

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

Claim No. 25-14454

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

April 6, 2017

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) and Notice of Claim to a Water Right were submitted to the Court on December 19, 2016, under water right claim no. 25-14454. The claimant, Bridge Creek Ranch LLC, 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 no. 25-14454 are discussed below.

DISCUSSION

Priority Date – The remarks listed in the Notice of Claim to a Water Right state: “Bridge Creek was used to water stock at least since 1905. The attached evidence shows existing fences at the time of BLM survey in 1905. Patents show ownership in 1918.” The survey plat submitted with the claim does confirm a fence existed in the proximity of the southern boundary of the NE 1/4 of the SE 1/4 of Section 31, Township 4 South, Range 44 East and the NW 1/4 of the SW 1/4 of Section 32, Township 4 South, Range 44 East. This fence is shown as slightly north of that boundary, but Bridge Creek does not flow through either of those quarter-quarters. Three land patents were attached to the claim. One of the land patents was in the name of Clarence Corbett, and dated 10/19/1918. The Corbett land patent was for the South 1/2 of the

NE 1/4, the South 1/2 of the North 1/2 of the NE 1/4, and the NW 1/4 of the SE 1/4 of Section 31, Township 4 South, Range 44 East. Another land patent was in the name of Albin Lindstrom, and also dated 10/19/1918. The Lindstrom patent was for the East 1/2 of the SE 1/4 and the SW 1/4 of the SE 1/4 of Section 31, and the NW 1/4 of the SW 1/4 of Section 32, Township 4 South, Range 44 East. The third land patent was in the name Isak Helmer Ronback, and dated 4/26/1920. The Ronback land patent was for the NW 1/4 of the SE 1/4, the East 1/2 of the SW 1/4, and the SW 1/4 of the SW 1/4 of Section 32, Township 4 South, Range 44 East.

All of the land patents were issued under the Homestead Act of 1862, which limited the filing of applications to surveyed government land. The original survey for Township 4 South, Range 44 East, Boise Meridian was approved in 1906 and accepted in 1907. Therefore, it is possible that one or more homestead application was filed as early as 1907. The general requirements of the Homestead Act of 1862 were that each homesteader had to live on the land, make improvements (construct a 14'-by-28' dwelling) and farm or cultivate the land for 5 years before they were eligible to "prove up" and receive a land patent. When IDWR reviews a de minimis domestic and/or stockwater claim with a priority date that predates the land patent date, IDWR requires additional evidence that specifically supports the development of the claimed water use on the land. This evidence can be the documents filed for the proof of residency and the completion of the improvements required to receive a patent under the Homestead Act of 1862, or other evidence confirming earlier use of the land claimed as the place of use for the water use claimed.

When sufficient documentation for the earlier beneficial use of the water is not submitted with the claim, IDWR's recommendation for the priority date for de minimis domestic and/or stockwater claims will generally default to the date the land patent was issued, even though the ownership of livestock was not required prior to receiving the land patent. Because there are different dates on the land patents, the priority date recommended for this claim is based on the "junior" land patent obtained by Isak Helmer Ronback, April 26, 1920.

Points of Diversion – The claimed points of diversion for 25-14454 are in T04S, R44E, S32, SWSW (beginning point for instream stockwater) and T04S, R44E, S31 NWSE (ending point for instream stockwater). Bridge Creek enters the claimed place of use in the SWSW of Section 32, and flows out of the claimed place of use in the NWSE of Section 31. Therefore, the claimed points of diversion are recommended as claimed.

Source – The U.S.G.S. topographic map identifies the stream flowing through the claimed place of use as Bridge Creek.

Place of Use – The Esri one-foot resolution aerial photo does show objects that appear to be livestock. There are also stock trails along the stream and corrals near the farmsteads. The place of use for SRBA decreed stockwater right 25-12776, which is diverted from a spring, partially overlaps the claimed place of use for 25-14454.

Purpose of Use and Period of Use – Use of water by livestock is generally recommended as year round.

Quantity – The “standard” diversion rate recommended for claims for watering stock directly from a stream is 0.02 cfs. This rate is consistent with the findings in SRBA Basin-Wide Issue 12. The claimed 0.08 cfs cannot be recommended, but must be reduced to 0.02 cfs.

CONCLUSION

There is sufficient evidence to recommend claim 25-14454 for the instream watering of livestock from Bridge Creek.

Pursuant to Judge Wildman’s *Order 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. 25-14454, which includes a recommendation of deferred de minimis water right no. 25-14454.

Respectfully submitted this 6th day of April, 2017.


CARTER FRITSCHLE
Manager, Adjudication Section

03/24/2017

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

RIGHT NUMBER: 25-14454
NAME AND ADDRESS: BRIDGE CREEK RANCH LLC
196 BRIDGE CREEK RD
WAYAN ID 83285
SOURCE: BRIDGE CREEK TRIBUTARY: GRAYS LAKE
QUANTITY: 0.020 CFS
The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/26/1920
POINT OF DIVERSION: T04S R44E S31 NWSE End of Stream Flow Within BONNEVILLE County
T04S R44E S32 SWSW Begin of Stream Flow Within BONNEVILLE County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
Stockwater use is for the in-stream watering of livestock.		

PLACE OF USE: STOCKWATER in BONNEVILLE County
T04S R44E S31 NWSE T04S R44E S31 SWSE
T04S R44E S31 SESE T04S R44E S32 SWSW

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
Stockwater use is for 350 range cattle.
Parcel Nos. RP04S44E327801, RP04S44E317202 and RP04S44E317802

CERTIFICATE OF SERVICE

I certify that on April 6, 2017, 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:

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

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Bonneville County Courthouse
605 N. Capital Ave
Idaho Falls, ID 83402

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Bridge Creek Ranch LLC
196 Bridge Creek Rd.
Wayan, ID 83285

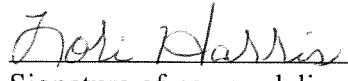
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