

11/4/2019

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation 95-4463 V1

11/4/2019

2. C18 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. Section 42-1412(6), Idaho Code.
3. Recreation storage is in Fernan Lake.
4. The place of use is within Fernan Lake.
5. IDL State endowment land within the municipal service area shall not be considered part of the place of use for this water right absent an express agreement between the Idaho Department of Lands and the municipal provider recorded with the Idaho Department of Water Resources.

Comments:

1. cfritsch 2/9/2018 Priority Date
 The dam safety records for this claim indicates construction was not complete as of 11/9/1966. The dam safety records indicate the year completed was 1967, but the initial inspection did not occur until 9/22/1971. However, that inspection noted growth needed to be removed. Working with the permise that the dam was constructed in the spring of 1967, a 6/1/1967 priority date has been recommended.

Dates and Other Information

Water District Number: TBD
 Mitigation Plan: False

Combined Use Limits

N/A

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	2/9/2018	cfritsch			Active
Priority Date	2/9/2018	cfritsch			Active
POD	2/9/2018	cfritsch			Active
Source	2/9/2018	cfritsch			Active
POU	2/9/2018	cfritsch			Active
Use	2/9/2018	cfritsch			Active
Season	2/9/2018	cfritsch			Active
Quantity	2/9/2018	cfritsch			Active
Summary	2/9/2018	cfritsch	2/9/2018	cfritsch	Active

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
Summary	12/27/2016	cfritsch	Bulk Copy
Contacts	2/9/2018	cfritsch	(No) 1. Do you want to schedule an appointment? Comment for 1: The dam safety record on file was used to make this recommendation.
General	2/9/2018	cfritsch	(No) 1. Should this water use have been included in a later court decree of

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			the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 13. Has additional evidence of priority date been submitted? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	2/9/2018	cfritsch	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POD	2/9/2018	cfritsch	Updated Shape
POD	2/9/2018	cfritsch	Updated PLS
Source	2/9/2018	cfritsch	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Topo map
POU	2/9/2018	cfritsch	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (Yes) 14. Is a POU remark and/or condition required? Description for Question 13 - Topo map
POU	2/9/2018	cfritsch	Updated Shape
POU	2/9/2018	cfritsch	Updated PLS
Use	2/9/2018	cfritsch	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (Yes) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 7. Can the change be verified as an accomplished transfer? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (Yes) 13. Is a Purpose of Use remark and/or condition required? Description for Question 7 - Water use should have been claimed as recreation storage rather than recreation. There is no direct flow component. Description for Question 10,11,12 - Dam safety file
Season	2/9/2018	cfritsch	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (No) 15. Is irrigation claimed as a Purpose of Use?

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Quantity	2/9/2018	cfritsch	(No) 18. Is a Period of Use remark and/or condition required? Description for Question 15 - Water right and dam safety files.
			(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - From dam safety file. Approximately 90% of 1,700 AF.
Summary	2/9/2018	cfritsch	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (Yes) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

SubCase:

SubCaseNumber: 95-4463

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned: ANDREA COURTNEY

Adjudication Agent: CARTER FRITSCHLE

Basis of Claim: Beneficial Use

Date Filed: 4/26/2019

Objection Status: Active

Water Supply Bank:

N/A

Saxton, Craig

From: Carter Fritschle <cfritschle@earthlink.net>
Sent: Wednesday, November 06, 2019 8:35 AM
To: Saxton, Craig
Subject: Re: Fernan Lake Question

Hey, i am not officially retired until December 27! I am very willing to help with the transition in any way I can.

I got to thinking the Payette Lake water right could be different in that the structure is used to store water for irrigation that will be used downstream from the lake. So, the Twin Lakes and Avondale Lake water rights are the ones that are the most similar to the Fernan Lake water right.

And yes, I would like to know where this all ends up. I really miss you guys, and I really do miss being involved in completing the objection resolution for the CSRBA.

