

**DIRECTOR'S REPORT**

**Water Right No. 86-10497**

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources  
Gary Spackman, Director  
Carter Fritschle, Manager, Adjudication Section

February 27, 2014

## DESCRIPTIVE SUMMARY

This is a Director's Report submitted by the Director of the Idaho Department of Water Resources (IDWR).

## DISCUSSION

Water right 86-10497 was originally reported as a domestic (*de minimus*) use in the Director's Report for Domestic and Stockwater Uses for Basin 86 filed in March 1999. The claimant filed an objection; however, in March 2000, the objection and Director's Report of right 86-10497 were both withdrawn, as the claimant and IDWR believed the claim did not represent a small domestic use. IDWR planned to recommend the right when it filed its Director's Report for Irrigation and Other Uses for Basin 86. The SRBA Court recently notified IDWR that the right was not recommended in the Basin 86 Director's Report for Irrigation and Other Uses, and the right remained unreported. As IDWR has now revisited the claim of right 86-10497 and determined it cannot support recommending the right as anything other than a small domestic use, the Director submits for filing this Director's Report for water right 86-10497.

Respectfully submitted this 27<sup>th</sup> day of February, 2014.

  
CARTER FRITSCHLE  
Manager, Adjudication Section

## CERTIFICATE OF SERVICE

I certify that on February 28, 2014, I caused to be served a true and correct copy of this Director's Report, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

☐ Overnight Mail  
☐ Regular Mail  
☐ Hand-Delivered  
☒ Facsimile

2. Copies to:

Chief, Natural Resources Div.  
Office of the Attorney General  
P.O. Box 44449  
Boise, ID 83711-4449

☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

United States Department of Justice  
Environment & Natural Resources Div.  
550 W. Fort Street MSC 033  
Boise, ID 83724

☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

Nez Perce County Courthouse  
P.O. Box 896  
Lewiston, ID 83501

☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

Bernard Schatz  
Linda Schatz  
3808 15<sup>th</sup> St.  
Lewiston, ID 83501

☐ Overnight Mail  
☒ Regular Mail  
☐ Hand-Delivered  
☐ Facsimile

Karin White  
Signature of person mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 86-10497

NAME AND ADDRESS: BERNARD SCHATZ  
26195 CENTRAL GRADE RD  
LEWISTON ID 83501

LINDA SCHATZ  
26195 CENTRAL GRADE RD  
LEWISTON ID 83501

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

The quantity of water under this right shall not exceed 2,500 gallons per day.

PRIORITY DATE: 03/10/1992

POINT OF  
DIVERSION: T36N R05W S27 SENE Within NEZ PERCE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>                      | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|--------------------------------------------|----------------------|-----------------|
| DOMESTIC                                   | 1/01 12/31           | 0.040 CFS       |
| Domestic use is at a vehicle salvage yard. |                      |                 |

PLACE OF USE: DOMESTIC in NEZ PERCE County

|               |      |               |      |
|---------------|------|---------------|------|
| T36N R05W S27 | SWNE | T36N R05W S27 | SENE |
| T36N R05W S27 | NESE |               |      |

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 42-1412(6), Idaho Code.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel No. RP36N05W271910

## NOTICE OF DIRECTOR'S REPORT

The Director of the Idaho Department of Water Resources (IDWR) has filed with the Snake River Basin Adjudication (SRBA) District Court the Director's Report for water right 86-10497, claimed by Bernard and Linda Schatz. Right 86-10497 was originally reported in the Basin 86 Director's Report for Domestic and Stockwater Rights (D&S Report). The recommendation was then withdrawn from the D&S Report to be reported in the Basin 86 Director's Report for Irrigation and Other Uses. As it was recently discovered that water right 86-10497 was not reported in the Basin 86 Director's Report for Irrigation and Other Uses filed in September 2004, this Director's Report (DR) contains the Director's recommendation to the SRBA Court as to how your claimed water right should be decreed in the SRBA.

### *Why am I getting this mailing?*

You have received this mailing because you filed a claim for water right no. 86-10497 in the SRBA. This mailing contains only the Director's recommendation to the SRBA Court of your claim. Your mailing **does not** contain the Director's recommendations of any claims other than your own. Should you wish to review the Director's recommendations of other claims--if any--in your basin, the reports are available at the SRBA courthouse in Twin Falls and at the locations listed at the end of this notice. Copies of the reports can be made, but you may be charged for copying and mailing. Maps of these reporting areas, as well as other information pertaining to the SRBA can be accessed on the internet.

