

Attorney General
State of Idaho

Chief, Energy and Natural Resources Division

Deputy Attorney General
Idaho Department of Water Resources
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Attorney for IDWR

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS**

Case No. 39576

**AFFIDAVIT OF SERVICE: DIRECTOR'S
REPORT OF DEFERRED *DE MINIMIS*
DOMESTIC AND/OR STOCK WATER
USE**

CLAIM NO. 86-12169

[illegible]

I, Craig L. Saxton, being first duly sworn on oath, depose and state as follows:

1. I am the Manager, Adjudication Section, for the Idaho Department of Water Resources (IDWR). I am authorized by the Director to make this affidavit pursuant to Idaho Code § 42-1701(3). I make this affidavit pursuant to the requirements of Idaho Code § 42-1411(7). The following actions were taken under my direction by IDWR.

2. A Director's Report of Deferred De Minimis Domestic and/or Stock Water Use in subcase no. 86-12169 was filed with the SRBA District Court on September 23, 2024.

3. A Notice of Filing Director's Report of Deferred *De Minimis* Domestic and/or Stock Water Use, Claim Number, a copy of which is attached as Exhibit 1, was prepared by IDWR pursuant to Idaho Code § 42-1411(6) and orders of this Court.

4. The Notice and the Director's Report which contain the recommendation for the claimant's water right, was served on the claimant, Scott Nuismer, by and through his attorney, James Browitt, Browitt Law Office, 1317 Prospect Avenue, Lewiston, ID 83501, by deposit into the U.S. Mail before 5:00 p.m. on September 18, 2024.

5. The Notice and the Director's Report were mailed to the Chief, Energy and Natural Resources Division, Office of the Attorney General, P.O. Box 83720, Boise, ID 83720-0010, by deposit into the U.S. Mail before 5:00 p.m. on September 18, 2024.

6. The Notice and the Director's Report were mailed to the U.S. Attorney's Office, 1290 West Myrtle Street, Suite 500, Boise, ID 83702, by deposit into the U.S. Mail before 5:00 p.m. on September 18, 2024.

7. The Notice and the Director's Report were mailed to the U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001, by deposit into the U.S. Mail before 5:00 p.m. on September 18, 2024.

8. The Notice and the Director's Report were mailed to the U.S. Department of Justice, Environment & Natural Resources Division, 550 West Fort Street, MSC 033, Boise, ID 83724, by deposit into the U.S. Mail before 5:00 p.m. on September 18, 2024.

9. The Notice and the Director's Report mailed to the Latah County Courthouse, 522 South Adams Street, Moscow, ID 83843, by deposit into the U.S. Mail before 5:00 p.m. on September 18, 2024.

10. The Notice and the Director's Report was e-mailed to IDWR's Salmon Field Office, Preston Field Office, and Eastern, Western, Northern, and Southern Regional Offices on September 18, 2024.

DATED this 9th day of December, 2024.



CRAIG L. SAXTON
Water Allocation Bureau Chief
Idaho Department of Water Resources

SUBSCRIBED AND SWORN before me this 9th day of December, 2024.



NOTARY PUBLIC FOR IDAHO
Residing at: Boise, ID
My commission expires: 12.12.30

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of December, 2024, I served a true and correct copy of this affidavit of service by the following method to:

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
☐ Facsimile

2. Copies to:

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

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

U.S. Department of Justice
Environment and Natural Resources Division
550 West Fort Street Box 033
Boise, ID 83724

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Chief, Energy & Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Scott Nuismer
Represented by:
James Browitt
Browitt Law Office
1317 Prospect Avenue
Lewiston, ID 83501

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile



Signature of person or attorney mailing the form

**NOTICE OF FILING DIRECTOR'S REPORT
OF DEFERRED *DE MINIMIS* DOMESTIC
AND / OR STOCK WATER USE
CLAIM NUMBER 86-12169**

The Director of the Idaho Department of Water Resources (IDWR) has filed with the Snake River Basin Adjudication (SRBA) District Court the Director's Report of Deferred *De Minimis* Domestic and / or Stock Water Use Claim No. 86-12169 (DR). This DR contains the Director's recommendation to the SRBA Court as to how your *de minimis* domestic and/or stock water right, claimed under state law, should be decreed in the SRBA if allowed by the District Court.

