

TESTIMONY LOG

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 47-17664 IN THE NAME OF
ROBERT & JANA LINDERMAN

) **WATER RIGHT HEARING:**
) **Re-Recording**
) **Conducted by Cindy Yenter**
) **April 8, 2021**

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
		*Re-recording of testimony by Robert Linderman and Tanner Butler
002	00:00:00	Cindy begins with introduction; review of today's agenda items, etc.
	00:02:22	Nathan Fowler (Fowler) calls Robert Linderman to the stand. Cindy swears him in.
	00:03:00	Fowler begins questioning Linderman. State name & address, how long he has lived at his residence. Fowler asks Linderman about use of the water he is applying for. Linderman states that IDWR helped him fill out the application, based on a similar, 'older' filing that was not finalized. Linderman talks about the application & map.
	00:07:58	Pat Brown (Brown) objects. Applicant seems to be indicating a change in source for the water he's applying for.
	00:09:38	Fowler continues to question Linderman about his application.
	00:10:40	Brown interrupts. He is not prepared for these questions, etc. re: changing the source of the water on the application.
	00:11:26	Fowler continues his questions to Linderman.
	00:12:00	Cindy comments: the application may need to be amended at some point, but we are not at that point yet.
	00:12:56	Fowler describes the irrigation system, location of the tiles that were put in prior to Linderman obtaining the property, how the water is collected, etc.
	00:14:40	Fowler asks Linderman to describe using the water & how often he uses it. Is there a lack of water or decrease in the culvert. Fowler asks when the tiles were put there? How long Linderman has lived there (again).
	00:17:12	Fowler asks again about the water use.
	00:17:52	Fowler is done with questions.
	00:18:01	Brown cross examines Linderman. Refer to exhibit F, which is a map previously marked in blue outline by Linderman.
	00:19:24	Brown asks Linderman elements of 47-17431
	00:19:35	Fowler objects.
	00:20:30	Brown & Linderman begin arguing back & forth about which application they (Brown) is talking about.
	00:21:16	Fowler objects. Tells Brown to let Linderman finish answering. Linderman continues – talks about the map

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
		associated with the application was done by a “trainee”. The map needs to be clarified at a later time. Brown questions / clarifies the source of the water.
	00:22:48	Brown questions / clarifies the use of the red pump. Asks Linderman if he knows he can’t / won’t use it.
	00:23:35	Brown references 47-17431 again, and the use.
	00:24:06	Fowler objects – out of the scope of the matter at hand. Cindy reiterates to Brown not to ask about the other application.
	00:24:32	Brown continues questioning Linderman.
	00:25:15	Cindy directs to keep on track of current topic.
	00:25:30	Brown refers to exhibit F – asking Linderman about the POD location on the map.
	00:26:10	Fowler objects. Brown continues his questions re: POD location & clarification on the map
	00:28:00	Linderman talks about the Ron Rose diversion vs his own.
	00:29:52	Cindy directs to move on with questioning. Brown continues – asks Linderman about 47-17431 POD and POU. Different sprinkler system, etc. How can anyone tell how much water is being used or where exactly it is coming from?
	00:32:00	Brown: Same pump vs different pumps. How can they be kept separate? Brown asks Linderman to clarify the application that IDWR helped him fill it out; status of the ‘old’ paperwork
	00:34:50	Brown questions Linderman about the April, 2017 confrontation with Hamilton.
	00:35:00	Brown & Linderman go back & forth re: the confrontation.
	00:36:07	Fowler objects to the line of questioning.
	00:36:27	Cindy directs the parties to move on. Brown continues – making a point to say that Linderman didn’t file this application until <i>after</i> the confrontation with Hamilton.
	00:37:45	Cindy asks if anyone has any further questions.
	00:37:53	Brown moves on re: the date of the filing. Linderman says he thought he had no water, therefore he went to IDWR to file this application.
	00:38:56	Brown refers to exhibit C (application). Brown asks about the timing of the filing – after confrontations with Hamilton’s. Fowler objects again. Cindy directs to move on. Brown continues questions. Asks Linderman if he signed the application (exhibit C) in May, 2017; knowing there are errors. Linderman tries to answer.
	00:40:27	Brown asks Linderman about the POD description on the application. Refers to term “Pump in Stream”.
	00:41:26	Brown refers to Tanner Butler (Butler) and his statements. Fowler objects. Brown can’t ask Linderman about Butler

