

**DIRECTOR'S REPORT OF DEFERRED
DE MINIMIS DOMESTIC AND / OR STOCK WATER USE**

Claim No. 29-14178

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

June 23, 2016

DESCRIPTIVE SUMMARY

This is a Director's Report of Deferred De Minimis Domestic and / or Stock Water Use submitted by the Director of the Idaho Department of Water Resources (IDWR).

INTRODUCTION

A Motion for Determination of Deferred De Minimis Domestic or Stock Water Use (Motion), as well as a Notice of Claim to Water Right, were submitted to the Court on March 24, 2016, under water right claim no. 29-14178. The claimants, Jerre and Monte Evans, published notice of the Motion, and the Director has now completed his examination of the water right claim. The examination was conducted by Carter Fritschle, Manager, Adjudication Section on behalf of the Director. The materials used in and results of the examination of the elements of water right claim 29-14178 are discussed below.

DISCUSSION

Priority Date – The priority date claimed (6/1/1894) predates the sale of this land to the State of Idaho. Portions of Township 10 South, Range 33 East, Section 36 were conveyed to the State of Idaho as one of several “school sections” on 12/8/1900. That conveyance included the NE ¼ of the NE ¼ of Section 36, which is the legal description of the claimed point of diversion and place of use for 29-14178. The document submitted with the claim, an excerpt from Bannock Valley by Laurie Ward with a copyright of 1982, suggests there was a possessory claim to the land prior to it being transferred to the State of Idaho. However, more documentation is required to support the claim that the land was occupied and a water right was established prior to the sale of the land to the State of Idaho. The documentation supplied with the claim does list

three people with the last name of Evans (T.B. Evans, Lorenzo B. Evans and Susannah Evans) with a small line next to their names under “Water Rights” with sources of Meadow Springs and Locomotive Springs. But, there is no information provided to link the people or water sources listed to the use of Bannock Creek in the NE ¼ of the NE ¼ of Section 36, Township 10 South, Range 33 East. Also, no documentation was submitted as to when the land was conveyed from state ownership to private ownership.

Point of Diversion – The claimed point of diversion for 29-14178 is in T10S, R33E, S36, NENE. Under the description of the diverting works (Item 5 on the claim) the information entered is “Stock drink from stream” and the location as to where the stock drink from the stream was shown on the map that accompanied the claim. Bannock Creek does flow through the southeast corner of the NE ¼ of the NE ¼ of Section 36, and the location shown on the map is on the east boundary of the NE ¼ of the NE ¼ of Section 36 where Bannock Creek flows out of the NE ¼ of the NE ¼ of Section 36. Aerial photos for various years from 1987 to 2015 were examined, and there were no visible features to indicate livestock accessed Bannock Creek at this location. However, another water right, 29-10384, has been decreed in the SRBA with a point of diversion in the NE ¼ of the NE ¼ of Section 36. The source for water right 29-10384 is an unnamed stream, and the water right was decreed in the name of Jerre Evans for livestock use. Water right 29-10384 diverts water from the unnamed stream to a pond approximately 400 feet west of the claimed point of diversion on Bannock Creek. An overflow channel from the pond allows any excess water diverted from the unnamed stream to reach Bannock Creek approximately 150 feet north of the claimed point of diversion on Bannock Creek.

Source – While Bannock Creek does flow through the southeast corner of the NE ¼ of the NE ¼ of Section 36, the pond described above appears to be more readily accessible for the watering of livestock.

Place of Use – The ESRI one-foot resolution aerial photo cannot be used to confirm the presence of livestock in the NE ¼ of the NE ¼ of Section 36. However, there does appear to be a small corral (less than 2,000 square feet) overgrown with brush in the NW ¼ of the NE ¼ of Section 36. The NW ¼ of the NE ¼ of Section 36 is currently owned by Stephen Purdy according to the Power County tax lot information that was updated on 2/22/2016 and obtained by IDWR. The place of use for decreed water right 29-10384 includes both the NE ¼ of the NE ¼ and NW ¼ of the NE ¼ of Section 36.

Purpose of Use and Period of Use – Water right 29-10384 and the old corral in the NW ¼ of the NE ¼ of Section 36 does provide evidence that the watering of livestock did occur in this area. However, more documentation is required to confirm the livestock watered directly from Bannock Creek in the NE ¼ of the NE ¼ of Section 36.

Quantity – No flow information is available. The 0.04 cfs diversion rate claimed would be “excessive” for livestock that are watering directly from a stream source without any diversion works. If documentation can be obtained to confirm livestock are drinking water directly from Bannock Creek in the NE ¼ of the NE ¼ of Section 36, then 0.02 cfs would be the maximum diversion rate that could be recommended, and be consistent with the findings in SRBA Basin-Wide Issue 12.

CONCLUSION

Because the use of water by livestock from Bannock Creek could not be confirmed, the recommendation for claim 29-14178 is disallowed because no beneficial use was found.

Pursuant to Judge Wildman's *Order Granting Motion Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*, dated June 28 2012, the Director submits this Director's Report of Deferred De Minimis Domestic Water Use, Claim No. 29-14178, which includes a recommendation of deferred de minimis water right no. 29-14178 of disallowed.

Respectfully submitted this 23rd day of June, 2016.


CARTER FRITSCHLE
Manager, Adjudication Section

06/15/2016

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
29-14178	MONTE EVANS 5050 BAILEY RD ARBON ID 83212	Disallowed	No beneficial use found.
	JERRE EVANS 5050 BAILEY RD ARBON ID 83212		

CERTIFICATE OF SERVICE

I certify that on June 24, 2016, I caused to be served a true and correct copy of this Director's Report of Deferred De Minimis Domestic and / or Stock Water Use, 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

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2. Copies to:

Chief, Natural Resources Div.
Office of the Attorney General
P.O. Box 83720
Boise, ID 83720-0010

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

☐ Overnight Mail
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Power County Courthouse
543 Bannock
American Falls, ID 83211

☐ Overnight Mail
☒ Regular Mail
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Jerry Rigby
25 N. 2nd E.
P.O. Box 250
Rexburg, ID 83440

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

Jerre or Monte Evans
5050 Bailey Road
Arbon, ID 83212

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

Thomas J. Budge
201 E. Center St.
P.O. Box 1391
Pocatello, ID 83204-1391

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

Blake Johnson
4751 Evans Ln.
P.O. Box 47
Arbon, ID 83212

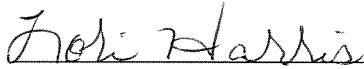
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U.S. Attorney's Office
800 Park Blvd., Ste. 600
Boise, ID 83712

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

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

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