With the SRBA nearing completion, IDWR currently has no plans for filing future Director's Reports, and the majority of water rights recommended in the SRBA have now been partially decree. Should the SRBA Court grant future motions for leave to file late claims in Basin 86, Late Claims Director's Reports (LCDR) on those individual water right claims will be submitted to the SRBA Court on an expedited basis, prior to issuance of the SRBA final decree. You will not receive notice of these future individual LCDR as they are filed with the SRBA Court unless you have an ownership interest in the water right claim that is being reported. Therefore, if you are interested in the status of water rights belonging to other people that have not yet been recommended by IDWR, you should periodically review the Court's docket sheet or check the status of the water right on the Court's internet web page located at: <http://www.srba.state.id.us>. Information about subscribing to the Court's docket sheet is provided on page three of this notice.

## INSTRUCTIONS FOR REVIEWING YOUR OWN WATER RIGHT

The description of your right, which is enclosed, is only the Director's *recommendation* to the SRBA Court on your water right. The Court will decide how it will decree your water right. You are free to agree or disagree with the Director's recommendation. If you agree with the Director's recommendation you do not need to do anything, pending further notice as described below. If you disagree with the Director's recommendation, you need to file an objection as described below.

## INSTRUCTIONS FOR TAKING A WATER RIGHT CLAIM TO COURT

### *What do I do if I disagree with the recommendation?*

If you disagree with any element of the recommendation for your water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form ("Standard Form 1") available from any IDWR office or from the SRBA Court. You may also download a copy of the objection form from the SRBA web site at: <http://www.srba.state.id.us>.

Your objection must be **received** by the SRBA Court on or before **April 28, 2014**.

### *What do I do if someone else objects to my water right recommendation?*

If someone files an objection to your water right, you may file a response to that objection, but are not required to. Responses to objections must be made on the standard response form ("Standard Form 2") available from any IDWR office or from the SRBA Court. You may also download a copy of the response form from the SRBA web site at: <http://www.srba.state.id.us>.

Your response must be **received** by the SRBA Court on or before **May 28, 2014**.

### *What happens if there are no objections to my water right?*

Should the deadline for filing objections and responses to your water right pass--with no objections or responses filed--the SRBA Court will hear the uncontested recommendation on **June 17, 2014, at 1:30 p.m. (Mountain Time)** at the SRBA courthouse. A partial decree will be issued following this hearing.

### *How will I know about the proceedings on my water right recommendation if objections are filed?*

A notice will be mailed to you for court dates on your water right or for those where you filed an objection or a response. You will not receive notice of court dates on any other water right recommendations.

Additional information regarding water right claims can be found on the SRBA Court's web site at: <http://www.srba.state.id.us>.

**Note:** The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed, as well as when Director's Reports are filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50. The Docket Sheet is also available on the SRBA web site at: <http://www.srba.state.id.us>.

## **IMPORTANT INFORMATION REGARDING GENERAL PROVISIONS**

General provisions are those parts of the SRBA Court's decree that apply to all the water rights in a basin, or to classes of similarly situated water rights within a basin. IDWR recommends to the SRBA Court the general provisions it believes should be decreed in a basin when it files with the Court its Director's Report for the basin. At that time, any party may object to the recommended general provisions.

The Director recommended the general provisions for Basin 86 in the Director's Reports for Irrigation and Other Uses, Reporting Area 22, IDWR Basin 86 filed in September 2004. The objection period for the general provisions in the Basin 86 has expired. Therefore, it is too late for you to object to the general provisions governing your claim. A copy of the general provisions for your basin is enclosed. You may also view the general provisions for every basin within the SRBA by going to IDWR's website at: <http://www.idwr.idaho.gov>. It is possible that in the future the SRBA Court will entertain recommendations for additional general provisions. Should that occur, an opportunity to object to those additional general provisions will be provided. It is your responsibility to monitor the SRBA case through the Docket Sheet discussed above.

## **CHANGES OF ADDRESS OR OWNERSHIP DURING THE SRBA COURT CASE**

You must contact your regional IDWR office with your address change or if the ownership of your water right changes. Failure to notify IDWR may result in the loss of your water rights.

## **ADDITIONAL INFORMATION**

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of this reporting area, as well as assistance in using the maps and the photography, are available at the IDWR Regional office nearest to the location of your water right. You are also welcome to call IDWR at any of its offices or its adjudication hotline at 1-800-451-4129. You may contact the SRBA Court, or you may also want to consider contacting an attorney to assist you.

