



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

21-4151

IF

.02 X S.S. = 1.03 cfs

Need EOP

- Add stockwater with a
P.O.U. listing the 8 Q.Q.

condition.
- stockwater from storage
as stockwater.

June 20, 2007

David J. Barber – via Statehouse Mail
Deputy Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Re: Subcase Nos.: 21-4151 and 21-7145 – Dept of Parks and

Dear David:

Pursuant to the discussions with Ron Howerton, enclosed please find revised Standard Forms 5 (SF 5) with the requested changes for the above-referenced subcases. If all the changes meet with your approval, sign where indicated, **initial the recommendation pages**, then file the originals with the SRBA court.

As previously mentioned, the Status Conference on these subcases is set for July 25, 2007 at 1:30 p.m.

If you have any questions, please feel free to call Deputy Attorney General, Garrick Baxter at 287-4811 or IDWR agent, Trent Galbraith at 208-525-7161.

Sincerely,

Becky J. Harvey
Becky J. Harvey
Paralegal

/bh
Enclosures

cc: Ron Howerton, Parks & Recreation

Galbraith, Trent

From: Baxter, Garrick
Sent: Monday, April 30, 2007 10:48 PM
To: Baxter, Garrick; Galbraith, Trent; Carlsen, Ernie
Cc: Harvey, Becky
Subject: RE: 21-4151 (Parks and Rec)

Also, in terms of priorities, please put the Drake matter and the Park and Rec matters as higher priority. I think Drake is going to take some time b/c of the need for an amended claim and Park and Rec might take some time for David Barber and Parks to get together to sign so I want to send it sooner rather than later.

Thanks,
Garrick

-----Original Message-----

From: **Baxter, Garrick**
Sent: Monday, April 30, 2007 10:44 PM
To: Galbraith, Trent; Carlsen, Ernie
Cc: Harvey, Becky
Subject: 21-4151 (Parks and Rec)

Hi guys,

Don't know who wants to work on this one, but given the information provided by Ron Howerton, I believe we need a new recommendation adding to the place of use for stockwater. If my notes are correct, we talked about adding the following to Place of Use:

"Stockwater within Fremont County (then list the entire POU...adding NENE, SWNE, SENE).

and

"Stockwater from storage same as stockwater"

Let me know if this doesn't make sense or if I have it wrong.

My notes show that Ron and Mary agreed to drop their request to add live from b/c the agreed already covered by 21-81 and 21-82.

Shoot Becky an amended director's report with what you think the recommendation should look like. We'll forward to David Barber and Ron.

Thanks,
Garrick

Garrick L. Baxter
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
Phone: (208) 287-4811
Fax: (208) 287-6700

COPY

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

A. Subcase Number: 21-04151
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho, Department of Parks and Recreation
Address: PO Box 83720
Boise, Idaho 83720-0065
Daytime Phone: (208) 334-2400

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER (ISB # 2597)
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: STATE OF IDAHO
DEPT OF PARKS & RECREATION
Address: Statehouse Mail
PO Box 83720
Boise, ID 83720-0065

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: See Attachment I.
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Points of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: Not applicable.
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: See Attachment I.

11. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The State of Idaho, Department of Parks & Recreation (hereinafter the "IDP&R"), claimed a direct diversion water right and a storage water right for water right no. 21-04151. The Idaho Department of Water Resources, hereinafter the "IDWR," did not recommend the direct diversion water right for this use at Harriman State Park. The IDWR should have recommended the direct diversion water right of 1.03 cfs.

The IDP&R also claimed as a place of use three forty-acre tracts that are partially inundated by Fish Pond. The IDWR did not recommend these three tracts of land. Since range cattle drink directly out of the impoundment area, these three forty-acre tracts need to also be designated as the place of use. Those tracts are identified as the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, & SE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 6, Twp. 11 North, Rge. 43 East, B.M.

ATTACHMENT I

RIGHT NUMBER: 21-04151

NAME AND ADDRESS: State of Idaho
Dept of Parks & Recreation
Statehouse Mail
PO Box 83720
Boise ID 83720-0065

SOURCE: Springs Tributary: Henrys Fork

QUANTITY: 1.030 CFS
59.40 AFY
The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

Right Nos. 21-37 and 21-4151 are limited to a total combined annual diversion volume of 85 AF.

PRIORITY DATE: 04/01/1959

POINT OF DIVERSION: T11N R43E S6 NWNE Within FREMONT County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>		<u>QUANTITY</u>	
Stockwater Storage	01/01	12/31	5.40	AFY
Stockwater from Storage	01/01	12/31	5.4	AFY
Stockwater	01/01	12/31	0.090	CFS
Irrigation Storage	01/01	12/31	54.00	AFY
Irrigation from Storage	04/01	11/01	54.00	AFY
Irrigation	04/01	11/01	1.030	CFS

PLACE OF USE:

IRRIGATION within FREMONT County

T11N R43E S06	NWNE	3.50	T11N R43E S06 Lot 1	NENW	16.00
T11N R43E S06 Lot 3	NWNW	2.00	T11N R43E S06 Lot 4	SWNW	27.00
T11N R43E S06	SENE	3.00			

IRRIGATION FROM STORAGE same as IRRIGATION

51.5 ACRES TOTAL

STOCKWATER

T11N R43E S06 NENE

T11N R43E S06 SWNE

T11N R43E S06 SENE

T11N R43E S06 NWNE

T11N R43E S06 Lot 1 NENW

T11N R43E S06 Lot 3 NWNW

T11N R43E S06 Lot 4 SWNW

T11N R43E S06 SENW

STOCKWATER FROM STORAGE same as STOCKWATER

The rights listed below are limited to the irrigation of a combined total of 51.5 acres in a single irrigation season. Combined Rights Nos.: 21-4151, 21-81, 21-82.

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 41-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM – Beneficial Use

Spring Sources AKA: East Spring, Guy Spring, Middle Spring, Monot Spring, and Osborne Springs.