		TESTIMONY DESCRIPTION
TIME/ TRACK	COUNTER	
		&/or his knowledge. Cindy agrees – move on and stay on topic.
	00:42:10	Brown refers to exhibit A: Tanner Butler's declaration / affidavit. Asks Linderman if he has read it. Brown asks Linderman if the affidavit is correct.
	00:44:31	Fowler objects to those questions. Cindy responds. Fowler reiterates what the purpose of today is. Cindy responds again – explains & references Idaho Code.
	00:46:25	Brown continues – explains his questions and the system described by Butler.
	00:47:16	Brown questions Linderman on his expertise regarding friction loss. Linderman assumes that Butler's information in the affidavit is correct. Brown asks again if Linderman agrees that Butler's information might be wrong.
	00:49:40	Brown questions if Linderman is using the red pump for both applications? Linderman answers: it depends on what IDWR directs him to do.
	00:50:24	Fowler objects – Linderman is not an expert. Brown continues – asking how Linderman intends to get the water to sprinkle the lawn. Is he using the pump in place?
	00:51:15	Fowler objects – Brown is making assumptions as to what the pump will do. Brown argues relevance of objections. Cindy advises that Brown can ask questions & Linderman needs to answer, to the best of his ability. If he doesn't know, he doesn't know. Move on. Brown continues with questions re: the pump that will be used to pump this water. Is it the 43 gpm pump? Linderman states that he will do what IDWR instructs him to do.
	00:52:29	Fowler interrupts – pointing out the different gpm rates that have been noted re: the pump. Fowler indicates that Brown is asking Linderman to testify to "assumptions."
	00:53:00	Brown interrupts Cindy re: line of questioning, etc.
	00:53:12	Brown asks again about the pumps – not the red pump; but the pump referred to by Butler. Brown asks about cfs on the application vs gpm and gpd rates. Back & forth between Brown & Linderman regarding those figures.
	00:54:33	Linderman argues that he is not an expert on the pumps. He acknowledges that the application may have some errors & needs cleaned up.
	00:55:05	Brown asks Linderman about the conditions on his permit and that he won't be using more than allowed.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
		Linderman answers regarding his understanding of being able to use 13,000 gpd.
	00:56:00	Linderman states the red pump is for a different water right. Brown asks Linderman about using the red pump for this application. Back & forth about the red pump and what it's used for.
	00:57:00	Linderman wants it to go on record that he can't determine what IDWR can or will see during a field visit. He states that this is an unfair approach. The change of venue didn't allow Linderman to have any witnesses.
	00:57:45	Brown asks Linderman if he filled out the application in 2017. Linderman states it was done at IDWR, by IDWR & mimicked the prior application.
	00:58:05	Brown asks if Linderman had an attorney at the time of filing the application in 2017. Linderman answers – did not have lawyers fill out the application. Brown asks about the proposed conditions on the permit.
	00:58:50	Brown asks again (3 rd time) if Linderman can propose any conditions saying he won't use more than .02 cfs?
	01:00:17	Brown – asks about grass & pasture around Linderman's & how much water does Linderman's grass & yard need?
	01:01:39	Brown asks Linderman what E.T. is, and to explain.
	01:01:17	Brown has no further questions.
	01:02:40	Fowler – follow up questions. How many hours does Linderman irrigate?
	01:03:24	Brown objects – outside scope & new information. Cindy directs to continue. Brown explains why his is objecting. Cindy directs to continue on.
	01:04:11	Fowler continues questioning application: cfs vs gpm.
	01:04:44	Brown objects – leading the witness Fowler continues – reiterates that Linderman won't be using more than 13,000 gpd.
	01:05:28	Fowler has nothing further.
	01:05:37	Cindy's questions: refer to exhibit C (map). Clarifying the blue line around the house – is it the correct area? Cindy has Linderman re-draw the area – black ink.
	01:06:40	Linderman explains how the map came about – IDWR guy in training, etc.
	01:07:39	Brown & Fowler argue back & forth
	01:08:56	Pass the map around so everyone can see. Nathan Erickson shows to Cindy via webcam.
	01:09:10	Fowler questions if it's being admitted as new exhibit. Continues to explain / speak about the map w/ Cindy.
	01:10:32	Cindy – done with questions.
	01:10:43	Brown wants to put on record / describe what Linderman

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
		drew on the map, to admit the exhibit to record. Cindy clarifies new exhibits and 'wiggle room'.
	01:11:40	Linderman explains the differences on the map – blue line vs black line drawn today. Discusses with Cindy.
	01:12:42	Brown – redirect? Can the map be part of the record?
	01:13:12	Brown clarifies the outlines on the map – blue vs black lines.
	01:14:36	Nothing further by either party.
	01:14:46	Finished with witness – Linderman may step down.
	01:15:15	Off the record for 10 minute break
003	00:00:00	10:36 a.m.: Back on the record
	00:00:30	Tanner Butler is called to the stand & sworn in
	00:00:49	Brown begins questioning Butler. Questions Butler's background, expertise in his field, etc.
	00:02:30	Brown refers to exhibit A, Butler's affidavit. Brown asks about the Dec. 10, 2020 site visit, item #6.
	00:03:50	Butler describes Linderman's system per the site visit, pipe location & pumps, etc. Brown references the drain tiles vs the pump to the culvert.
	00:05:34	Brown clarifies & questions Butler about what is in his declaration; re: calculations, etc. Brown asks Butler if Linderman's pump will pump more than what is on his application.
	00:08:09	Butler explains that Linderman can put a meter on the pump to be sure he doesn't pump more than allowed. Explains that sprinkler heads / birds can also be adjusted to do so.
	00:09:18	Brown refers to modified exhibit F (map associated with 47-17431) Brown asks Butler about this right & how Linderman plans to use both. Butler makes the point of saying: how can a person tell what water is coming from which system / pump.
	00:11:46	Butler says is unsure how each water right works. IDWR meters are used to measure what water goes where, and how much is being used.
	00:12:43	Brown asks about restricting the water and a "T" system in the pipe; pipe restrictions.
	00:13:27	Butler indicates that it's not feasible. Explains his opinion on that concept and that it makes more sense to have 2 separate pumps – upper & lower.
	00:14:29	Fowler objects – Not in the line with prior testimony. Brown responds. Cindy – move on.
	00:15:12	Brown asks Butler if he was finished explaining. Tanner responds: thought he explained it just fine. Asks if anyone didn't understand him.