### **Snake River Basin Adjudication District Court**

253 Third Avenue North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707  
(208) 736-3011  
<http://www.srba.state.id.us>

### **Idaho Department of Water Resources**

322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720-0098  
(208) 287-4809  
(800) 451-4129  
<http://www.idwr.idaho.gov>

### **Idaho Department of Water Resources Western Region**

2735 Airport Way  
Boise, Idaho 83705-5082  
(208) 334-2190

### **Idaho Department of Water Resources Northern Region**

7600 N. Mineral Drive, Suite 100  
Coeur d'Alene, Idaho 83815  
(208) 762-2800

**Idaho Department of Water Resources**

***Southern Region***

650 Addison Avenue West, Suite 500  
Twin Falls, Idaho 83301-3380  
(208) 736-3033

**Nez Perce County Courthouse**

P.O. Box 896  
Lewiston, ID 83501

**Idaho Department of Water Resources**

***Eastern Region***

900 North Skyline, Suite A  
Idaho Falls, Idaho 83402  
(208) 525-7161

## DEFINITIONS OF THE ELEMENTS OF YOUR WATER RIGHT

**RIGHT NUMBER:** Your water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 29, 43, or 72.

**NAME AND ADDRESS:** Your name and address should appear here. IDWR will use the most recent name and address in its records for the water right.

**SOURCE:** The name and/or type of the source where you divert your water. For example: "*groundwater*," "*unnamed spring*," or "*Common Creek*."

**QUANTITY:** The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY).

**PRIORITY DATE:** The date used to determine the priority of your right in relation to other rights using water from the same source.

**POINT OF DIVERSION:** The legal location where you divert water from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys, or other survey information.

**PURPOSE OF USE:** The general category of the type of use you can make of your water. Typical purposes of use include irrigation, domestic, or stock watering.

**PERIOD OF USE:** The period of time during the year when you can use the water for your right.

**PLACE OF USE:** The legal location where you use your water right; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys, or other survey information.

**PLACE OF USE FOR IRRIGATION PROJECTS:** Pursuant to Idaho Code Sections 42-219(2) and 42-1411(2)(h). IDWR has included GIS mapping for describing the place of use (digital boundary) for water rights meeting certain criteria (i.e. irrigation projects). The **PLACE OF USE** for irrigation projects is reported in digital format and uses GIS technology to particularly identify and display a geographic area encompassing the place of use with the aid of a computer. The GIS data is stored in digital format and contained on a CD-ROM and is properly marked for identification with the water right number. The CD-ROM will be retained by the SRBA Court. IDWR also retains a duplicate of the original CD-ROM. The electronic data contained on the CD-ROM is available for public use and is also accessible through the IDWR internet website (<http://www.idwr.idaho.gov>). *Upon request, IDWR will provide a copy of the CD-ROM with the electronic data to claimants.*

**BASIS OF CLAIM:** The method that was used to establish your claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, or permit.

**DUAL BASED CLAIMS:** In some cases, the federal government has claimed one right under two theories: a state basis and a federal law basis. Both theories will be reported on one form for that single water right. In most cases, the priority dates are different and will be listed separately. The federal law basis is separately indicated by a remark under the priority date that reads:

\*4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT\*

THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW WITH AN APRIL 17, 1926,  
DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER SIGNED THE SAME DATE AND  
KNOWN AS PUBLIC WATER RESERVE 107.

IDWR does not investigate or make recommendations regarding federal law based claims.

## **BASIN 86 GENERAL PROVISIONS**

The Director of the Idaho Department of Water Resources recommends to the Snake River Basin Adjudication District Court that the following general provisions be included in the decree determining rights to water from Basin 86.

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1. The following water rights from the following sources of water in Basin 86 shall be administered separately from all other water rights in Basin 86 in accordance with the prior appropriation doctrine as established by Idaho law:

**Water Right No.**  
None

**Source**  
None

2. The following water rights from the following sources of water in Basin 86 shall be administered separately from all other water rights in the Snake River Basin in accordance with the prior appropriation doctrine as established by Idaho law:

**Water Right No.**  
None

**Source**  
None

3. Except as otherwise specified above, all other water rights within Basin 86 will be administered as connected sources of water in the Snake River Basin in accordance with the prior appropriation doctrine as established by Idaho law.