

TESTIMONY LOG

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

) WATER RIGHT HEARING:
)
) Conducted by Cindy Yenter
) March 10, 2021

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
T: 012 @ 10:04 a.m.	00:00	Cindy: Introduction & welcome; Attendee introduction and witness identification.
	04:12	Nate Fowler calls Robert Linderman to the stand. Cindy swears in Linderman.
		Fowler: Refer to Exhibit C. Linderman explains when he went into IDWR office and Corey helped file his application for permit in question.
	8:20	Fowler has Linderman describe the delivery system.
	11:45	Fowler & Linderman: discuss difference between Irrigation use and Domestic use.
	14:00	Linderman describes use of the well at his house to Fowler.
	15:48	Linderman clarifies that this well is not sufficient to irrigate as he wishes to, due to going dry & pumping sand.
	16:18	Linderman describes his irrigation system & sprinklers.
	17:12	Fowler: Refer to Exhibit B(a) – map. Linderman describes his yard & sprinkler system.
	19:40	Linderman plans for future use including fire protection.
	20:39	Fowler: Refer to Exhibit C, 3 rd page in.
	21:50	Pat Brown objects to statements. Cindy acknowledges & directs to move forward.
	22:20	Linderman describes being in IDWR office & Corey helped him fill out the application. Also, another “new employee” helped with the property map because Corey explained that he was learning the mapping program. Therefore the POU on the map associated with the application may not be 100% accurate.
		Brown objects; Cindy advises to move forward.
	23:20	Fowler: Refers to Exhibit B. Describes Linderman’s house and out-buildings on the aerial photo.
	24:06	Linderman is asked to describe the type of irrigation (sprinklers, etc.) & his schedule for irrigating.
	25:11	Brown interrupts and objects. Cindy advises to move forward.
	27:15	Fowler is done with questioning.
		Brown cross examines Linderman. Brown questions Linderman about # of acres he is irrigating. Refers to prior W.R. associated with the property 47-17431.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	29:28	Brown refers to Exhibit E. Fowler asks for clarification on what we are looking at.
	30:15	Brown describes Exhibit E.
	31:40	Linderman is asked to describe his irrigation system again.
	32: 29	Brown refers to Exhibit B: Patterson's affidavit; then refers to exhibit E within that document which is an aerial photo.
	35:00	Linderman says again that the application in question is accurate per Corey @ IDWR and the new employee that was drawing up the map. Emphasizes again that the employee was practicing with the mapping system.
	36:06	Brown refers to interrogatories & Linderman's answers to those questions.
	37:00	Question to Linderman – POU has not been defined?
	37:27	Refer to Exhibit A: Tanner Butler's declaration
	38:24	Fowler objects – Liderman isn't the expert re: Butler's report.
	40:00	Fowler objects again. Cindy advises to move on.
	41:18	Brown refers back to a 2019 meeting with IDWR and Linderman's. Also refers to irrigation from other water right 47-17431.
	42:24	Brown refers to Exhibit F: map associated with 47-17431.
	45:30	POD being clarified and where it goes. Linderman refers to the Ron Rose diversion. Brown questions exactly how Linderman gets his water to his property.
	47:25	Fowler objects. 47-17431 is not the matter being heard today.
	48:54	Linderman describes the culvert & ditch on the property.
	49:23	Discuss property visit on December 10, 2020 and a lapsed permit from original property owner.
	53:00	Linderman says that he was advised by IDWR to refile for a water right due to lapsed permit.
	54:40	Fowler objects – repetitive questions.
	56:10	Brown asks if Linderman has discussed the use with a water master.
	57:15	Linderman is asked to draw / outline on the map, how the POD is utilized.
	59:00	Map (after drawing) shown to Cindy to go on record that there is no connection between the POD and POU. Linderman indicates that there is a verbal agreement for delivery between he and Ron Rose.
	1:00:00	Brown refers to Exhibit H: Linderman's supplemental answers to discovery questions.
	1:02:00	Exhibit H accepted into record
	1:05:00	Brown refers back to exhibit H and questioning Linderman's answers on that document.
	1:09:00	Referring to site visit on December 10, 2020 with Tanner Butler (expert witness). Fowler objects to questioning. Cindy advises to move on.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	1:11:00	Brown refers back to exhibit H. Questions Linderman about the December 10, 2020 site visit and pump details.
	1:13:27	Refer to Exhibit G: water right license. Discussions of pond that Linderman has to divert water.
	1:17:30	Brown refers to December 10, 2020 site visit with Dave Patterson (expert witness). Brown refers back to the type & brand of pump. Cindy advises to move on.
