

MAR 15 2021

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Claim ID: 21-13290

Date Received: _____

Receipt No: _____

Claim Fee: _____ By: _____

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day

Please type or print clearly

- Name of claimant(s) Hagenbarth Livestock Phone (406) 490-1341
Mailing address 9700 Schoolhouse Road Glen Montana Zip 59732
Street or Box City State
Email address (optional) _____
- Date of priority: (Only one per claim) July 1, 1967 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)
- Source of water supply (Check one) Ground Water () or Other (✓) (a) Gravel Pit Pond
which is tributary to (b) Sinks
- Location of point of diversion is: Township 13 N, Range 40 E, Section 9,
SE 1/4 of SE 1/4, or Govt. Lot _____ BM, County of Clark;
Parcel no. _____
Additional points of diversion, if any: More precisely located SESESE Section 9 T13N,R40E
If available, GPS coordinates: 44°27'36.77"N, 111°44'22.41"W
- Description of diverting works (wells, pumps, spring boxes, pipelines, etc.) including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.
Livestock drink directly from pond
- Water is claimed for the following: (limited to domestic and/or stockwater uses - see page 1 of the instructions)
For Stockwater purposes from 7/1 to 9/30 amount .02 cfs (✓) or AFY ()
For _____ purposes from _____ to _____ amount _____
- Total quantity claimed .02 cfs (✓) or AFY ()
- Non-irrigation uses. Describe fully. (Domestic: give number of homes; Stockwater: list number and kind)
750 cattle, 1000 sheep, 10 horses

9. Location of place of use is: Township 13 N, Range 40 E, Section 9,
SE 1/4 of SE 1/4, Govt. Lot _____ BM, Parcel no. _____
If different than shown in Item 4
for (check one) **Domestic** () **Stock** (✓) **Domestic and Stock** ()

Additional places of use, if any _____

10. In which county(ies) are lands listed above as place of use located? Clark

11. Do you own the property listed above as place of use? Yes () No (✓)
If the answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
21-12425 or None ()

13. Remarks (include an explanation of the priority date selected):
See Remarks Att 1 & 2 for explanation of priority date and chain of title for permits and base property. See 13
Attachments - A,A(1-5),B,C,D,E,F,G,H in Claim #31-12507 See map Attachments I & J. Attach 3- USFS letter.

14. Basis of claim (check one) **Beneficial Use** (✓) **Posted Notice** () **License** () **Permit** () **Decree** ()
Court _____ Decree Date _____ Plaintiff v. Defendant _____
If applicable provide IDWR Water Right Number _____

15. **Signature(s)**
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How
You Will Receive Notice in the Snake River Basin Adjudication."
(b.) I/We do () do not (✓) wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments: 5 plus 13 in #31-12507

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the
foregoing document are true and correct.

Signature of Claimant(s) _____ Date: _____
_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the
foregoing document in the space below as the

Claimant's Representative _____ of Hagenbarth Livestock,
Agent's title (Please print) Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent James F Hagenbarth Date 3-9-21

Printed Name of Authorized Agent James F. Hagenbarth

16. **Notice of Appearance:**
Notice is hereby given that I, (please print) _____, will be acting
as attorney at law of behalf on the claimant signing above, and that all notices required by law to be mailed by
the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

Name of claimant(s) Hagenbarth Livestock Claim ID 21-13290

REMARKS
Attachment 1
21-13290
WATER RIGHT FILINGS ON USFS LANDS IN IDAHO
Hagenbarth Livestock
James F. Hagenbarth, Representative
Information on USFS Allotments, Grazing Permits, Base Property, Chain of Title,
Priority Dates

As the representative of Hagenbarth Livestock, I, James F. Hagenbarth, am responsible for filing Deferred De Minimis Stockwater Use Claims in the Snake River Basin Adjudication claiming stockwater rights on the High Five Cattle and Horse Allotment, located in the Ashton/Island Park Ranger District of the Caribou-Targhee National Forest, Clark County, Idaho. The documents below substantiate the beneficial use of surface water rising on or flowing across USFS lands permitted to the claimant and used by livestock authorized by the USFS on the High Five C&H Allotment.

