

Werner, Linda

From: Werner, Linda
Sent: Friday, June 25, 2021 9:39 AM
To: 'Pamela Smallwood'
Subject: RE: Amended Claim 87-10632
Attachments: 20210625062648.pdf

Hi Pamela,

I'm in the process of completing the review of the original recommendation.

I'm enclosing a map of the pond. Please put a dot where the spillway is, i.e. where the water leaves the pond. This is considered the point of diversion.

Note the yellow line that runs through the SE corner of the pond? This is the line separating the SW1/4NE1/4 from the SE1/4NE1/4. The pond was licensed in the SE1/4NE1/4 only it was mapped in the middle of the SE1/4NE1/4 (per the beneficial use licensing exam); which is the reason why it was difficult to determine that license 87-7048 was appurtenant to your property.

Email back to me asap please and that should be all the information I need to finish it up.

Thank you,

Linda

From: Pamela Smallwood [mailto:Pamela.Smallwood@enbridge.com]
Sent: Wednesday, June 23, 2021 11:18 AM
To: Werner, Linda <Linda.Werner@idwr.idaho.gov>
Subject: RE: Amended Claim 87-10632

Super. Thank you.

From: Werner, Linda <Linda.Werner@idwr.idaho.gov>
Sent: Wednesday, June 23, 2021 1:04 PM
To: Pamela Smallwood <Pamela.Smallwood@enbridge.com>
Subject: [External] RE: Amended Claim 87-10632

Hi Pam,

Yes, I've received the amended claim. I'll get back to you asap on it; will be within the next week.

Linda

Linda A. Werner
Senior Water Resource Agent
Northern Regional Office
7600 N MINERAL DR STE 100

Werner, Linda

From: Werner, Linda
Sent: Monday, June 7, 2021 8:20 AM
To: 'Pamela Smallwood'
Subject: Amended Claim 87-10632
Attachments: 87-10632 NOC.pdf; 87-10632 Map.pdf; PRBA.instructions.short.form.pdf

Hello Pamela,

Per our phone conversation of Friday, June 4, please find attached amended claim number 87-10632. I've also enclosed claim instructions and a map. Please review the claim for accuracy, show on the map where the pond diversion and place of use is; sign and date, and return to my attention as soon as possible. If you need to make any changes, just cross out the old information and write in the new. Be sure to initial and date any changes that you make.

Once I receive the claim back, we'll revise the recommendation and update the claim I.D. number to ensure that it reflects the original license number of 87-7048.

Be sure to contact me if you have any questions or concerns.

Sincerely,

Linda

Linda A. Werner
Senior Water Resource Agent
Northern Regional Office
7600 N MINERAL DR STE 100
COEUR D ALENE ID 83815
(208) 762-2800 – Office
(208) 762-2802 - Direct

Lenon, Dawn

From: Pamela Smallwood <Pamela.Smallwood@enbridge.com>
Sent: Monday, November 16, 2020 8:54 AM
To: Werner, Linda
Subject: RE: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Understood.

From: Werner, Linda <Linda.Werner@idwr.idaho.gov>
Sent: Monday, November 16, 2020 10:52 AM
To: Pamela Smallwood <Pamela.Smallwood@enbridge.com>
Subject: [External] RE: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Hi Pamela,

Just an addendum to my prior message as I don't want there to be any confusion; for which I apologize if there was:
I'll review the additional information you submitted with respect to the information we've got in our file and get back to you asap.

Linda

Linda A. Werner
Senior Water Resource Agent
Northern Regional Office
7600 N MINERAL DR STE 100
COEUR D ALENE ID 83815
(208) 762-2802

From: Werner, Linda
Sent: Monday, November 16, 2020 8:16 AM
To: 'Pamela Smallwood' <Pamela.Smallwood@enbridge.com>
Subject: RE: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Hi Pamela,

Yes I certainly will. Thanks for the additional information and I'll get back to you asap.

Linda

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]

Sent: Sunday, November 15, 2020 3:21 PM

To: Werner, Linda <Linda.Werner@idwr.idaho.gov>

Subject: RE: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Hi Linda,

Re: 87-7048 and 87-10632 – Pond - I used your instructions, printed and read the 25 page WaterRight Backfile 87-7048.

