

08/07/2024

RECEIVED

OCT 07 2024

DEPARTMENT OF
WATER RESOURCES

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 10/4/2024

Water right number: 97-7102

JOHN HAWLEY
6259 CARR ST #3
ARVADA CO 80004
Telephone Number:

KAREN HAWLEY
6259 CARR ST #3
ARVADA CO 80004
Telephone Number:

RYAN HAWLEY
6259 CARR ST #3
ARVADA CO 80004
Telephone Number:

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

See revisions on preliminary recommendations form.
Why is this water right being restricted to 12,000 GPD?

2. Describe the changes you wish to make in the proposed recommendation:

See revisions on preliminary recommendations form.
Each house = 12,999 GPD plus 97-7102 use

3. Give a brief explanation as to why you disagree with these portions:

See revisions on preliminary recommendations form.
Quantity in Purpose & Period = 1,060 cfs, Quantity = 1,040 cfs conflicts.

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

10/3/24

SIGNATURE:

[Signature]
JOHN HAWLEY

[Signature]
Karen L. Hawley

Please print your name:

08/07/2024

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

RIGHT NUMBER: 97-7102

NAME AND ADDRESS: JOHN HAWLEY
6259 CARR ST #3
ARVADA CO 80004

KAREN HAWLEY
6259 CARR ST #3
ARVADA CO 80004

RYAN HAWLEY
6259 CARR ST #3
ARVADA CO 80004

SOURCE: UNNAMED STREAM

TRIBUTARY: SINKS

QUANTITY: ~~0.040 CFS~~ .060 CFS
2.70 AFY

Remove

NA?

→ The quantity of water under Right Nos. 97-7102, ~~9078, 97-9808, and 97-9809~~ for domestic and stockwater purposes shall not exceed 13,000 gallons per day, 2.70 AFY.

PRIORITY DATE: 08/04/1977 Pond, 1-acre irrigation, Recreation Storage, stockwater

POINT OF DIVERSION: T58N R04W S20 SWSW Within BONNER County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DIVERSION TO STORAGE	1 /1 12/31	0.020 CFS
IRRIGATION	4 /1 10/15	0.020 CFS
RECREATION STORAGE	1 /1 12/31	1.50 AFY
STOCKWATER	1 /1 12/31	1.00 AFY
		0.020 CFS
		0.20 AFY

= .06 CFS?

The use of water for irrigation under this right may begin as early as April 1 and may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

