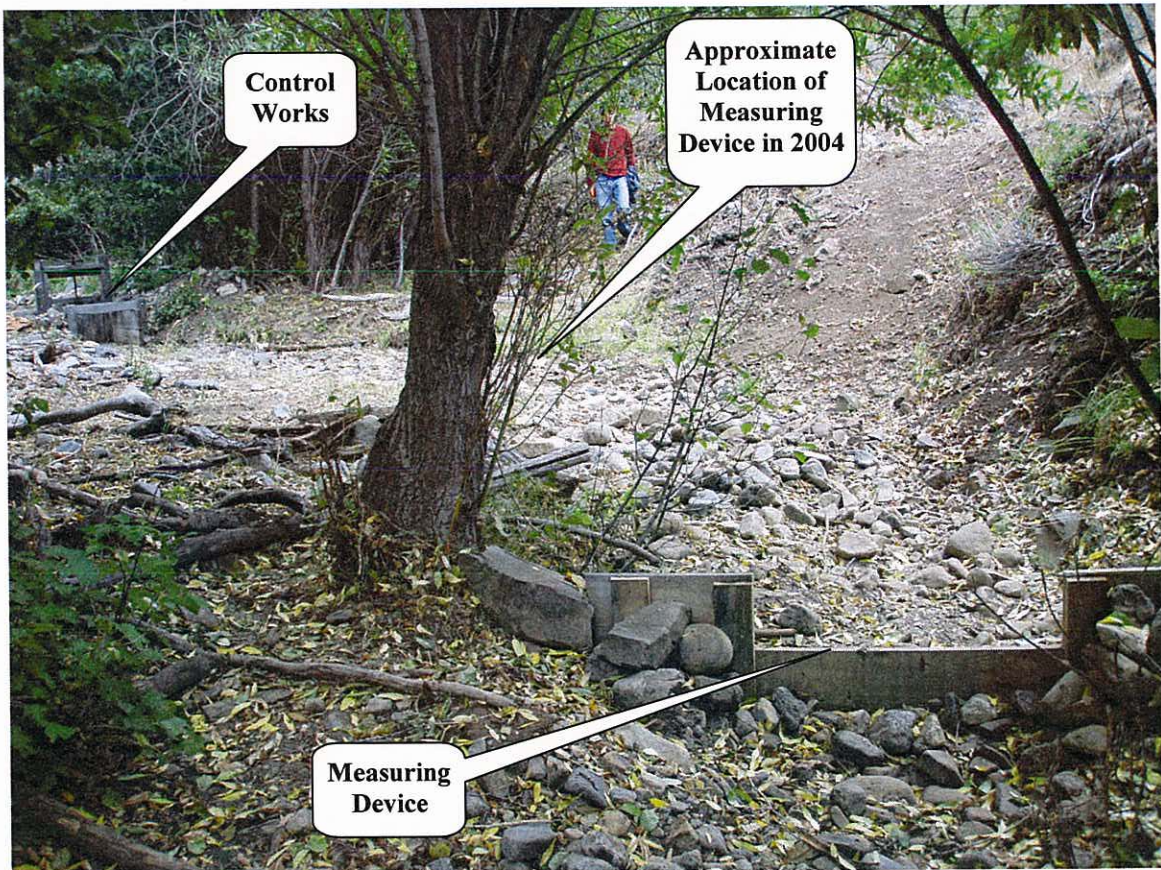
LEFT: View on 9/5/2007 looking up Guy Peterson's ditch through the measuring device towards the control works. Measuring device consists of a 3.0 foot Cipoletti weir (metal blade in wood structure). No staff gage was present for the measuring device. Note the water leaking under the measuring device with no flow over the weir blade on the measuring device. It was also observed that Guy Peterson's ditch(es) have significantly more water flowing through them than what is being diverted at this location. During the middle of the day on September 5th, it was noted that water was flowing over the weir blade at an approximate depth of 2 inches (less than 1.0 cfs total), later that day (when this picture was taken) no water was observed to be flowing over the weir blade. During the middle of the day on September 6th, it was observed that once again water was flowing over the weir blade at an approximate depth of 2 inches (less than 1.0 cfs total).

