

## MEMORANDUM

TO: Files 29-11021 and 29-14118

FROM: Daniel Nelson – Staff Hydrologist

DATE: October 29, 2015

SUBJECT: Overlapping Stockwater Use.

On March 16, 2014, Tyson and Nicole Schwartz filed a change of ownership for water rights 29-14103 and 29-11021. With the change of ownership form, they submitted a warranty deed that stated the following:

Together with all water and water rights appurtenant thereto, including but not necessarily limited to water right No. 29-14103 and a portion of water right No. 29-11021, Idaho Department of Water Resources.

The change of ownership was subsequently processed changed into the Schwartz's name.

On July 7, 2014, the Department sent a letter to Schwartz requesting a "Split agreement for water right 29-11021. There is no record that the split agreement was submitted.

On August 7, 2014, Schwartz filed application for permit 29-14118 requesting a new water right for 0.03 cfs for stockwater purposes from a well located in the SWSE of Section 5, Township 10 South, Range 36 East. Water right 29-11021 allows 0.04 cfs for domestic use and 0.03 cfs for stockwater use for a total of 0.07cfs from a single well located in the SWSE of Section 5, Township 10 South, Range 36 East. Department records show 2 wells in located in the SWSE of Section 5, Township 10 South, Range 36 East.

Aerial photos show two wells with the same legal description. The two wells appear to be right next to each other. The west well appears to be an irrigation well, which is shown as the point of diversion for water right 29-14103 and 29-13989 which are both irrigation rights that appear to be irrigating lands owned by Schwartz. The east well has 3 domestic and stockwater rights on it, and one irrigation right that all appear to be owned by other individuals. Water right 29-11021 is diverted from the east well.

It is difficult to move forward with licensing water right 29-14118 with the knowledge that there may be a portion of stockwater right 29-11021 allocated to the property. However, it appears as though Schwartz couldn't attain an agreement for the split of water right 29-11021, so he filed a new water right for stockwater on the west well. The application for 29-14118 states that the system has a 40 Hp pump, which would be consistent with the west well. Therefore, we are moving forward with licensing water right 29-14118 for stockwater purposes, but if a split is done on water right 29-11021, a combined diversion rate on both rights may be needed.