IRRIGATION in BONNER County

T58N R04W S20 SWSW 1.00

RECREATION STORAGE in BONNER County

T58N R04W S20 SWSW

STOCKWATER in BONNER County

T58N R04W S20 SWSW

1 ACRE TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

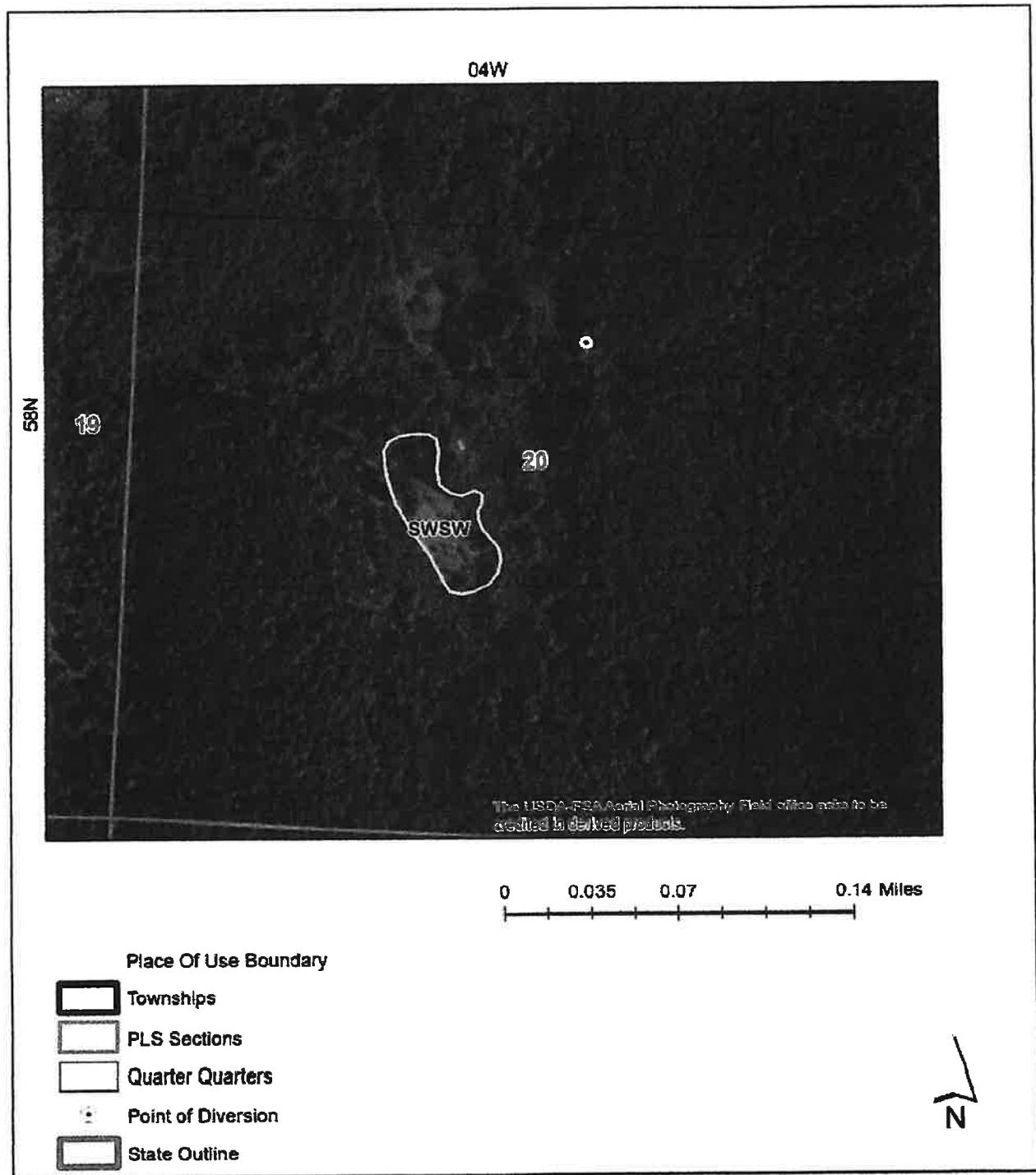
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Idaho Code § 42-1412(6).

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Stockwater use is for 15 head of mixed stock.

Parcel No. RP58N04W205401A

State of Idaho
Department of Water Resources
Adjudication Recommendation
97-7102



4. *Pump test records.*
5. *Sales receipts* for equipment or materials used in the water system.
6. *Records* of the person or business who sold, installed, or constructed the diversion works.
7. *Electric* bills for electric powered di- version equipment.
8. *Homestead documents for irrigation claims, patent documentation for mining claims or other documentation indicating use of water during the acquisition of government land.* These may be of record at the county recorder's office for the county in which the land is located. These should also be of record with the National Archives, although there are often delays in obtaining copies. The you can contact the National Archives at:

Web: <https://www.archives.gov/contact>
Phone: 1-866-272-6272

9. *Aerial photography.* Information on available aerial photography can be obtained from the U.S. Geological Survey by contacting the U.S. Geological Survey EROS Data Center User Services Section at:

Web: <https://www.usgs.gov/centers/eros>
Phone: 1-888-275-8747

WHAT IF I AM UNABLE TO OBTAIN ANY OF THE SOURCES LISTED ABOVE?

IF YOU CANNOT furnish some proof such as the examples listed above, you may submit your own testimony, in the form of an affidavit (a letter signed by the you and notarized), which explains the basis for the year of priority claimed. The letter should include a statement of the claimant's personal knowledge of the water use, but may also include information the claimant obtained from others.

DOCUMENTS WHICH ARE NOT SUFFICIENT EVIDENCE OF THE PRIORITY DATE CLAIMED

1. **STATUTORY CLAIMS** filed pursuant to Idaho Code 42-243. In the late 1970's, legislation was enacted that required persons with beneficial use rights to register them with IDWR. These "claims" were declarations of the water right owners, and were not investigated or verified. Notices of claims in the Adjudication are different, because they will be investigated and verified, resulting in a decree that confirms the water right and properly describes it.

The statutory claim may be evidence of a water right claimed in the Adjudication if the times and quantities of use claimed in the Adjudication are substantially the same as they were on the statutory claim. EVEN THEN, the statutory claim is evidence of such use ONLY as the date the statutory claim was filed –NOT as of the priority date claimed either in the statutory claim or the notice of claim filed in the Adjudication

2. **POSTED NOTICES.** The posted notice may be evidence of a priority date as of the date the notice was posted, but ONLY IF some evidence is submitted showing completion of the appropriation within a reasonable time after posting of the notice.