Muldoon Grazing Assoc. Upper Diversion

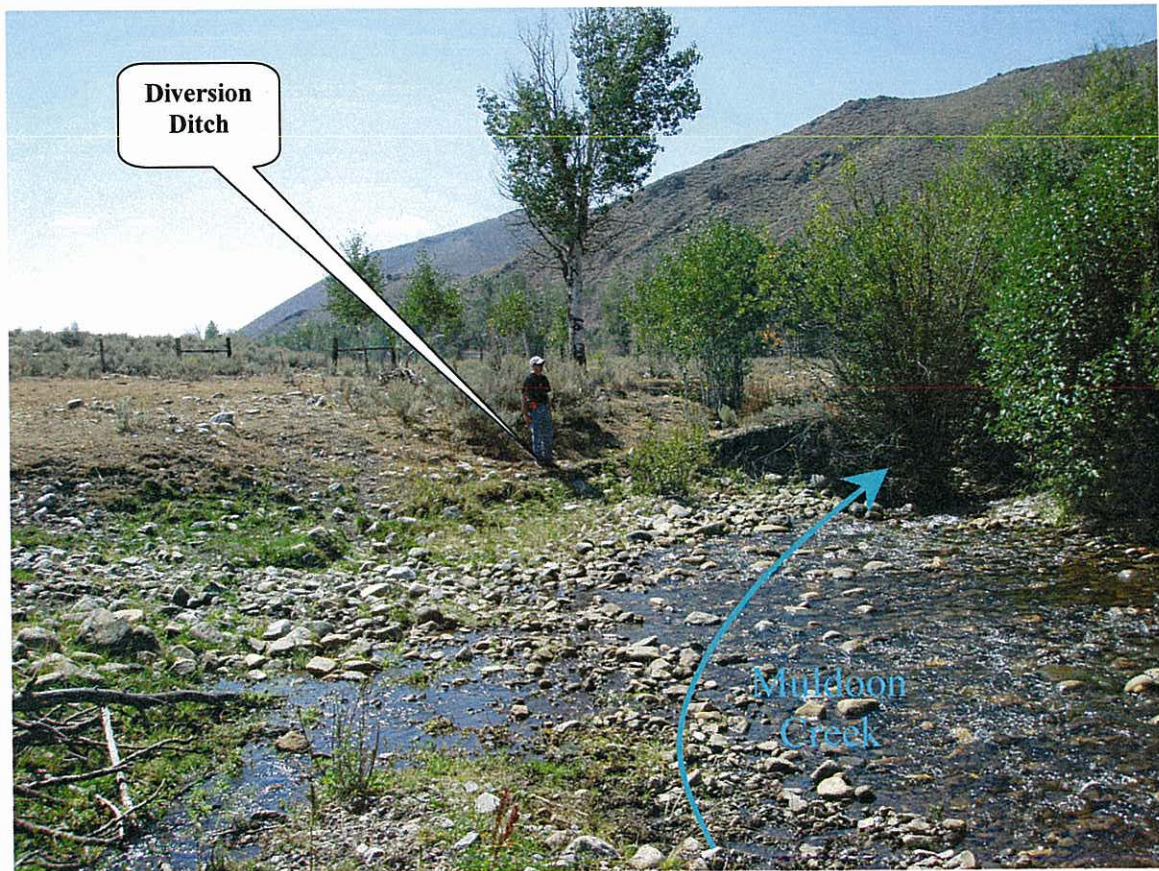


LEFT: View on 9/5/2007 looking at the Muldoon Grazing Association's upper diversion (Site Tag #A0011847) with the control works visible at the head of the ditch. The control works consist of a wooden gate structure with wooden gate and metal gate stem. Note that no water was being diverted when the picture was taken.