Why am I getting this mailing?

You have received this mailing because you filed a Motion for Determination of Deferred *De Minimis* Domestic or Stock Water Use with an accompanying Notice of Claim to Water Right in the SRBA. The Director has completed the examination of your claim and has filed his report and recommendation of your claim with the Court. This mailing contains only the Director's recommendation to the SRBA Court of your claim. Your mailing **does not** contain the Director's recommendations of any claims other than your own. A complete copy of this DR is also available at the SRBA courthouse in Twin Falls and at the locations listed at the end of this notice. Copies of the DR can be made but you may be charged for copying and mailing. The DR can also be accessed through the SRBA Court's website at <http://www.srba.idaho.gov> or IDWR's website at <http://www.idwr.idaho.gov>. A map of reporting areas, as well as other information pertaining to the SRBA, can be accessed on IDWR's website as well.

A Final Unified Decree was issued in the SRBA on August 26, 2014. Any future reporting of water rights, which were before the SRBA Court prior to the entry of the Final Unified Decree, or deferred *de minimis* domestic or stock water claims proceeding under the SRBA Court's *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* of June 28, 2012, and as amended by the *Order Amending Procedures in the SRBA for Adjudication of Deferred De Minimis Stockwater Claims*, issued October 17, 2017, will be through individual reports or reports on small groups of rights. You will not receive notice of these future reports as they are filed with the SRBA Court unless you have an ownership interest in the water right claim that is being reported. Therefore, if you are interested in the status of water rights belonging to other people that have not yet been recommended by IDWR, you should periodically review the Court's docket sheet or check the status of the water right on the Court's web page located at: <http://www.srba.idaho.gov>. Information about subscribing to the Court's docket sheet is provided on page three of this notice.



INSTRUCTIONS FOR REVIEWING YOUR OWN WATER RIGHTS

The description of your right, which is enclosed in the DR, is only the Director's *recommendation* to the SRBA Court on your water right. The Court will decide how it will decree your water right. You are free to agree or disagree with the Director's recommendation. If you agree with the Director's recommendation, you do not need to do anything, pending further notice as described below. If you disagree with the Director's recommendation, you need to file an objection as described below.

INSTRUCTIONS FOR TAKING A WATER RIGHT CLAIM TO COURT

What do I do if I disagree with the recommendation?

If you disagree with any element of the recommendation of the water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form ("Standard Form 1") available from any IDWR office or from the SRBA Court. You may also download a copy of the objection form from the SRBA website at: <http://www.srba.idaho.gov>.

Your objection must be **received** by the SRBA Court on or before **Tuesday, November 26, 2024**. A copy of the objection must be mailed to the Director of IDWR. Should anyone else object to the recommendation of this right, the objector should mail a copy of their objection to the claimant of the right and to the Director of IDWR.

What do I do if someone else objects to my water right recommendation?

If someone files an objection to your water right, you may file a response to that objection. Responses to objections must be made on the standard response form ("Standard Form 2") available from any IDWR office or from the SRBA Court. You may also download a copy of the response form from the SRBA website at: <http://www.srba.idaho.gov>.

Responses must be **received** by the SRBA Court on or before **Monday, January 27, 2025**. A copy of the response must be mailed to the Director of IDWR and the objector to the water right.

What happens if there are no objections to my water right?

Should the deadline for filing objections and responses to your water right pass--with no objections or responses filed--the SRBA Court will hear the uncontested recommendation on **Tuesday, February 18, 2024, at 1:30 p.m. (Mountain Time)** at the SRBA courthouse. A partial decree will be issued following this hearing.

How will I know about the proceedings on my water right recommendation if objections are filed?

A notice will be mailed to you for court dates on your water right(s). Any other objectors or respondents to your water right will also receive notice of those court dates.

Additional information regarding water right claims can be found on the SRBA Court's website at: <http://www.srba.idaho.gov>.

