

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

Claim No. 55-13996

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

September 13th, 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. 55-13996 were submitted to the Court on September 28, 2020. 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 Craig L. Saxton, Adjudication Section Manager, 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

Tim Lequerica, President of Lequerica & Sons Inc., filed claim no. 55-13996 on behalf of Lequerica & Sons Inc., for the instream stockwater use. The claimed priority date of December 6, 1926, is supported by land patent #990180¹ issued to William J. Shea on December 6, 1926, and land patent #412911² issued to Robert D. Reed on June 11, 1914, that together include all the claimed place of use.

The claimed priority date of December 6, 1926, is consistent with the issued date of the more junior of the patents covering the claimed place of use. The priority date is recommended

¹ Land Patent #990180 was established under 1916 Stock Raising Homestead Act which allowed for homesteads not based on farming land but instead on raising cattle.

² Land Patent #412911 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.

as claimed.

Points of Diversion

The claimed points of diversion are in Township 8S, Range 5W, Sections 33 and 34, and Township 9S, Range 5W, Section 3 & 4, and represent the beginning points and ending points for instream stockwater. The claimed points of diversion were verified by identifying stream locations using USGS Quadrangle maps. The points of diversion are recommended as claimed.

Source

The sources of water include Juniper Creek and the unnamed streams tributary to Juniper Creek within the claimed place of use. The recommended sources of water are Juniper Creek tributary to North Fork Owyhee River and Unnamed Stream tributary to Juniper Creek 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 Juniper Creek and the unnamed streams passes through.

The claimed place of use is entirely within Owyhee County parcel numbers RP08S05W341200, RP08S05W331800, RP09S05W030600, and RP09S05W040001.

According to the Owyhee County property records Lequerica & Sons Inc. own all four parcels.

Quantity

The quantity claimed 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 55-13996 for the instream watering of livestock from a Juniper Creek tributary North Fork Owyhee River and the unnamed streams that are tributary to Juniper Creek.

Respectfully submitted this 13th day of September, 2021.

A handwritten signature in blue ink, reading "Craig L. Saxton", is positioned above a horizontal line.

CRAIG L. SAXTON
Manager, Adjudication Section

CERTIFICATE OF SERVICE

I certify that on September 13, 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

Owyhee County Courthouse
20381 State Hwy 78
Murphy, ID 83650

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

Lequerica & Sons Inc.
3910 S Sumter way
Boise ID 83709-3745

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

IDWR Document Repository
PO Box 83720
Boise, ID 83720-0098

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Signature of person delivering form

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

RIGHT NUMBER: 55-13996

NAME AND ADDRESS: LEQUERICA & SONS INC
3910 S SUMTER WAY
BOISE ID 83709-3745

SOURCE: JUNIPER CREEK
UNNAMED STREAM

TRIBUTARY: NORTH FORK OWYHEE RIVER
TRIBUTARY: JUNIPER CREEK

QUANTITY: 0.020 CFS

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

PRIORITY DATE: 12/06/1926

POINT OF DIVERSION: T08S R05W S33 SESE Lot 1 Begin of Stream Flow Within OWYHEE County
T09S R05W S3 NWNW Lot 4 End of Stream Flow Within OWYHEE County
T08S R05W S34 NWSE Begin of Stream Flow Within OWYHEE County
T09S R05W S3 SWNW Begin of Stream Flow Within OWYHEE County
T09S R05W S3 NWNW Lot 4 End of Stream Flow Within OWYHEE County
T09S R05W S3 NWNW Lot 4 End of Stream Flow Within OWYHEE County
T08S R05W S34 SENW Begin of Stream Flow Within OWYHEE County
T08S R05W S34 SWNW End of Stream Flow Within OWYHEE County
T08S R05W S33 SENE Begin of Stream Flow Within OWYHEE County
T09S R05W S4 SENE End of Stream Flow Within OWYHEE County
T09S R05W S3 NWNW Lot 4 End of Stream Flow Within OWYHEE County
T09S R05W S3 NWNE Lot 2 Begin of Stream Flow Within OWYHEE 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 OWYHEE County</u>							
T08S	R05W	S33	SENE	T08S	R05W	S33 Lot 1	SESE
T08S	R05W	S34	SWNW	T08S	R05W	S34	SENE
T08S	R05W	S34	NWSW	T08S	R05W	S34 Lot 4	SWSW
T08S	R05W	S34 Lot 3	SESW	T08S	R05W	S34	NWSE
T08S	R05W	S34 Lot 2	SWSE	T09S	R05W	S03 Lot 2	NWNE
T09S	R05W	S03 Lot 3	NENW	T09S	R05W	S03 Lot 4	NWNW
T09S	R05W	S03	SWNW	T09S	R05W	S04 Lot 1	NENE
T09S	R05W	S04	SENE				

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 Nos. RP08S05W341200, RP08S05W331800, RP09S05W040001, RP09S05W030600