The Approved Application for Permit refers to a 17 foot dam and about 10 horses to be watered. The Water Right Beneficial Use Field Report refers to a 1/3 acre surface area pond and one horse that is present. Our horse was inside the fenced 15 acre pasture where the large Anderson pond is located. Latah County Parcel Assessment RP40N05W172127

The Latta pond is one third the size of the Anderson pond, was never fenced and is not located where it can be used by livestock. It is divided by the property line. We recall that original owners built this pond prior to ours to irrigate their vegetable garden.

Both ponds are in the SE¼ of the NE¼ of Section 17. Absent landmarks on the ground, or a survey description, the inspector could have only guessed at the location he placed on the map.

My father was an attorney and would not claim a pond that was not on his property. I respectfully request you approve application 87-10632 based on the above facts referenced in the existing documents.

Best regards,

Pamela Anderson Smallwood
Pamela.smallwood@enbridge.com
Cell: 713-823-3978

From: Werner, Linda <Linda.Werner@idwr.idaho.gov>

Sent: Thursday, November 12, 2020 10:32 AM

To: Pamela Smallwood <Pamela.Smallwood@enbridge.com>

Subject: [External] RE: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Hi Pamela,

I believe that license 87-7048 is for the Latta pond. I'm basing this information on the beneficial use exam data from that file.

You can view this on our web site at www.idwr.idaho.gov. I'm enclosing a cheat sheet to help you navigate it.

When you get there go to the "more options" and then "documents". And then take a look at that permit application, specifically the map and see what you think.

You can also view the status of water right claims 87-10577 & 87-10632.

If you have questions and want to go through it together send me an email with a time and we'll do a phone appointment.

I've also enclosed a permit application should you need it.

Linda

Linda A. Werner
Senior Water Resource Agent
Northern Regional Office
7600 N MINERAL DR STE 100
COEUR D ALENE ID 83815
(208) 762-2802

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Wednesday, November 11, 2020 2:14 PM
To: Werner, Linda <Linda.Werner@idwr.idaho.gov>
Subject: RE: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Hi Linda – I'm following up on your call on the evening of 11-10-2020.

1. Well: License No. 87-7049: You agreed to the water right on the well on my property.
2. We discussed the small "Latta" pond shared with our neighbor and decided no claim was necessary.
3. Large Pond: License No. 87-7048: You said you denied the water right on the large pond on our property and said that it needed a permit. However, the attached License shows the Permit was applied for on July 18, 1978. It should be in the State's repository.
4. You closed the call saying you would email me the documents required to request a Permit for the pond. I have not received said email.

As mentioned, in June 2019 I worked closely with Mr. Carter Fritschle to ensure my claims under the Palouse River Basin Adjudication (PRBA) were accurate. I am concerned that you are second guessing Mr. Fritschle's decisions. The Licenses indicate all of the necessary documentation was filed by my father, W.E. Anderson.

It is important that my water right to the well and pond are properly documented. It would be helpful if you would clarify their status and let me know next steps.

Best regards,

Pamela Anderson Smallwood
Pamela.smallwood@enbridge.com
Cell: 713-823-3978

From: Pamela Smallwood <Pamela.Smallwood@enbridge.com>
Sent: Wednesday, September 23, 2020 4:15 PM
To: linda.werner@idwr.idaho.gov
Subject: FW: Claim # 87-10577 & 87-10632 Anderson 1021 LLC

Hi Linda,

This is a place holder to document that we talked on Wednesday, September 23, 2020. You acknowledged that the water right for the well #87-10577 is complete. The water right for the pond #87-10632 still needs work based on existing License of Water Right No. 87-7048. You have the file for Anderson 1021 LLC on your pile for follow-up.

Thank you for your help.

