

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

Claim No. 86-12057

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
Craig L. Saxton, Manager, Adjudication Section

January 7, 2020

DESCRIPTIVE SUMMARY

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

INTRODUCTION

A Motion for Determination of Deferred *De Minimis* Stock Water Use (Motion), as well as a Notice of Claim to Water Right, was submitted to the Court on **April 4, 2019**, for water right claim no. 86-12057. IDWR published notice of the Motion, and the Director has now completed his examination of the water right claim. The examination was conducted by Sandra Thiel, Senior Water Rights Agent, Adjudication Section, on behalf of the Director. The materials used in and results of the examination of the elements of water right claim 86-12057 are discussed below.

DISCUSSION

Priority Date – Russell Zenner filed deferrable claim no. 86-12057 on behalf of Zenner Land Company LLC. The claim indicates that water is being used for stockwater purposes.

Land Patent no. 152480, issued on 9/15/1910, includes the claimed POU in Township 36 North, Range 4 West, Section 1, Lot 4 (NWNW) supporting the existence of stockwater use and the need to develop available water sources.¹ Supporting documentation shows that the claimant's grandfather took ownership of the claimed place of use (POU) in 1935 and later took ownership of the property containing the claimed point of diversion (POD) on April 4, 1940. The priority date is recommended as, April 4, 1940.

Point of Diversion – The claimed point of diversion is in Nez Perce County Township 37

¹ Land Patent no. 152480 was established under the Homestead Act of 1862. To receive a patent, applicants were required to live on the property for 5 years for the purpose of settlement and cultivation. It's reasonable to assume that applicants would have stock that drank from available water sources.

North, Range 4 West, Section 36, Lot 24 (NWSW). According to the Nez Perce property records Zenner Land Company LLC owns the point of diversion.

Source – The source for water is an unnamed spring tributary to sinks. Vegetation visible on National Agricultural Imagery Program imagery is consistent with the presence of water.

Place of Use – The claimed place of use for stock water is within Township 36 North, Range 4 West, Section 1, Government Lot 4 (NWNW). According to the Nez Perce property records Zenner Land Company LLC owns the place of use. The place of use is recommended as claimed.

Purpose of Use and Period of Use – The extent of the water use can be described as de minimis stockwater use. A 2018 Nez Perce County property assessment notice categorizes the claimed place of use as “Dry Grazing”, supporting the presence of stock. Water used for stockwater purposes is generally recommended for year-round use if year-round use is claimed.

Quantity – The claim was for 0.02 cfs. This rate is consistent with diversion rates claimed for *de minimis* instream stockwater use.

CONCLUSION

There is sufficient evidence to recommend claim 86-12057 for stockwater use. Pursuant to Judge Wildman’s *Order Amending Procedures in the SRBA for Adjudication of Deferred De Minimis Stockwater Claims*, dated October 17, 2017, the Director submits this Director’s Report of Deferred *De Minimis* Domestic and/or Stock Water Use, Claim No. 86-12057, which includes the recommendation of deferred *de minimis* water right no. 86-12057.

Respectfully submitted this 7th day of January, 2020.


CRAIG L. SAXTON
Manager, Adjudication Section

CERTIFICATE OF SERVICE

I certify that on January 8, 2020, 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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail
☐ FAX

2. Copies to:

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

Latah County Courthouse
522 S Adams
Moscow, ID 83843

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

Zenner Land Company LLC
C/O Russell Zenner
2496 Genesee Juliaetta Rd
Genesee, ID

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

IDWR Document Repository
PO Box 83720
Boise, ID 83720-0098

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Signature of person delivering form

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

RIGHT NUMBER: 86-12057

NAME AND ADDRESS: ZENNER LAND COMPANY LLC
C/O RUSSELL ZENNER
2496 GENESEE JULIAETTA RD
GENESEE ID 83832

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/04/1940

POINT OF DIVERSION: T37N R04W S36 NWSW Lot 24 Within NEZ PERCE 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

PLACE OF USE:

STOCKWATER in NEZ PERCE County
T36N R04W S01 Lot 4 NWNW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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. Idaho Code § 42-1412(6).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use
Stockwater use is for 50 range cattle.