

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
MAR 20 2020
By _____ Clerk
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**DIRECTOR'S REPORT OF DEFERRED
DE MINIMIS STOCK WATER USE**

Claim No. 67-15314

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. 67-15314 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. 67-15314 on behalf of the Eckhardt Family LLLP, for the instream stockwater use of 260 head of range cattle. The claimed priority date of July 27, 1917 was based on land patent #594429 issued to Arch C. Lasiter¹. Patent #594429 included the claimed place of use in Township 13 North, Range 6 West, Section 35, NESE and SESE. This patent did not include State Endowment Land in Township 13 North, Range 6 West, Section 36, NWNW, SWNW, NWSW, and SWSW ("Section 36"), which is also part of the claimed place of

¹ Land Patent #594429 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. IDWR has regularly accepted land patents as evidence of instream or non-diverted stock water use.

use.

On January 1, 1982, a grazing lease was granted to David Greville, then president of Bluefields S.A. for State Endowment Land located in Section 36 ("Section 36"). This is the first documented evidence that stock were grazing on the claimed place of use in Section 36.

The Idaho Department of Lands transferred ownership of Section 36 to Evergreen Forest Products Inc. on October 29, 1996. It is not clear when Evergreen Forest Products Inc. sold Section 36, but Warranty deed (Instrument No 171634) dated December 31, 1997, transferred ownership of Section 36 from James and Nellie Eckhardt to The Eckhardt Family Limited Partnership, showing that the Eckhardt Family owned Section 36 prior to December 31, 1997.

There is no evidence that the Eckhardt Family Limited Partnership owns or has authorization to graze stock on the portion of the claimed place of use located in Township 13 North, Range 6 West, Section 35, NESE and SESE.

The recommended priority date is January 1, 1982, the date of the grazing lease was granted to David Greville for use in Section 36.

Points of Diversion

The points of diversion in Township 13 North, Range 6 West, Section 36, NWNW (beginning point for instream stockwater) and Township 13 North, Range 6 West, Section 36, NWSW (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 Scott Creek, verified using the USGS quadrangle maps.

Place of Use

The 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 included Washington County parcel numbers RP13N06W353600 and RP13N06W360000. According to the Washington County property data, the Eckhardt Family Limited Partnership owns parcel RP13N06W360000 and the Sagerock Ranch LLC owns parcel RP13N06W353600. There is no evidence that the Eckhardt Family Limited Partnership owns or has authorization to graze stock on the portion of the claimed place of use located in Township 13 North, Range 6 West, Section 35, NESE and SESE, which falls within Washington County parcel RP13N06W353600 owned by Sagerock Ranch LLC.

The recommended place of use will be limited to Township 13 North, Range 6 West Section 36, NWNW, SWNW, and NWSW, which falls within Washington County parcel RP13N06W360000.

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 67-15314 for the instream watering of livestock from an unnamed stream tributary to Scott Creek.

Respectfully submitted this 18th day of March, 2020.



CRAIG L. SAXTON
Manager, Adjudication Section

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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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Washington County Courthouse
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Weiser, ID 83672

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Eckhardt Family LLLP
Represented by:
Norman M Semanko
Parsons Behle & Latimer
800 West Main Street, Suite 1300
Boise, ID 83702

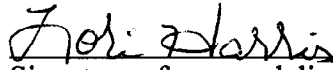
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