BELOW: View on 9/5/2007 further down the Muldoon Grazing Association's upper diversion ditch showing the location of the measuring device. The measuring device consists of a 3.0-foot rectangular weir. There is no metal blade in the wood structure and I do not recall noting a staff gage being present on the measuring device. Also note that the location of the measuring device has been moved slightly downstream from where it was located during the September 2004 investigation.

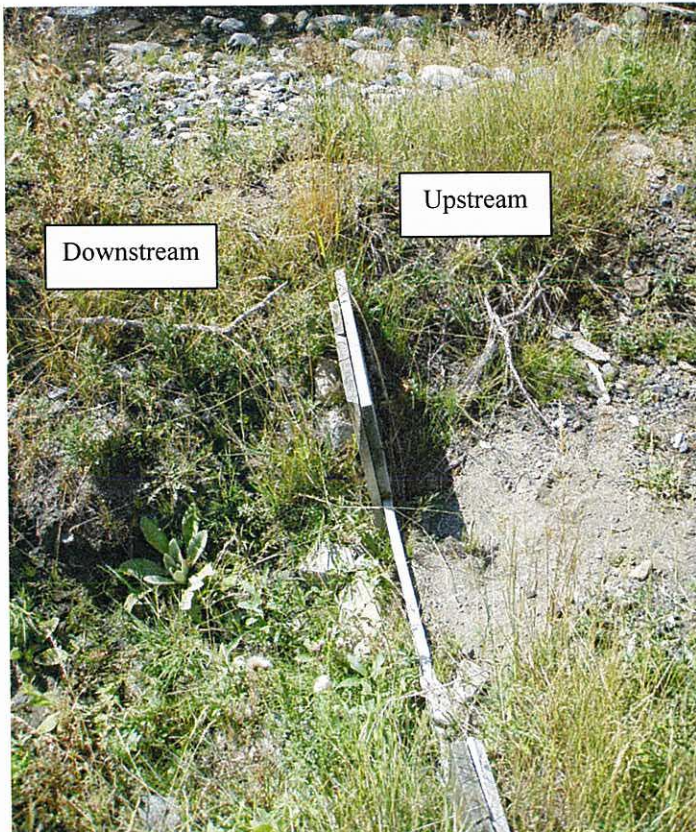
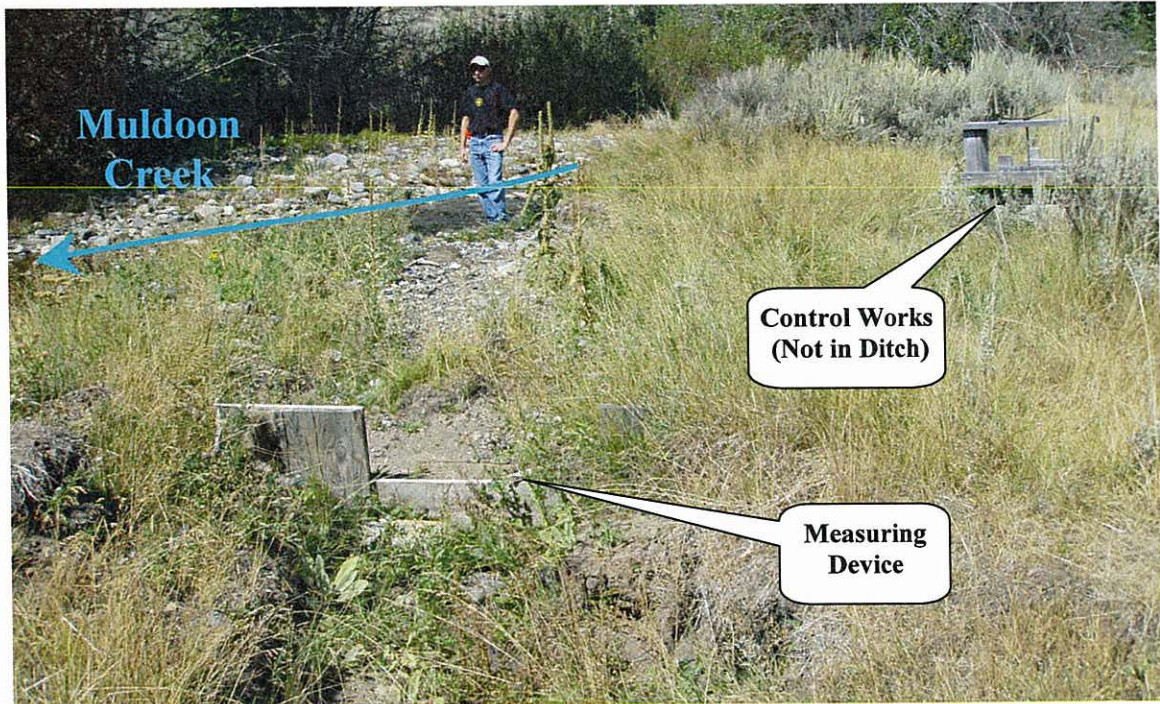


