

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 20 2020	
By _____	 Clerk
	Deputy Clerk

**DIRECTOR'S REPORT OF DEFERRED
DE MINIMIS STOCK WATER USE**

Claim No. 67-15307

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

March 18, 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) and Notice of Claim to Water Right for water right claim no. 67-15307 were submitted to the Court on October 25, 2018. IDWR published a notice of the pendency and purpose of the Motion. *See Affidavit of Publication*, filed simultaneously herewith. The Director has now completed his examination of the claim. The examination for the above-mentioned water right claim was conducted by Sandy Thiel, Senior Water Resource Agent, on behalf of the Director. The materials used in and results of the examination of the elements of the claim are discussed below.

DISCUSSION

Priority Date

Jim Eckhardt filed claim no. 67-15307 on behalf of the Eckhardt Family LLLP, for the instream stockwater use of 260 head of range cattle. The claimed priority date of January 16, 1922, is supported by land patents #843460 and #843461 issued to Frank H. Nitcher¹. Patents #843460 and #843461 included all of the claimed place of use in Township 12N, Range 6W, Section 1. The patented land is adjacent to the place of use claimed in Township 13N, Range 6W, Section 36 ("Section 36"). Section 36 was State Endowment Land until a land exchange on November 8, 1996 transferred ownership of section 36 from the State of Idaho to a private party.

¹ Land Patents #843460 and #843461 were 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. IDWR has regularly accepted land patents as evidence of instream or non-diverted stock water use

Prior to 1996 land exchange, grazing leases authorized grazing stock on the State Endowment Land.

On January 1, 1982, a grazing lease was granted to David Greville, the President of Bluefields S.A., for State Endowment Land located in Section 36. Bluefields S.A. also owned the surrounding patented property, including the relevant land in Section 1. Bluefields S.A.'s use of State Endowment Land for grazing before November 19, 1987, created an accomplished change in place of use as described in Idaho Code § 42-1425. Before November 19, 1987, the place of use included the leased property in Township 13N, Range 06W, Section 36, as part of the place of use for the 1922 stockwater right that was developed on the adjacent patented property in Township 12N, Range 06W, Section 1. The entire claimed place of use can be recommended with the 1922 priority date.

Points of Diversion

The claimed points of diversion are in Township 13N, Range 6W, Section 36 NWSE (beginning point for instream stockwater) and Township 12N, Range 5W, Section 6 Lot 7(SWSW) (ending point for instream stockwater) were verified by identifying stream locations using USGS Quadrangle maps.

Source

The source for water is an unnamed stream tributary to Jenkins Creek and can be verified using the USGS quadrangle maps.

Place of Use

The amended claim uses the public land survey to describe the place of use and includes each quarter-quarter or government lot between the beginning and ending points that the

unnamed stream passes through.

The claimed place of use is entirely within Washington County parcel numbers RP12N06W010000, RP13N06W360000 and RP12N05W062400. According to the Washington County property records Eckhardt Family Limited Partnership owns all three parcels.

Quantity

The quantity claimed in the amended claim is for 0.02 cfs. The typical diversion rate recommended for claims for watering stock directly from a stream is 0.02 cfs. This rate is consistent with diversion rates claimed for *de minimis* instream stockwater use.

Purpose and Period of Use

The extent of the water use can be described as in-stream *de minimis* stockwater use. Water used for stockwater purposes is generally recommended for year-round use if year-round use is claimed.

CONCLUSION

There is sufficient evidence to recommend claim 67-15307 for the instream watering of livestock from an unnamed stream tributary to Jenkins Creek.

Respectfully submitted this 18th day of March, 2020.



CRAIG L. SAXTON
Manager, Adjudication Section

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).

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CERTIFICATE OF SERVICE

I certify that on March 19, 2020, I caused to be served a true and correct copy of this Director's Report of Deferred *De Minimis* Domestic 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
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Twin Falls, ID 83303-2707

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2. Copies to:

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Environment & Natural Resources Div.
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Washington County Courthouse
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Weiser, ID 83672

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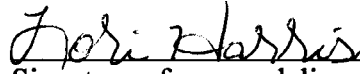
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