		TESTIMONY DESCRIPTION
TIME/ TRACK	COUNTER	
	00:15:28	Brown continues. Makes statement about water rights being approved & conditioned properly. Brown references pump curves, possible to measure from the “T” method, etc. Confirms with Butler that is best solution is to have 2 separate pumps.
	00:17:02	Butler: there are too many variables with Browns explanation of the system. 1 pump at a “T” vs 2 pumps. Too much room for human error.
	00:18:05	Butler explains how to mark have a physical marker on each pumps & meters to clearly identify the amount of water being used.
	00:18:38	Brown changes the topic to talk about .02 cfs vs 13,000 gpd.
	00:19:18	Fowler objects. Brown is out of the line of questioning. Cross examination vs direct examination. Brown responds. Cindy agrees with questioning and advises to continue on.
	00:20:	Brown continues with questions re: .02 cfs for shorter period of time in order to avoid exceeding using more than 13,000 gpd. Pumping more water for a shorter period of time.
	00:20:39	Tanner explains his thoughts on that concept.
	00:21:14	Brown references fluctuations in the water and how it effects Sally Hamilton downstream.
	00:21:38	Brown is done with questions
	00:21:48	Fowler begins questioning Butler. Fowler refers to Dec. 10, 2020 site visit & red pump being connected to the pipe. Fowler refers to Butler’s prior testimony and how much water a domestic well uses. Asks Butler to reiterate the gpm’s of a typical domestic well. Fowler talks about a domestic water right being .02 cfs. References 9 gpm, etc. Asks Butler if he has ever seen meters on domestic wells. Butler’s says less than 1%.
	00:24:12	Fowler talks about fluctuation & 13,000 gpd. Drawdown at Linderman’s culvert at Dec. 10 site visit.
	00:25:15	Butler describes Linderman’s system.
	00:26:00	Fowler asks Butler about meters on domestic wells, multiple meters being used, etc. Butler explains what he has dealt with. He doesn’t deal much with domestic use pumps.
	00:26:50	Fowler asks if Butler has ever seen a domestic well go dry.
	00:27:00	Brown comments – beyond the scope of what was asked. Brown & Fowler go back & forth again re: line of questions.
	27:33	Cindy advises to continue on (different direction with questions) Fowler wants to clarify if he can talk about the well or not.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	00:28:15	Brown says this is inappropriate.
	00:28:39	Cindy advises to move on to a different line of questioning. Brown argues that it's inappropriate advice, etc. Fowler asks what is permissible questioning.
	00:29:00	Cindy expresses she would entertain questions about the well, however Brown is objecting to it.
	00:29:43	Fowler continues. Asking Butler about the range, description of Linderman's pump. Butler refers to the charts in his affidavit.
	00:30:35	Butler calculates figures for Fowler's questions.
	00:31:40	Fowler refers to Butler's declaration, paragraph 13.
	00:31:53	Butler answers: he knows where Fowler is going with this, so he explains how much water the pump can handle & perform.
	00:33:17	Fowler questions the accuracy & efficiency of the birds & psi function. Butler explains how each bird is different.
	00:34:53	Fowler is done with questions.
	00:35:02	Cindy: finished with Butler & he's dismissed from the stand.
	00:35:21	Brown asks if he can re-cross Butler. Cindy is ok with that.
	00:35:53	Brown asks Butler about seeing meters on domestic wells; domestic use combined with irrigation use.
	00:36:55	Brown asks if Tanner heard the testimony of Sally Hamilton at the last hearing. Butler indicates he was not there at that time. He had already left the hearing.
	00:37:13	Brown is done with questions. Cindy - Butler may step down.
	00:37:22	Cindy has follow up questions for Linderman, related to the domestic well at his house; how it's related to this application, also for domestic use. Why doesn't he use this well for irrigating? Linderman explains the issues with that well, etc.
	00:39:00	Are the lines in the well in any way connected to the lines in the pump? Was it connected to an irrigation system in the past? Linderman explains that there is a line that has been cut off.
	00:40:22	Cindy – done with questions. Does anyone else have questions?
	00:40:53	Cindy – closing the testimony record.
	00:42:56	Off the record.