Muldoon Grazing Assoc. Middle Diversion



ABOVE: View on 9/6/2007 looking at the Muldoon Grazing Association's middle diversion. Note the relative height of the ditch in relation to the creek, the lack of control works and measuring device and the general appearance that appears to indicate lack of recent use of this diversion. Sagebrush was growing in the bottom of the ditch indicating lack of recent use of this particular diversion and ditch.

Muldoon Grazing Assoc. Lower Diversion



ABOVE: View on 9/6/2007 looking at the Muldoon Grazing Association's lower diversion (Site Tag #A0011849). Jeff is standing at the head of the diversion ditch. Note that the control works (wooden gate structure with wooden gate and metal gate stem) have been removed from the ditch and the ditch is full of sediment and gravel.

LEFT: View on 9/6/2007 showing the measuring device on the Muldoon Grazing Association's lower diversion ditch. The measuring device consists of a 3.0-foot rectangular weir. Note the sediment and gravel accumulated upstream of the device. No metal weir blade exists in the wood structure and a staff gage is not present.

Clark Upper Diversion



ABOVE: View on 9/6/2007 looking at the Clark upper diversion (Site Tag #A0011846) with the control works visible at the head of the ditch. The control works consist of a metal slide gate structure. Holes exist on the edge of the metal slide gate that would allow the gate to be locked in various positions to regulate the flow through the diversion. Note that water was being diverted when the picture was taken.

LEFT: View on 9/6/2007 further down the Clark upper diversion ditch showing the measuring device. The measuring device consists of a 2.5-foot Parshall flume. When the picture was taken, the head through the device was 0.31 feet, which would correspond to about 1.60 cfs of flow.