	1:20:26	Fowler objects. Questions re: pump should be answered by the expert. Not Linderman.
	1:21:10	Brown refers to discovery answers again. Asks about water meter & measurement regulations; and 13,000 gpd restrictions.
	1:23:40	Brown asks Linderman: "Do you know why the neighbors are upset with you and your water use"? Brown refers to the yard irrigation usage.
	1:26:06	Brown is finished with questions.
	1:26:20	Cindy questions Linderman about the pond on his property.
	1:27:43	Fowler cross examines Linderman. Is the application accurate as filed? Will the POU be determined by the hearing officer today? Determined by IDWR in the future?
	1:29:23	Fowler is finished with questions.
	1:23:40	Brown clarifies that exhibit H is admitted into record. Questions the use of surface water.
	1:33:40	Brown is done with questions.
	1:34:00	Fowler follows up again. Linderman dismissed shortly after.
	1:35:24	Go off record and take 10 minute break.
		Recorder Reset
T: 013	00:22	Brown calls Tanner Butler to stand. Cindy swears him in.
	00:45	Brown asks witness to identify himself.
	1:05	Brown refers to exhibit A: affidavit of Tanner Butler.
	3:00	Butler describes the irrigation system and source of water.
	5:14	Brown refers to Butler's declaration and paragraph #9. Then refers to the page of specifications for pump information.
	7:50	Butler describes nozzle size of sprinklers. Refers to page 4 of declaration; being size of sprinklers and discharge rate per nozzle.
	10:00	Brown questions Butler about gpm related to the sprinklers. Butler explains that they set flow devices / meters to be sure too much water is not being used. Butler also refers to IDWR water meter requirements.
	13:52	Butler refers to exhibit A-2: pump curve chart. Describes how he uses a stop watch to measure water flow rate.
	16:07	Brown refers back to page 4 of declaration.
	17:54	Brown is done with questions.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	17:56	Fowler begins questioning Butler. Starts out with questions re: vehicles, speed, fuel usage, etc.
	21:40	Fowler clarifies domestic use and 13,000 gpd limitations.
	22:50	Fowler refers to exhibit C: App for permit 47-17664 Butler is asked to read the diversion rate and explains that it works out to approx.. 9 gpm.
	31:50	Butler makes a point to say that he is answering the questions as posed to him. Not the same as what Fowler is implying.
	32:09	Brown objects.
	33:04	Fowler refers to exhibit A-5. Butler clarifies what he was signing for on the affidavit / declaration. He did not take all of the photos referred to in this exhibit.
	37:31	Fowler refers to photo – page 13. Fowler questions Butler on the pump range & discharge. gpm vs hourly comparison.
	41:33	Fowler is done with questions.
	41:33	Cindy questions Butler on the pump: exhibit A-2 pump curve chart. Is well connected to pump system?
	46:13	Cindy is done with questions.
	46:40	Off record. Lunch break until 1:30
		New disc in recorder.
T: 001 @ 1:40 p.m.	00:00:00	Back on the record
	00:35	Brown calls Mike Hamilton to the stand. Cindy swears him in.
	1:29	Brown refers to exhibit F: modified map. Asks M. Hamilton to describe Linderman property location in relation to his own property.
	4:20	Describing grid address / locations.
	5:25	Brown refers to the blue line that Linderman drew on the map. Conveys water down the creek. No conveyance to Linderman property.
	6:30	Fowler objects
	7:40	Refer to exhibit D: map associated with 47-17664. Discuss the flow of water.
	9:36	Refer to exhibit B: Patterson's declaration. Refer to B(a): map of Linderman property titled "Linderman Underground". December 10, 2020 site visit & location of pump.
	11:20	Refer to exhibit A-5: site visit photos. Refer to the photo that is 10 pages in – picture of white pvc pipe.
	13:50	Fowler objects. M. Hamilton continues to explain the location of the pipe. Pipe was not running or connected at that time. Brown asks: does black pipe / hose go to a the culvert?
	15:50	Refer 5 more pictures in: black pipe in middle of pic. Location of the black pipe in relation to the pump.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	17:36	Next photo – location of hoses again but red pump not in use that day.
	19:02	Brown asks M. Hamilton about his concerns regarding Linderman's water use. M. Hamilton explains concerns with his property jointly owned with wife Sally; also property solely owned by Sally.
	19:55	Refer to exhibit C: aerial photo. Brown has M. Hamilton mark on exhibit C – location of Sally's POD.
	21:09	Exhibit C modified and accepted into the record.