Attachment A- Chain of title from D.V. Hagenbarth to Hagenbarth Livestock owned by John M. Hagenbarth. A(1) is a decree of distribution from D.V. Hagenbarth to Margaret, David J. and James F. Hagenbarth Document # 28499 on 12-3-1971, A(2) is a Bill Of Sale dated 11-17-72 transferring all chattels of every type, including livestock, from Margaret, David J. and James F. Hagenbarth to Hagenbarth Livestock, a newly formed corporation, and A(3) is a Deed of Distribution dated 11-19-2004 transferring all land from Margaret Hagenbarth estate to David J. and James F. Hagenbarth Document # 050903, A(4) is a Corrective Deed dated 1-29-2013 referring to transfer of land owned in Idaho by David J. and James F. Hagenbarth to Hagenbarth Idaho Land LP Document # 55133 and A(5) is a Purchase Agreement dated 1-1-2016 transferring all shares of Hagenbarth Livestock common stock to John Hagenbarth. John M. Hagenbarth is a shareholder in Hagenbarth Idaho Land LP which owns the base property. These attachments are the legal instruments that substantiate a contiguous linkage of USFS grazing permits and base property ownership being used by the claimant to establish the priority dates claimed and linkage of title to D.V. Hagenbarth, the original appropriator and Permittee. These documents also substantiate that no water rights were severed from the base land and the class of livestock historically putting stockwater to beneficial use were cattle, sheep and the horses used in management of the livestock on the allotments.

Attachment B- The earliest grazing permit of record I could find under the name of D.V. Hagenbarth which would establish a priority date of July 1, 1949 of stockwater sources being put to beneficial use in the East Dry Creek, and East and West Sheridan Allotments.

Attachment C- The earliest grazing permit I could find under the name of D.V. Hagenbarth which would establish a priority date of July 1, 1959 of stockwater sources being put to beneficial use in the West Dry Creek and Howard Creek Allotments. Note the description of allotment boundaries and that the Howard Creek allotment includes water in Taylor Creek.

Attachment D- This Bill of Collection in 1971 in the name of D.V. Hagenbarth is the last record of sheep numbers permitted on the 5 allotments that were combined to form the High Five C&H Allotment.

Attachment E- This is the first Grazing Permit issued for Hagenbarth Livestock for cattle use on the High Five C&H Allotment. This permit was issued in 1973 after Hagenbarth Livestock was formed in 1972.

Attachment F- This ten year term grazing permit issued in May of 2006 identifies the 16,178 acres of private, BLM and State land used as base property for this permit. In 2006 the signatory for the stockholders of Hagenbarth Livestock was James F. Hagenbarth.

Attachment G- This ten year term grazing permit issued in March of 2016 designates 38 acres as base property for the Hagenbarth Livestock term grazing permit for the High Five C&H Allotment. The signatory on this permit is John M. Hagenbarth reflecting his purchase of Hagenbarth Livestock on January 1, 2016 as identified in Attachment A(5) above.

Attachment H- Bill for Collection for 2020 use on High Five C&S Allotment by Hagenbarth Livestock.

Attachment I- Map of High Five C&S Allotment

Attachment J- Water claim map

REMARKS
Attachment 2
21-13290
WATER RIGHT FILINGS ON USFS LANDS IN IDAHO
Hagenbarth Livestock
James F. Hagenbarth, Representative
Information on USFS Allotments
Gravel Pit Pond Priority Date

Attachment 3 is a letter from the USFS Forest Engineer to D.V. Hagenbarth dated December 22, 1965 explaining the placement of a proposed borrow area located in Section 10, T13N,R40E. The engineer stated the construction of the Yale Road in Clark County would begin in the spring of 1966. The location of the Hagenbarth borrow area is ½ mile east of the USFS's borrow area in Section 9,T13N,R40E which provides water to our livestock. This borrow area on forest land was excavated in the summer of 1966 and filled up with water in the spring of 1967. Our livestock began putting the water in this borrow pit to beneficial use as stockwater beginning on **July 1, 1967** and this is the date of priority I am using for this claim.

ATTACHMENT 3
21-13290
Hagenbarth

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
TARGHEE NATIONAL FOREST

IN REPLY REFER TO:

6320
Contracting: Kilgore-
Yale Road-Clark County

December 22, 1965

D. V. Hagenbarth
533 South Nelson
Dillon, Montana 59725

Dear Mr. Hagenbarth:

I appreciated receiving your letter dated November 23, 1965. We are sending a plat of the proposed borrow area located on your property in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, Township 13 North, Range 40 East, B.M. The borrow area delineated on this plat is schematic.

We do not know at this time what type equipment will be used to remove the borrow and it may be that the borrow area will be narrower and longer to accommodate equipment being used.

We will plan to purchase the material from you at the \$.03 per yard rate as specified in your letter. The borrow area will be cross-sectioned prior to moving into the area and re-cross-sectioned after the pit has been shaped up and reseeded. You will be paid on the basis of the material removed. For your information bids have been opened for the construction of the section of the Kilgore-Yale Road in Clark County. We plan to schedule construction as soon as weather permits in the spring.

If we can be of any further service, please advise.

Enclosure

Sincerely yours,



Verl C. Waite
Forest Engineer



See
Dubois
Ranger
District



Oborne Ki. kella

Gravel Pit on USFS

Legend

