

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

Claim No. 65-23972

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

May 27, 2021

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. 65-23972 was submitted to the Court on September 14, 2020. IDWR published a notice of the pendency and purpose of the Motion, and the Director has now completed his examination of the claim. The examination for the above-mentioned water right claim was conducted by Craig Saxton, Manager, Adjudication Section, 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

Mark Phillips, President of Stillwell 117 Ranch, Inc., filed claim no. 65-23972 on behalf of the Stillwell 117 Ranch, Inc., for the instream stockwater use. The claimed priority date of August 13, 1923, is supported by land patents #146 issued to Macum Smith on May 5, 1895, and #914086 issued to Ernest Sacks¹ on August 13, 1923. Together, both patents #146 and #914086 include all of the claimed place of use. The claimed priority date of August 13, 1923, is consistent with the issued date of the more junior of the two patents covering the claimed place of use. The priority date is recommended as claimed.

¹ Land Patents #146 and #914086 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

Points of Diversion

The claimed points of diversion are in Township 9N, Range 1E, Section 23, NWSW (beginning point for instream stockwater), Township 9N, Range 1E, Section 26, SWNW (ending point for instream stockwater), Township 9N, Range 1E, Section 26, SENW (beginning point for instream stockwater), and Township 9N, Range 1E, Section 26, SENW (ending point for instream stockwater) were verified by identifying stream locations using USGS Quadrangle maps.

Source

The source for water is Squaw Creek tributary to the Payette River and can be 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 Squaw Creek passes through.

The claimed place of use is entirely within Gem County parcel numbers RP09N01E233000 and RP09N01E262410. According to the Gem County property records Stillwell 117 Ranch, Inc. owns both 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 65-23972 for the instream watering of livestock from Squaw Creek tributary to the Payette River.

Respectfully submitted this th27 day of May, 2021.



CRAIG L. SAXTON
Manager, Adjudication Section

CERTIFICATE OF SERVICE

I certify that on May 28, 2021, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

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

Gem County Courthouse
415 E. Main St
Emmett, ID 83617

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

Stillwell 117 Ranch Inc.
7830 N Star Rd
Meridian, ID 83646

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

U.S. Attorney's Office
1290 West Myrtle Street, Suite 500
Boise, ID 83702

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

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

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



Signature of person delivering form

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

RIGHT NUMBER: 65-23972

NAME AND ADDRESS: STILLWELL 117 RANCH INC
7830 N STAR RD
MERIDIAN ID 83646

SOURCE: SQUAW CREEK

TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.020 CFS

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

PRIORITY DATE: 08/13/1923

POINT OF DIVERSION: T09N R01E S23 NWSW Begin of Stream Flow Within GEM County
T09N R01E S26 SWNW End of Stream Flow Within GEM County
T09N R01E S26 SENW Begin of Stream Flow Within GEM County
T09N R01E S26 SENW End of Stream Flow Within GEM 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

Stockwater use is for the in-stream watering of livestock.

PLACE OF USE:

<u>STOCKWATER in GEM County</u>							
T09N	R01E	S23	NWSW	T09N	R01E	S23	SWSW
T09N	R01E	S23	SESW	T09N	R01E	S26	NENW
T09N	R01E	S26	SWNW	T09N	R01E	S26	SENW

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

Parcel No. RP09N01E262410, RP09N01E233000