



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 9, 2020

RE: Late Notice of Filing Director's Report

Dear Claimant:

Attached is the *Notice of Filing Director's Report of Deferred De Minimis Domestic and/or Stockwater Use* for your water right. The Idaho Department of Water Resources ("IDWR") is required by law to submit this notice to you at the same time it submits the Director's Report with the recommendation of your water right claim to the district court. IDWR previously submitted the Director's Report for your water right claim to the district court, but in error this *Notice of Filing Director's Report* was not sent to you. IDWR is now resubmitting the Director's Report for your water right claim to the district court in order to properly send this *Notice of Filing Director's Report* to you.

Once IDWR resubmits the Director's Report for your water right claim to the district court, the court will reset objection and response deadlines for your water right claim. The dates of the new deadlines are included in the *Notice of Filing Director's Report*. If you had previously filed an objection, please re-file it under the new deadlines to preserve the objection going forward.

IDWR apologizes for any inconvenience this may cause. Please contact me at (208) 287-4916 if you have additional questions.

Sincerely,

Craig L. Saxton
Adjudication Section Manager

Enclosures:

Notice of Filing Director's Report of Deferred De Minimis Domestic and/or Stockwater Use

**NOTICE OF FILING DIRECTOR'S REPORT
OF DEFERRED *DE MINIMIS* DOMESTIC
AND / OR STOCK WATER USE
CLAIM NUMBER 78-12505**

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 of Deferred *De Minimis* Domestic and / or Stock Water Use Claim No. 78-12505 (DR). This DR contains the Director's recommendation to the SRBA Court as to how your *de minimis* domestic and / or stock water right, claimed under state law, should be decreed in the SRBA if allowed by the District Court.

Why am I getting this mailing?

You have received this mailing because you filed a Motion for Determination of Deferred *De Minimis* Domestic or Stock Water Use with an accompanying Notice of Claim to Water Right in the SRBA. The Director has completed the examination of your claim and has filed his report and recommendation of your claim with the Court. 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. A complete copy of this DR is also available at the SRBA courthouse in Twin Falls and at the locations listed at the end of this notice. Copies of the DR can be made but you may be charged for copying and mailing. The DR can also be accessed through the SRBA Court's website at <http://www.srba.idaho.gov> or IDWR's website at <http://www.idwr.idaho.gov>. A map of reporting areas, as well as other information pertaining to the SRBA, can be accessed on IDWR's website as well.

A Final Unified Decree was issued in the SRBA on August 26, 2014. Any future reporting of water rights, which were before the SRBA Court prior to the entry of the Final Unified Decree, or deferred *de minimis* domestic and / or stock water claims proceeding under the SRBA Court's *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* of June 28, 2012, and as amended by the *Order Amending Procedures in the SRBA for Adjudication of Deferred De Minimis Stockwater Claims*, issued October 17, 2017, will be through individual reports or reports on small groups of rights. You will not receive notice of these future reports 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 web page located at: <http://www.srba.idaho.gov>. 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 in the DR, 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 of the 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.idaho.gov>.

Your objection must be **received** by the SRBA Court on or before **Monday, May 11, 2020**. A copy of the objection must be mailed to the Director of IDWR. Should anyone else object to the recommendation of this right, the objector should mail a copy of their objection to the claimant of the right and to the Director of IDWR.

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. 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 website at: <http://www.srba.idaho.gov>.

Responses must be **received** by the SRBA Court on or before **Friday, July 10, 2020**. A copy of the response must be mailed to the Director of IDWR and the objector to the water right.

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 **Tuesday, July 21, 2020, 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. Any other objectors or respondents to your water right will also receive notice of those court dates.

Additional information regarding water right claims can be found on the SRBA Court's website at: <http://www.srba.idaho.gov>.

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 website at: <http://www.srba.idaho.gov>.

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. All general provisions recommended in the SRBA are now decreed. You may obtain a copy of the general provisions for your basin from the SRBA District Court in Twin Falls or at the courthouse location nearest to your basin. You may be charged for copying and mailing. 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>.

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 right.

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

IDaho DEPARTMENT OF WATER RESOURCES
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 287-4800

(208) 736-3011
<http://www.srba.idaho.gov>

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

Idaho Department of Water Resources
Southern Region
650 Addison Avenue West, Suite 500
Twin Falls, Idaho 83301-3380
(208) 736-3033

Salmon Field Office
102 South Warpath
Salmon, ID 83467-4435
(208) 742-0658

(800) 451-4129
<http://www.idwr.idaho.gov>

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

Idaho County Courthouse
320 West Main
Grangeville, ID 83544

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.