Pam Smallwood
Cell: 713-823-3978

From: Pamela Smallwood <Pamela.Smallwood@enbridge.com>
Sent: Monday, June 1, 2020 4:00 PM
To: christopher.holmes@idwr.idaho.gov
Subject: FW: Claim # 87-10577 & 87-10632

Here's the email string with Carter Fritsche dated June 21, 2019

From: Fritschle, Carter <Carter.Fritschle@idwr.idaho.gov> On Behalf Of NIA Help
Sent: Friday, June 21, 2019 9:43 AM
To: Pamela Smallwood <Pamela.Smallwood@enbridge.com>
Subject: [External] RE: Claim # 87-10577 & 87-10632

Good Morning Pam,

The two claims are complete and have been imported into IDWR's database. Thank you for using the online claim filing process.

While it will be a few years before IDWR files the Director's Report with the court for Basin 87, as the review process proceeds you will be able to "track" that process
here: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>

However, it will likely be several months or even a year or more before any additional information is added to the files.

Carter

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Wednesday, June 19, 2019 7:01 AM
To: NIA Help <NIA.Help@idwr.idaho.gov>
Subject: RE: Claim # 87-10577 & 87-10632

Good morning Carter – please confirm that these two applications are completed. Thank you.

From: Pamela Smallwood
Sent: Friday, June 14, 2019 2:26 PM
To: 'NIA Help'
Subject: RE: Claim # 87-10577

My goodness you're an encyclopedia! I have paid and submitted both applications. I think you can move them to the next step. Thank you for all of your help.

Have a great Idaho weekend!

From: Fritschle, Carter [<mailto:Carter.Fritschle@idwr.idaho.gov>] On Behalf Of NIA Help
Sent: Friday, June 14, 2019 12:46 PM
To: Pamela Smallwood
Subject: [External] RE: Claim # 87-10577

Hi
Pam,

Happy Friday to you!

Both claims look good, and I have "resubmitted" claim 87-10577 for you.

The reason the 0.04 cfs and the 0.02 cfs do not add up to 0.06 cfs is because that is the way it was licensed. I know that does not make a lot of sense, especially if the pump produces 0.06 cfs.

The application for permit your father filed in 1978 listed 0.04 cfs for domestic use and 0.02 cfs for stockwater use with a total of 0.06 cfs. After he submitted proof of beneficial use, IDWR sent out a field examiner to determine if the water use developed matched the water use applied for. The IDWR field examiner from our Northern Region office (a person I did not know) looked at the system in 1984, and he recommended the amounts on the application. However, a person at the State Office (whom I did know and seldom agreed with) decided the water system had a capacity of 0.04 cfs, with up to 0.04 cfs used for domestic purposes and up to 0.02 cfs used for stockwater purposes, but together the total diversion rate could not exceed 0.04 cfs. Your father and mother had 10 days to concur with his assessment for what would be licensed, and it does not look like they responded at all. It certainly seems unfair, but that is what we are stuck with.

As for the pond, if IDWR has an actual engineer or survey report that tells what the volume is, that is what is used. However, without a report, the "rule of thumb" IDWR uses to calculate the storage volume of a pond is to take the surface area and multiply it by the depth. But since the pond does not have vertical sides like a storage tank (the sides slope inward to the bottom of the pond) IDWR multiplies the volume derived from the area times the depth by a factor that is between 30% and 33%, depending on what the field examiner estimates for the slope. This generally works out quite well to represent the total capacity of the pond. In this case, the field examiner made the determination that 1.5 AF was the amount of water being beneficially used, and that is the amount he recommended for licensing. Again, this is an amount we are stuck with because your father and mother never challenged the 1.5 AF when the license was sent to them.

I know this all sounds rather heavy handed, but the amounts licensed appear to be sufficient to satisfy the water uses on the property. If you do ever need to have more water, you can still file an application for permit for a new or additional water use.

Have a great weekend!

Carter

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Friday, June 14, 2019 9:53 AM
To: NIA Help <NIA.Help@idwr.idaho.gov>
Subject: RE: Claim # 87-10577

Happy Friday Carter,

87-10577:

Purpose of Use - I have added Stockwater and a description of the water line to the pasture.

Quantity - I copied the CFS on License 87-7049. .02 for Stockwater and .04 for Domestic. I don't understand why this equals .04 and not .06. I don't want a red-flag.

If this is good, then you can Submit the document.

87-10632:

POND – I moved the marker so it's SE/1/4 to match License 87-4078.

Purpose of Use – changed to Stockwater Storage. I don't have stock right now, but I might, does this matter?