WHAT WILL HAPPEN IF EVIDENCE OF THE PRIORITY DATE IS NOT SUBMITTED?

IDWR will not recommend the claim to be decreed by the court if no evidence of the priority date is submitted. If proof is submitted but it supports a year of priority later than the year claimed, then a later year will be recommended.

CALL TOLL-FREE

1-800-451-4129

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION SECTION STATEHOUSE
MAILBOISE IDAHO 83720-0098
(208) 287-4800

EVIDENCE OF PRIORITY

A GUIDE TO SOURCES WHICH MAY CONSTITUTE PROOF OF THE PRIORITY DATE OF YOUR WATER RIGHT



IDAHO DEPARTMENT OF WATER RESOURCES
April 2022

EVIDENCE OF PRIORITY DATE FOR CLAIMS FILED IN AN ADJUDICATION

IF YOU HAVE RECEIVED A LETTER FROM THE DEPARTMENT OF WATER RESOURCES INFORMING YOU THAT YOU MAY HAVE TO SUBMIT PROOF OF BENEFICIAL USE THE INFORMATION BELOW WILL ASSIST YOU IN FINDING THE NECESSARY DOCUMENTATION.

WHAT IS A PRIORITY DATE?

The Priority date is one of the elements of the water right which you were required to state on your notice of claim. The priority date is the basis upon which water is distributed in times of shortage. When there is not enough water to satisfy all existing water rights, then water is distributed first to those with the oldest priority date.

WHAT IS A BENEFICIAL USE WATER RIGHT?

A beneficial use water right is one that is based on actual use of the water, and is not documented by a permit or license issued by IDWR, or a decree issued by a court. A beneficial use water right is established by putting the water to beneficial use, such as for domestic, stockwater, irrigation, hydro-power, commercial or industrial use or aquaculture, among others.

Generally, the priority date of a beneficial use right is the date the water was first put to beneficial use. This date is NOT NECESSARILY WHEN YOU ACQUIRED THE PROPERTY, or WHEN YOU FIRST MADE BENEFICIAL USE. A previous owner could have established beneficial use, which you continued.

There is a special category of beneficial use rights

called "posted notice" rights, to which special rules apply. Prior to 1903, Idaho had a "posted notice" statute, which provided for posting of a notice including specified information at the point of diversion, recording of the notice at the county recorder's office, and actual diversion and beneficial use within a reasonable time after posting, among other things. If the statutory requirements were met, then the priority date was the date of posting the notice. These "posted notice" water rights are considered a type of beneficial use water right because they are not confirmed by a permit, license, or decree.

FOR WHICH CLAIMS IS EVIDENCE OF PRIORITY DATE REQUIRED?

Each claim filed in the Adjudication is the claimant's affidavit (statement) of the elements of the water right being claimed. Some claimants in the Adjudication will be required to submit additional evidence of the priority date of the water right IF:

1. The claim is based on beneficial use AND
2. The claim is NOT a small domestic and stockwater claim.

NOTE: Additional proof of priority for beneficial use claims for small D&S uses will not be required unless specifically requested by IDWR.

The claim is a beneficial use claim if it is not based on a permit or license issued by IDWR or a decree issued by the court.

Small domestic and stockwater uses are very specifically defined by statute, and proof is required for a beneficial use claim if the use claimed does not meet that definition. If your claim was accepted with a \$25.00 fee, then your claim was probably a small domestic and stockwater claim.

WHAT KIND OF EVIDENCE IS REQUIRED?

SOME evidence of the YEAR of the priority claimed is sufficient. Conclusive evidence is not required. Evidence of the month and day is not required, but should be included if available.

Documentation of the priority date claimed can take almost any form. Generally, the document will be sufficient if it tends to show that water was used:

1. For the purpose claimed,
2. In the year claimed as the priority date, AND
3. On the land claimed as the place of use or by the owner of that land.

It is possible for a water right to have been established on one parcel of land and then transferred for use on another parcel of land. In such cases, the evidence should tend to show that water was used on the original place of use or by the owner of the original place of use to meet the third part of the requirement.

SOME EXAMPLES OF DOCUMENTS WHICH MAYBE EVIDENCE OF THE PRIORITY DATE

Note: Proof of ownership of land by a title or warranty deed usually does not, by itself, constitute proof of a priority date since the priority is based on use of water.

Here are a few examples and there may be others. But the proof must meet the general requirements highlighted above.