Clark Middle Diversion

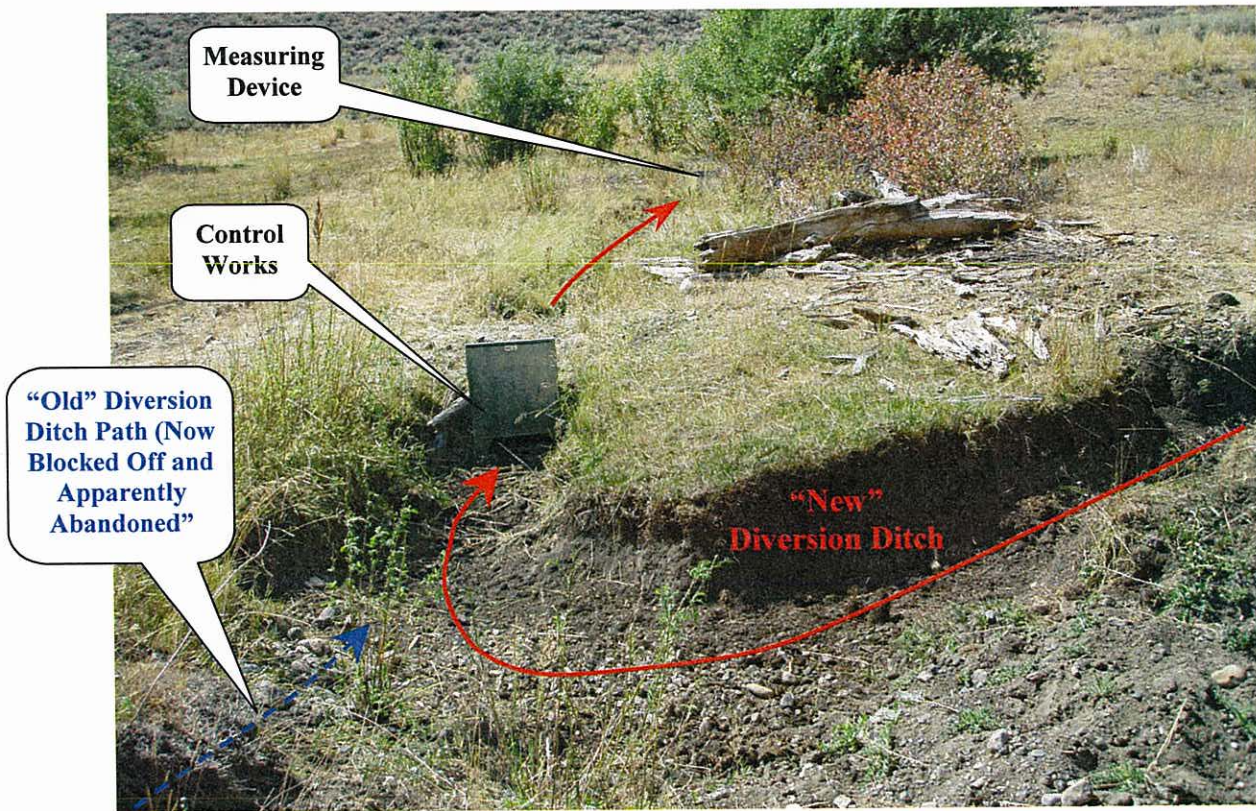


ABOVE: View on 9/6/2007 looking down Muldoon Creek with Jeff standing at the head of the Clark middle diversion at the location observed in September 2004. Fill material had been placed in the Clark middle diversion ditch (just downstream of Jeff) essentially blocking off this particular ditch.

BELOW: View on 9/6/2007 looking down Muldoon Creek approximately 200 feet upstream of the location shown in the view above showing what is now the Clark middle diversion showing diversion ditch on the right (west) side of Muldoon Creek. A metal slide gate structure (control works) is present on the ditch about 200 feet downstream of this location (see photo on next page).