Quantity – I'm confused. 87-4078 says 1.5 AF. I used a mapping tool to draw a box around the pond's circumference. That showed .3 acres. The pond is 17 feet deep. $.3 \times 17 = 5.1$

New Topic – my mother and her partner have a house with a well in the same general area. RP01750000090A. Douglas Hughes & Marcia Anderson. I am certain they have not filed a PRBW claim for their well. Can you see if there was a license filed. Their house is ~30 years old.

If it is easier to call... my work number is 713-989-1723

From: Fritschle, Carter [<mailto:Carter.Fritschle@idwr.idaho.gov>] **On Behalf Of** NIA Help
Sent: Thursday, June 13, 2019 9:51 AM
To: Pamela Smallwood
Subject: [External] RE: Claim # 87-10577

Pam,

Because the water from the well was licensed for 0.04 cfs, someone would be attacking the credibility of the license, which the court has said is not allowable, if they object to the 0.04 cfs diversion rate. However, I would recommend that you add stockwater as an additional water use to 87-10577 since that water use was also on the license. The stockwater was licensed at 0.02 cfs, with a total of 0.04 cfs for both stockwater and domestic use. You mention there is a pipeline running to a water tank in the pasture, so it would be best to include that use on the claim.

Since 87-7048 was licensed for 1.5 AF, which is the amount of water I would recommend you claim for 87-10632. Since the original license was for "Stockwater Storage," you will need to enter "Stockwater Storage" as the water use instead of "Stockwater" in order to claim a storage volume. The volume is how much the pond holds including how much the livestock drink in a year, as well as seepage and evaporation losses. To calculate the storage volume for a pond, you need to multiply the surface area in acres by the depth of the pond in feet.

I mistakenly sent a copy of the license for 87-7048 to your Yahoo email address instead of this one that we have been using to correspond with each other. I have attached a copy of license 87-7048 to this reply.

Carter

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Wednesday, June 12, 2019 4:44 PM
To: NIA Help <NIA.Help@idwr.idaho.gov>
Subject: RE: Claim # 87-10577

Good morning.

1. This is the first I've heard of 87-7048. You sent me 87-7049.

2. I deleted the pond from 87-10577 and changed the Quantity to .04 – am worried >.02 will raise a flag.

3. I created 87-10632 for the pond. I cannot get the Quantity tab to accept 0.3 AF. When I measured, the pond is about 13,076.8 sqft or .3 acre.

Thank you for the brochure, website and explanation about the value of the decree. Water is complicated!

From: Fritschle, Carter [<mailto:Carter.Fritschle@idwr.idaho.gov>] **On Behalf Of** NIA Help
Sent: Wednesday, June 12, 2019 11:36 AM
To: Pamela Smallwood
Subject: [External] RE: Claim # 87-10577

Pam,

You have some very good questions, and the answer is basically if you do file claims, you will get the best possible protection for your water uses.

Licenses 87-7048 and 87-7049 will be superseded by decreed water rights if they are claimed in the Palouse River Basin Adjudication (PRBA). While the licenses will not "go away" if they are not claimed, they would still need to be claimed if you would ever need to make a delivery call against another water user. Also, if a junior water user did receive a decreed water right from the same water source you are using, they could make a call against your "senior" water use if your water rights are not decreed.

By filing claim 87-10577 you will be replacing license 87-7049, and getting an earlier priority date than the one on the license. Once claim 87-10577 is decreed by the court, license 87-7049 will be superseded by the decreed water right. A decreed water right is the "strongest" water right available in Idaho. That is because a decreed water right is based on an order by the court rather than an administrative process by a state agency. While both are good, the decree is generally considered better.

I would recommend you also file a claim for the pond because there might be a need at some point in the future to "protect" it from other water users claiming that your storing the water in the pond is somehow taking water away from them. While that may never happen, it is possible. Also, if you ever wish to use the pond for anything other than stockwater, you would not be able to file for a change in nature of use unless it has been claimed and decreed in the PRBA. Let's say you just wanted to use the pond for recreation or aesthetic purposes with no livestock in the pasture. Someone could assert you are not beneficially using the water for the purpose described on the license, so you would need to file a transfer to change the nature of use from stockwater to recreation and/or aesthetic purposes.

