

Conversation Memo

Date: 3/14/01

From: Craig Saxton

Subject: Little Pocatello Creek In-Stream Stock Issue

Mike McNabb came into the office today to inquire about filing and in-stream stockwater right from Little Pocatello Creek.

Background:

Mike has about 400 head of cattle that he winters on private land. BLM land borders Mike's private land. The cattle drink directly from the creek.

Mr. Hart below him feels that the stock drinking the water is injuring him because it prevents water from filling his ponds. Mr. Hart doesn't have a storage right, but his pond storage is less than what it would take to fill in a 24 hour period (conversation with Keith Wilson). He does however have a licensed irrigation right for 2.0 cfs with a 1906 priority date. Mr. Hart also feels that the cattle are polluting the stream and affecting the water quality in his domestic well. That is a DEQ issue.

Mike doesn't need a water right to have his stock drink directly from the creek that flows through his land, as long as Mike doesn't divert the water from the stream in anyway. Mike was concerned that he was illegal. Harold Jones said that he is not. Any argument needs to be settled in civil court.

Result:

Mike is going to file an in-stream stock adjudication claim based on historical use. If recommended, he will file to move the in-stream use to troughs.