Clark Middle Diversion

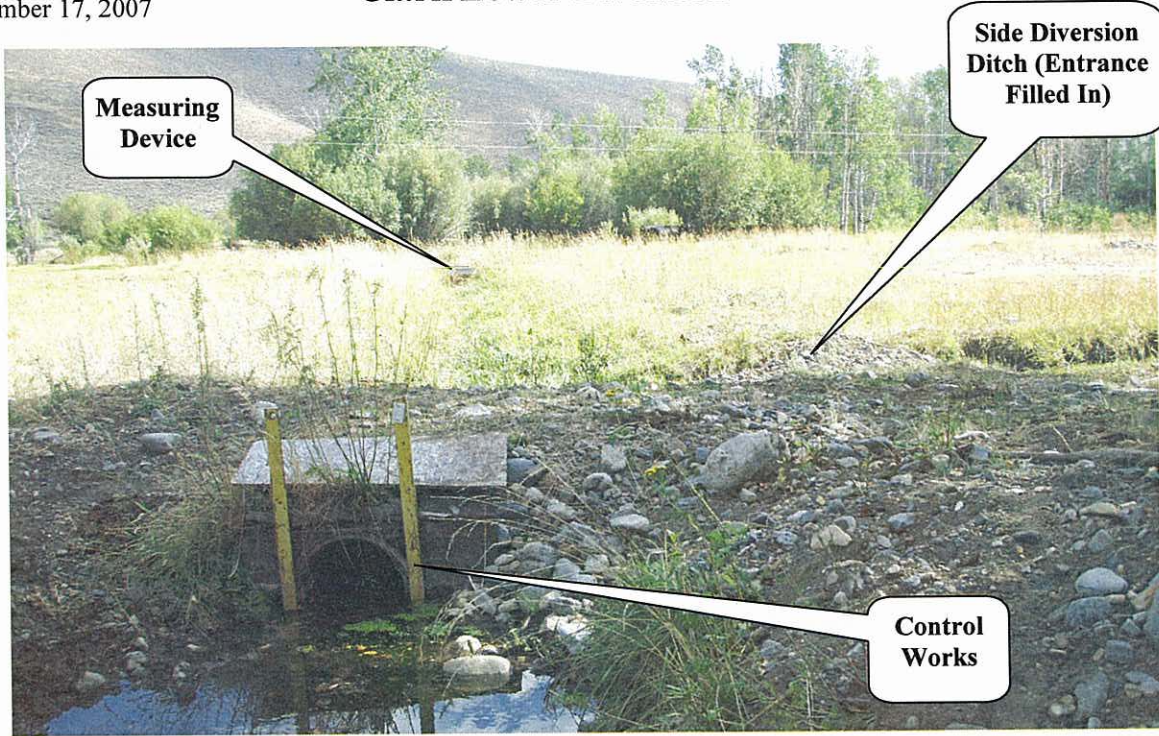


ABOVE: View on 9/6/2007 showing the control works (metal slide gate structure) on the Clark middle diversion ditch. This view location is about 200 feet downstream of the head of the “new” Clark middle diversion ditch (2nd view on previous page). Fill material had been placed in the “old” Clark middle diversion ditch upstream of this location essentially blocking off the old ditch so that only water from the “new” diversion can reach the location shown in this view. The approximate location of the measuring device (shown in view below) is indicated. Note that during the September 2004 inspection, no control works or measuring device was present at the Clark middle diversion.



LEFT: View on 9/6/2007 of measuring device (2.0-foot Parshall flume) located on the Clark middle diversion ditch. A staff gauge was located on the device. There may be some concern with the overall installation of this particular device. It appeared that the installation of the flume was not level, with the flume sloping towards the downstream end.

Clark Lower Diversion



ABOVE: View on 9/6/2007 from Muldoon Creek showing the control works on the Clark lower diversion ditch. The control works consist of a buried culvert with a steel headwall and steel posts where a piece of plywood can be slid down to block the culvert entrance. It is debatable whether or not these control works could be locked or adjusted in more than the fully open or fully closed position. The location of the measuring device (shown in view below) is also indicated. During the September 2004 inspection it was noted that a side diversion ditch (location shown) was located upstream of the measuring device, but this ditch has now been blocked off with fill material. Note that the location shown in this view is directly across the stream from the Muldoon Ranch Co upper diversion shown on the next page.



LEFT: View on 9/6/2007 of measuring device (2.5-foot Parshall flume) located on the Clark lower diversion ditch. A staff gauge was located on the device. It appears that the installation condition has improved since the September 2004 inspection (see photo in 9/23/2004 memo).

Muldoon Ranch Co Upper Diversion



ABOVE: View on 9/6/2007 looking across the Clark lower diversion ditch and Muldoon Creek with the Muldoon Ranch Co upper diversion control works (steel head gate) visible in the background across the creek.

BELOW: View on 9/6/2007 looking up the Muldoon Ranch Co upper diversion ditch (Site Tag #A0011841) showing the location of the pipe discharge from the diversion control works (steel head gate) and showing uncontrolled channel conveying water into the Muldoon Ranch Co upper diversion ditch.