	22:40	M. Hamilton states that the Sally's POD has been rebuilt but it's in the same location. M. Hamilton talks about arguments with Linderman regarding the POD (more than 1 occasion). M. Hamilton suggested that they call the sheriff, but Linderman did not want to go that route.
	24:15	M. Hamilton says that Linderman irrigations more than ½ acre. He estimates it's about 2 ½ acres and w/o a water right.
	25:30	M. Hamilton says Linderman takes water which depletes water for Hamilton's cattle. Depletes water at Sally's POD.
	27:07	Fowler objects. Move on.
	27:23	Refer to exhibit G – water right license 47-8344 & associated map. M. Hamilton says there is no pond on the property to relate to this water license aesthetic use.
	29:53	Brown refers back to exhibit A. M. Hamilton says that Linderman's sprinklers / guns are in operation for days at a time.
	31:57	Discuss 2019 meeting with Corey Skinner, Hamiltons & Lindermans, re: Linderman not having water rights. Brown questions the aspects of the application 47-17664 vs what Linderman is actually doing now. Refers to "pump in stream" on application.
	36:10	Brown is done with questions.
	36:20	Fowler cross examines M. Hamilton. Location of Linderman's pump vs Sally's POD.
	37: 36	Fowler questions M. Hamilton about Sally's stockwater rights.
	38:25	Fowler refers to POD repairs done in 2019 (May?) in which M. Hamilton was on Linderman's property. Described argument and civil issues. Cindy advises to move on.
	41:40	Questions on whether or not there is damage to M. Hamilton's water rights. How many water rights does he have. Refers to 47-17430, which M. Hamilton does not have in front of him.
	42:40	Fowler gives map to M. Hamilton for reference. Comparing 47-17430 & 47-17431 and property boundaries; whether or not M. Hamilton can get water to his property; and if Linderman can get water to his property.
	45:40	Fowler request to strike M. Hamilton's comments.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	45:56	Fowler is done with questions.
	46:20	Cindy gives IDWR map to M. Hamilton to identify "Sally's" property. M. Hamilton draws on map.
	48:00	IDWR map exhibit 200 admitted into the record.
	49:04	M. Hamilton explains the additional POD's from the creek. Keaton property. Cindy questions M. Hamilton about their Twin Falls Canal Co. shares.
	51:10	Cindy clarifies with M. Hamilton – delivery system to Hamilton's but not Linderman's, through that system.
	52:04	Cindy is done with questions.
	52:07	Brown questions M. Hamilton how he gets water from POD to the property.
	53:17	Fowler asks M. Hamilton to draw on a map provided.
	54:30	Map reviewed & approved by all parties & Cindy.
	55:00	Exhibit J: map admitted into the record.
	55:30	Discussions regarding property permissions and access.
	56:13	Brown is done with questions.
	56:25	Mike Hamilton is dismissed from the stand
	56:35	Brown calls Sally Hamilton to the stand. Cindy swears her in.
	57:08	Brown questions S. Hamilton about her property and water right 47-17412.
	58:40	S. Hamilton explains that Linderman pumps out of the creek and she believes it depletes the water for their cows. S. Hamilton is asked to describe how Linderman's pumping depletes water in the creek.
	1:01:02	Brown asks Sally if Linderman has used water from the POD.
	1:02:00	S. Hamilton expresses that Linderman irrigates approx.. 2 ½ acres and the use of the water is "excessive or extreme".
	1:04:02	S. Hamilton is asked to explain how long she has irrigated her property and how much pasture she has. She indicates that Linderman's pasture is smaller, but he sometimes irrigates with the guns 24 hours a day for 3 days at a time.
	1:05:45	Brown is done with questions.
	1:05:50	Fowler questions S. Hamilton on the # of people using water from that creek. Size of the creek, where it starts, etc. Asks her about the 0.02 cfs on Linderman's application. S. Hamilton indicates that 0.02 isn't much water and it would be hard for Linderman to irrigate all of that property on such little water.
	1:09:40	Fowler questions S. Hamilton water levels prior to Linderman's moving there. S. Hamilton indicates that the stockwater seems to have depleted.
	1:11:40	Fowlers asks S. Hamilton if she has seen Linderman NOT water for any period of time.
	1: 12:15	Fowler is done with questions.

TIME/ TRACK	COUNTER	TESTIMONY DESCRIPTION
	1:12:32	Cindy refers to exhibit 200 – IDWR map. S. Hamilton shows Cindy diversions and how a 3 rd system operates.
	1:15:15	Cindy is done with questions. Brown: nothing further. Sally Hamilton is dismissed from the stand.
	1:16:06	Brown requests hearing transcripts and post-hearing briefings. Fowler agrees to briefings.
	1:18:09	Cindy takes note that application 47-17664 is part of the official record. Closing comments. Post-hearing briefs due to IDWR by March 31, 2021.
	1:21:30	Closing comments. Hearing is concluded.
3:03 p.m.	1:22:30	Off the record.