1. *Affidavits* - a notarized statement of someone with personal knowledge of when beneficial use was first made, such as a neighbor or a previous owner of the property. Personal knowledge means someone who observed the use, not someone who was told of the use by someone else.
2. *For irrigation claims* - crop reports, income tax documents showing income from sale of crops, or property tax documents showing property was taxed as irrigated agriculture.
3. *For ground water rights* - the report of the well driller who drilled the well, if a report was filed with IDWR.

GENERAL AFFIDAVIT

As a resident in the county Jefferson within the state of Colorado,
John Hawley personally approached me, the undersigned Notary, and
made his/her sworn testimony in a general affidavit, that the following statement is
completely factual and true to the best of his/her belief and knowledge.

Statement:

Based on IDWR codes, the Bonner County assessor's information and our first and second hand knowledge from Wendell and Lorraine Earle and Dan Zebell and neighbors, it appears that we have four dwellings with Beneficial Use Water Rights that are eligible for and should be decreed in adjudication:

- 1) Improvement D- Log cabin dwelling. Built 1965. Beneficial use and Priority date is 6/16/1965.
- 2) Improvement 01- Pole building dwelling. Built 1970. Beneficial use and Priority date is 1/1/1970.
- 3) Improvement 02- Cabin dwelling construction completed with beneficial water use in 1975. The water appropriation date, priority date and construction commencement date is 10/1/1970.
- 4) Log cabin dwelling built 7/01/1967. The beneficial use and priority date is 7/01/1967.

These 4 dwellings and associated Constitutional water rights are further described in the attached Amend Notice To A Water Right Acquired Under State Law For Domestic and/or Stockwater Purposes forms in civil case 69576, claim id 1443, receipt T118364 and are made part of this affidavit.

Affiant Signature: [Signature]

Date Signed: the 11 of April 20 24

Sworn and subscribed to before me on this day, 11 of April 20 24

[Signature]
Notary Public

GENERAL AFFIDAVIT

As a resident in the county Jefferson within the state of Colorado,
Ryan Hawley personally approached me, the undersigned Notary, and
made his/her sworn testimony in a general affidavit, that the following statement is
completely factual and true to the best of his/her belief and knowledge.

Statement:

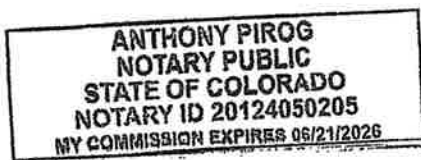
Based on IDWR codes, the Bonner County assessor's information and our first and second hand knowledge from Wendell and Lorraine Earle and Dan Zebell and neighbors, it appears that we have four dwellings with Beneficial Use Water Rights that are eligible for and should be decreed in adjudication:

- 1) Improvement D- Log cabin dwelling. Built 1965. Beneficial use and Priority date is 8/18/1965.
- 2) Improvement 01- Pole building dwelling. Built 1970. Beneficial use and Priority date is 1/1/1970.
- 3) Improvement 02- Cabin dwelling construction completed with beneficial water use in 1975. The water appropriation date, priority date and construction commencement date is 10/1/1970.
- 4) Log cabin dwelling built 7/01/1967. The beneficial use and priority date is 7/01/1967.

These 4 dwellings and associated Constitutional water rights are further described in the attached Amend Notice To A Water Right Acquired Under State Law For Domestic and/or Stockwater Purposes forms in civil case 69576, claim id 1443, receipt T113364 and are made part of this affidavit.

Affiant Signature: Ryan M. Hawley
Date Signed: the 13 of April 20 24

Sworn and subscribed to before me on this day, 13 of April 2024



Notary Public

GENERAL AFFIDAVIT

As a resident in the county Jefferson within the state of Colorado,
Karen Hawley personally approached me, the undersigned Notary, and
made his/her sworn testimony in a general affidavit, that the following statement is
completely factual and true to the best of his/her belief and knowledge.

Statement:

Based on IDWR codes, the Bonner County assessor's information and our first and second hand knowledge from Wendell and Lorraine Earle and Dan Zebell and neighbors, it appears that we have four dwellings with Beneficial Use Water Rights that are eligible for and should be decreed in adjudication:

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- 4) Log cabin dwelling built 7/01/1967. The beneficial use and priority date is 7/01/1967.

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Affiant Signature: Karen D. Hawley

Date Signed: the 11 of April 20 24

Sworn and subscribed to before me on this day, 11 of April 20 24

Cecilia
Notary Public