LEFT: View on 9/6/2007 of the measuring device on the Muldoon Ranch Co upper diversion ditch. The measuring device consists of 42-inch rectangular weirs placed in parallel. When the picture was taken, the head through the device was 0.30 feet, which would correspond to about 3.78 cfs of flow.

Jim Peterson Upper Diversion



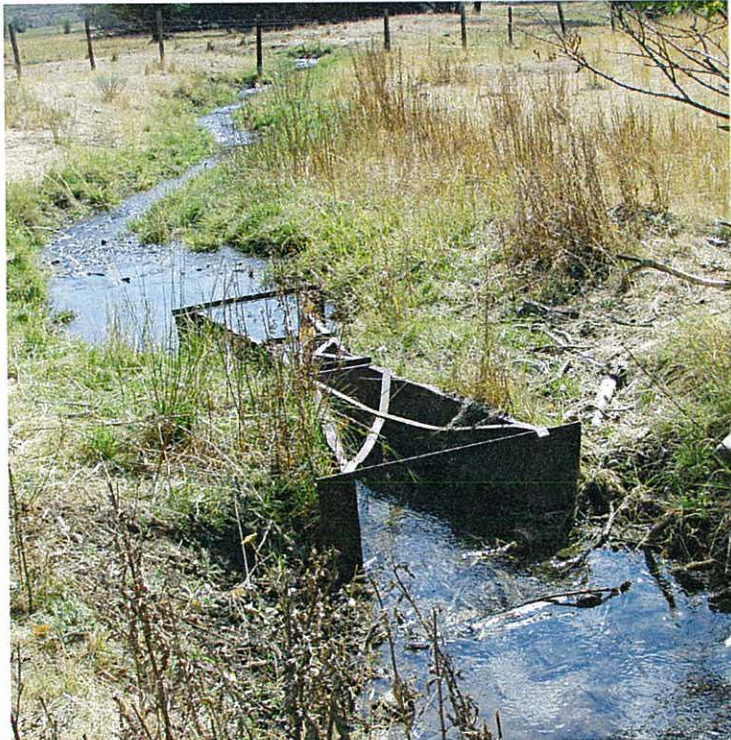
ABOVE: View on 9/6/2007 looking down the head of Jim Peterson's upper diversion ditch (Site Tag #A0011842) with the location of the control works indicated.

LEFT: View on 9/6/2007 of control works on Jim Peterson's upper diversion ditch. The control works consist of a metal slide gate structure. It is debatable whether or not these control works could be locked or adjusted in any position other than the fully open or fully closed position.



LEFT: View on 9/6/2007 of the measuring device (1.0-foot Parshall flume) located on Jim Peterson's upper diversion ditch. When the picture was taken, the head through the device was 0.90 feet, which would correspond to about 3.35 cfs of flow.