Note: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed, as well as when Director's Reports are filed. It does not list court dates for individual water right cases but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50. The Docket Sheet is also available on the SRBA website at: <http://www.srba.idaho.gov>.

IMPORTANT INFORMATION REGARDING GENERAL PROVISIONS

General provisions are those parts of the SRBA Court's decree that apply to all the water rights in a basin, or to classes of similarly situated water rights within a basin. All general provisions recommended in the SRBA are now decreed. You may obtain a copy of the general provisions for your basin from the SRBA District Court in Twin Falls or at the courthouse location nearest to your basin. You may be charged for copying and mailing. You may also view the general provisions for every basin within the SRBA by going to IDWR's website at: <http://www.idwr.idaho.gov>.

CHANGES OF ADDRESS OR OWNERSHIP DURING THE SRBA COURT CASE

You must contact your regional IDWR office with your address change or if the ownership of your water right(s) changes. Failure to notify IDWR may result in the loss of your water right(s).

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of this reporting area, as well as assistance in using the maps and the photography, are available at the IDWR Regional office nearest to the location of your water right. You are also welcome to call IDWR at any of its offices or its adjudication hotline at 1-800-451-4129. You may contact the SRBA Court, or you may also want to consider contacting an attorney to assist you.

**Snake River Basin Adjudication
District Court**

253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
(208) 736-3011
<http://www.srba.idaho.gov>

**Idaho Department of Water Resources
*Western Region***

2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

**Idaho Department of Water Resources
*Southern Region***

650 Addison Avenue West, Suite 500
Twin Falls, Idaho 83301-3380
(208) 736-3033

Salmon Field Office

102 South Warpath
Salmon, ID 83467-4435
(208) 742-0658

Latah County Courthouse

522 S, Adams Street, Suite 1
Moscow, ID 83843

Idaho Department of Water Resources

322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 287-4800
(800) 451-4129
<http://www.idwr.idaho.gov>

**Idaho Department of Water Resources
*Northern Region***

7600 N. Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815
(208) 762-2800

**Idaho Department of Water Resources
*Eastern Region***

900 North Skyline, Suite A
Idaho Falls, Idaho 83402
(208) 525-7161

Preston Field Office

325 East 600 South, Suite 300
Preston, ID 83263-4921
(208) 701-7200

DEFINITIONS OF THE ELEMENTS OF YOUR WATER RIGHT

RIGHT NUMBER: Your water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 29, 43, or 72.

NAME AND ADDRESS: Your name and address should appear here. IDWR will use the most recent name and address in its records for the water right.

SOURCE: The name and/or type of the source where you divert your water. For example: "groundwater," "unnamed spring," or "Common Creek."

QUANTITY: The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY).

PRIORITY DATE: The date used to determine the priority of your right in relation to other rights using water from the same source.

POINT OF DIVERSION: The legal location where you divert water from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys, or other survey information.

PURPOSE OF USE: The general category of the type of use you can make of your water. Typical purposes of use include irrigation, domestic, or stock watering.

PERIOD OF USE: The period of time during the year when you can use the water for your right.

PLACE OF USE: The legal location where you use your water right; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys, or other survey information.

PLACE OF USE FOR IRRIGATION PROJECTS: Pursuant to Idaho Code Sections 42-219(2) and 42-1411(2)(h), IDWR has included GIS mapping for describing the place of use (digital boundary) for water rights meeting certain criteria (i.e., irrigation projects). The **PLACE OF USE** for irrigation projects is reported in digital format and uses GIS technology to particularly identify and display a geographic area encompassing the place of use with the aid of a computer. The GIS data is stored in digital format and contained on a CD-ROM and is properly marked for identification with the water right number. The CD-ROM will be retained by the SRBA Court. IDWR also retains a duplicate of the original CD-ROM. The electronic data contained on the CD-ROM is available for public use and is also accessible through the IDWR website (<http://www.idwr.idaho.gov>). *Upon request, IDWR will provide a copy of the CD-ROM with the electronic data to claimants.*

BASIS OF CLAIM: The method that was used to establish your claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, or permit.

IDWR does not investigate or make recommendations regarding federal law based claims.