Water law and water rights tend to get very complex with a lot of nuances. Here is a link to a page about water rights: <https://idwr.idaho.gov/water-rights/overview.html>

There is probably a lot more information on that page than you need, but this brochure may be worth opening and reading. <https://idwr.idaho.gov/files/water-rights/water-rights-brochure.pdf>

I hope this is helpful.

Carter

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Wednesday, June 12, 2019 7:38 AM
To: NIA Help <NIA.Help@idwr.idaho.gov>
Subject: RE: Claim # 87-10577

Good morning.

1. Why do I need to replace the original claim my dad submitted 87-7049? I'm wondering if 87-10577 is duplicative. I started this process because I didn't know 87-7049 existed.
2. Thank you for explaining that the stockwater was from the well. Yes, that makes sense because there is a line that runs to the pasture for a water tank.
3. Do you recommend that I submit a claim for the pond?

I apologize that I'm so green. Seems like every stone reveals another piece of the puzzle.

From: Fritschle, Carter [<mailto:Carter.Fritschle@idwr.idaho.gov>] **On Behalf Of** NIA Help
Sent: Wednesday, June 12, 2019 7:53 AM
To: Pamela Smallwood
Subject: [External] RE: Claim # 87-10577

Pam,

I can submit the claim for you. However, we can only recommend one source per claim. If you want to have a claim for the pond recommended, that claim would need to be filed separately.

I realize my emails have been rather confusing. The claim you have been working on, 87-10577, will replace license 87-7049, which was for the domestic and stockwater use from the well. A new claim can be created using water right number 87-7048 to claim the stockwater use from the pond.

All you need to do is delete the "Pond" source from 87-10577, and it will essentially be a copy of license 87-7049, except the priority date will reflect the date the well was actually drilled. Let me know if that works for you.

Carter

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Tuesday, June 11, 2019 4:17 PM
To: NIA Help <NIA.Help@idwr.idaho.gov>
Subject: RE: Claim # 87-10577

Hi Carter – please take a look at the edited document. I added a separate source for Stockwater to cover our pond. I hope that was correct.

I have already paid \$25 but it won't let me submit the form without going to the payment site. Maybe you know how to deal with this.

Thank you for your patient help!

From: Fritschle, Carter [<mailto:Carter.Fritschle@idwr.idaho.gov>] **On Behalf Of** NIA Help
Sent: Tuesday, June 11, 2019 4:47 PM
To: Pamela Smallwood
Subject: [External] RE: Claim # 87-10577

Pam,

I apologize for not getting back to you sooner, but the phone calls have kept me busy this afternoon.

I have "reopened" claim 87-10577 so you can add stockwater as shown on license 87-7048. You should also be able to increase the diversion rate for domestic use to 0.04 cfs if you want to. Please let me know if you have any problems with it.

Carter

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]
Sent: Tuesday, June 11, 2019 12:27 PM

To: NIA Help <NIA.Help@idwr.idaho.gov>

Subject: RE: Claim # 87-10577

Should I find a separate claim for 87-7048 or amend 87-10577?

From: Fritschle, Carter [<mailto:Carter.Fritschle@idwr.idaho.gov>] **On Behalf Of** NIA Help

Sent: Tuesday, June 11, 2019 11:18 AM

To: Pamela Smallwood

Subject: [External] RE: Claim # 87-10577

Pam,

I also found an existing license for the domestic use of water from the well. It is attached, and if you would like to amend claim 87-10577 to add stockwater use and increase the diversion rate to 0.04 cfs, please let me know and I can send you an amended claim for you to sign and return. I apologize for suggesting you change the quantity claimed to 0.02 cfs.

(I sent a copy of the license for the pond to your gmail address.)

Carter Fritschle

Adjudication Section Manager

Idaho Department of Water Resources

From: Pamela Smallwood [<mailto:Pamela.Smallwood@enbridge.com>]

Sent: Tuesday, June 11, 2019 8:39 AM

To: NIA Help <NIA.Help@idwr.idaho.gov>

Subject: Claim # 87-10577

Please add attached Well data to Claim # 87-10577