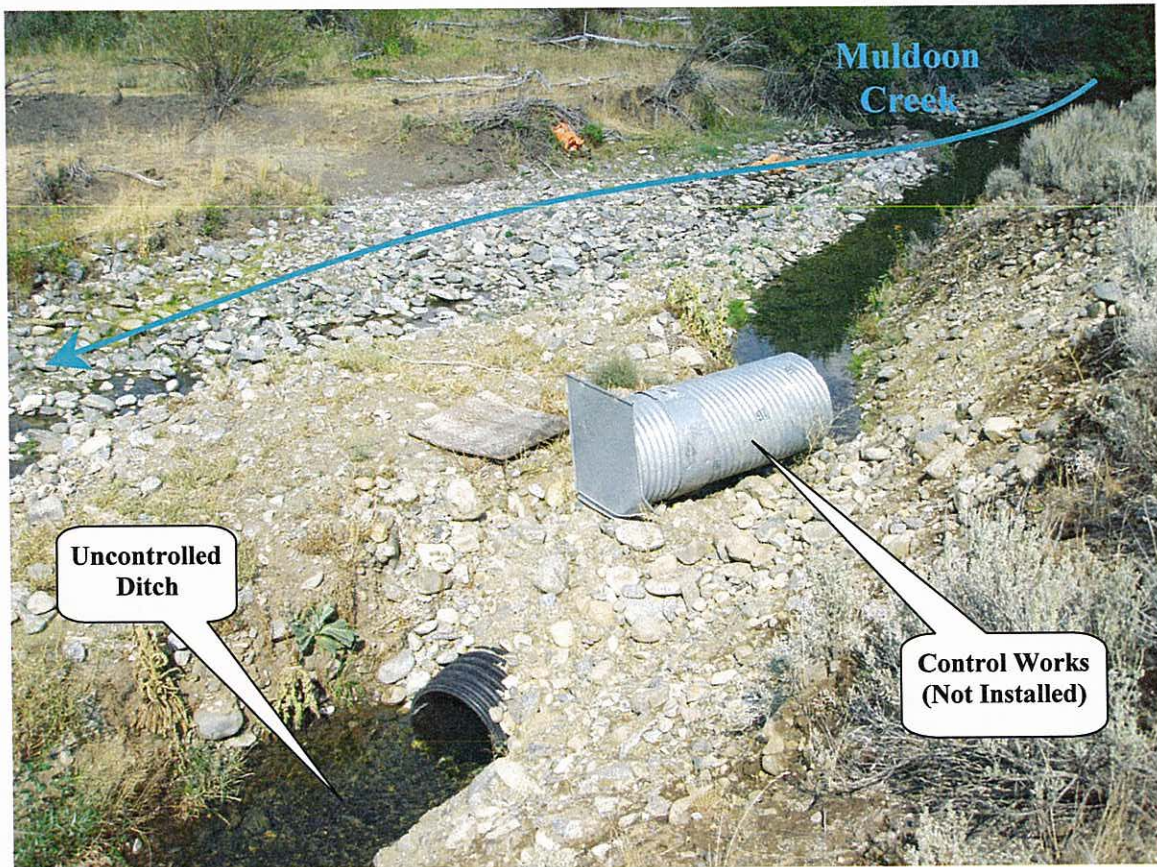
Jim Peterson Lower Diversion



ABOVE: View on 9/6/2007 of control works on Jim Peterson's lower diversion ditch (Site Tag #A0011843). Note that the control works have washed out and no longer regulate flow in the ditch. Prior to washing out, the control works consisted of a buried culvert with a concrete headwall where a piece of plywood could be slid down to block the culvert entrance. It is debatable whether or not these control works could be locked or adjusted in more than the fully open or fully closed position.

LEFT: View on 9/6/2007 further down Jim Peterson's lower diversion ditch showing measuring device (1.0-foot Parshall flume). When the picture was taken, the head through the device was 0.62 feet, which would correspond to about 1.88 cfs of flow.

Muldoon Ranch Co Middle Diversion



ABOVE: View on 9/6/2007 of the Muldoon Ranch Co middle diversion. Note that the control works (culvert with metal slide gate) are not installed and the diversion consists of an open, uncontrolled ditch, flowing through an open, uncontrolled pipe.

LEFT: View on 9/6/2007 further down the Muldoon Ranch Co middle diversion ditch showing measuring device (2.5-foot Cipoletti weir). When the picture was taken, the head through the device was 0.39 feet, which would correspond to about 2.05 cfs of flow. Note that this measuring device is located approximately 0.20 mile downstream of the diversion.

Muldoon Ranch Co Lower Diversion



ABOVE: View on 9/6/2007 looking down Muldoon Creek at the Muldoon Ranch Co lower diversion (Site Tag #A0011845). The control works consist of a metal slide gate structure.

LEFT: View on 9/6/2007 further down the Muldoon Ranch Co lower diversion ditch showing measuring device (2.5-foot Cipoletti weir). When the picture was taken, no flow was being diverted through this diversion (the entire creek was being diverted into the Muldoon Ranch Co middle diversion ditch).