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

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

COPY

Claim No. 78-12505

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

November 7 , 2019

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 December 24, 2018, under water right claim no. 78-12505. The claimant, Kerry Brennan, 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, Water Right Agent, Senior, Adjudication Section, on behalf of the Director. The materials used in and results of the examination of the elements of water right claim 78-12505 are discussed below.

DISCUSSION

Priority Date – Kerry N. Brennan filed claim no. 78-12505 for domestic use at a small campground. The claimed priority date is November 12, 1993. The claim included a well driller's report in the name of Bob and Bonnie Lym and a warranty deed showing conveyance of the claimed place of use from Robert L. and Bonnie Lym to Kerry Brennan.

According to the well driller's report the well was completed on November 12, 1993. The Idaho County parcel data lists the year the home was built at the claimed place of use as 1994. Therefore, the priority date is recommended as claimed.

Point of Diversion – The claimed point of diversion is located on Idaho County parcel RP24N01E223921. As filed, the claim incorrectly identified the quarter-quarter for the point of diversion as the NWNW of Section 22, Township 24 North, Range 01 East. This is the quarter-

quarter given on the well driller's report. Claim 78-12505 shares a point of diversion with claim 78-12504. Claim 78-12504 included GPS coordinates for the well. The GPS coordinates place the well within the SWNW of Section 22, Township 24 North, Range 01 East. The recommendation will correct the quarter-quarter for the point of diversion to the SWNW.

Source – The source for water diverted from a well is ground water.

Place of Use – The claimed place of use is at 7488 Highway 95 South, Riggins Idaho. The parcel number of the claimed place of use is RP24N01E223921. This parcel is located in Township 24 North, Range 01 East, Section 22, SWNW, and Section 21, SENE. According to the Idaho County property records the claimant owns the place of use.

The claim identified the place of use as NWNW, Section 22, Township 24 North, Range 1 East and the NE quarter of Section 21. The claim includes a map showing the place of use and a warranty deed showing the place of use in the Section 22, SWNW and Section 21, SENE.

Purpose of Use and Period of Use – The extent of the water use can be described as *de minimis* domestic use. Water used for domestic purposes is generally recommended for year-round use if year-round use is claimed.

Quantity – The claimed diversion rate of 0.04 cubic feet per second (cfs) is typical of what IDWR can recommend for *de minimis* domestic use. A pump test conducted when the well was drilled showed that the well produced 140 gallons per minute (gpm) or 0.31 cubic feet per second. IDWR cannot confirm the well does produce 140 gpm, but the pump test shows the well has the capacity to supply the claimed diversion rate of 0.04 cfs.

The claim indicates that the use is for a small campground with four hydrants and a tackle shop. The recommendation will be for 2,500 gallons per day based on Idaho Code § 42-111(b).

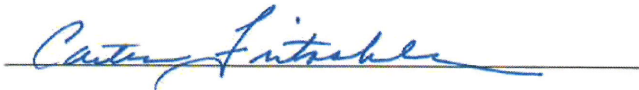
IDWR has included the appropriate standard conditions to the recommendation identifying the well is shared with claim 78-12504.

CONCLUSION

There is sufficient evidence to recommend water right claim 78-12505 with corrections to the point of diversion and the place of use.

Pursuant to Judge Wildman's *Order Amending Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*, dated October 17, 2017, the Director submits this Director's Report of Deferred *De Minimis* Domestic and/or Stock Water Use for Claim No. 78-12505, which includes the recommendation of deferred *de minimis* water right no. 78-12505.

Respectfully submitted this 1st day of November, 2019.

A handwritten signature in blue ink, reading "Carter Fritschle", is written over a horizontal line.

CARTER FRITSCHLE
Manager, Adjudication Section

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

11/01/2019

RIGHT NUMBER: 78-12505

NAME AND ADDRESS: KERRY BRENNAN
PO BOX 251
RIGGINS ID 83549

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: 11/12/1993

POINT OF DIVERSION: T24N R01E S22 SWNW Within IDAHO County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

01/01 12/31

0.040 CFS

Domestic use is for a tackle shop and small campground.

PLACE OF USE:

DOMESTIC in IDAHO County

T24N R01E S21

SENE

T24N R01E S22

SWNW

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. Idaho Code § 42-1412(6).

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Right No. 78-12504 is also diverted through the point of diversion described above.

Parcel No. RP24N01E223921.

CERTIFICATE OF SERVICE

I certify that on March 9, 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

Idaho County Courthouse
320 W. Main
Grangeville, ID 83530

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

Kerry N. Brennan
Represented by:
Brian L. McMahan
PO Box 959
Boise, ID 83701-0959

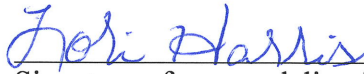
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Riggins, ID 83549

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Signature of person delivering form