Carter

On 11/6/2019 7:04 AM, Saxton, Craig wrote:

> Thanks Carter,
>
> After I e-mailed you, Garrick, Jennifer and I started digging and looked into the Twin Lakes decree, and you are correct, the storage rights list the source as Twin Lakes. This sounds like a similar situation. I will look at Payette Lake and Hayden Lake as well.
>
> Well, I did feel bad asking you so I appreciate you being willing to
> continue to help out. However, I am preventing your move into
> retirement by enabling you by asking questions :)
>
> I will let you know where we end up...for fun...if you are interested.
>
> Talk to you later.
>
> Thanks!
> c
>
> _____
> From: Carter Fritschle [cfritschle@earthlink.net]
> Sent: Tuesday, November 05, 2019 8:41 PM
> To: Saxton, Craig
> Subject: Re: Fernan Lake Question
>
> An additional thought is that Fernan Lake operates a lot like Twin
> Lakes. The outlet structure is used to maintain the summer time level
> of the lake. And if I remember correctly, the storage water rights in
> Twin Lakes list Twin Lakes as the source.
>

Saxton, Craig

From: Carter Fritschle <cfritschle@earthlink.net>
Sent: Wednesday, November 06, 2019 7:42 AM
To: Saxton, Craig
Subject: Re: Fernan Lake Question

Hi Craig,

I thought of another rather significant water right that lists the lake as the source of the water passing through the lake. 95-2067, the Governor's water right, has its source listed as Coeur d'Alene Lake.

Also, while certainly less significant, water rights 95-12A and 95-12B list Avondale Lake as the source. Those two rights are nearly identical to 95-4463. It definitely seems we have a pattern (at least in Basin 95) of listing the source of water as the lake when additional water is impounded on top of the natural lake.

Carter

Saxton, Craig

From: Carter Fritschle <cfritschle@earthlink.net>
Sent: Tuesday, November 05, 2019 4:19 PM
To: Saxton, Craig
Subject: Re: Fernan Lake Question

Hi Craig,

I am thinking that is because the original statutory claim described it that way. That is also how it was described in the dam safety file. I think it was customary at one time to describe storage on top of a natural lake as having the source be the lake. But if Shelley prefers to call it Fernan Creek, that should be fine.

A somewhat similar situation exists at Payette Lake. Does the right for the storage of water in Payette Lake describe the North Fork of the Payette River as the source or the lake? If it is the river, then this one should probably be the creek.

The storage structure Fernan Lake is also similar to the one on Hayden Lake in that the water is diverted before it has a chance to leave the lake. However, I am not sure if anyone has claimed the right to store water in Hayden Lake, so that probably wouldn't help.

I will think about this one some more to see if any "new" ideas come to me.

And, thanks for asking. I can't just stop thinking about this stuff.

:) In fact, I remembered today while I was out on the tractor that I forgot to write a letter to Eastern Idaho Grazing Association requesting more information for their deferred stockwater claims. I was also supposed to write a letter to the person that signed the claims for Eastern Idaho Grazing Association for his claims as well. I think the name was Rich or something like that.

Carter

On 11/5/2019 12:09 PM, Saxton, Craig wrote:

> Hey Carter,

>

> Ok. I am sorry but I am going to ask you a question.

>

> We are trying to push an ADR through for City of Fernan Lake Village. This is a Rec Storage right where we said the source was Fernan Lake. We were going to add some language about not including IDL lands and fix the Tributary as you can see in the attached. However, I put it in front of Shelley to sign and he asked why we are calling the source for a storage right Fernan Lake instead of Fernan Creek.

>

> To be honest, I haven't been able to figure that out. I think he has a point. We do recognized multiple diversions from the lake where the source is Fernan Lake, but those are live flow rights. If we are storing water in the lake by backing up the flow, shouldn't the source be Fernan Creek?

>

> Here is the link to the web documents

> <https://idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=95&Sequence=4463&SplitSuffix=>

>

> I was just wondering if there was some key piece of information I am missing as to why we went with the source being the lake.

>

> If you don't remember, don't worry about it. I just thought I would check with you :) (and Garrick though you might know).

>

> I hope your whole 3.5 days of retirement are treating you well. Lots of people talking about you and missing not having you around.

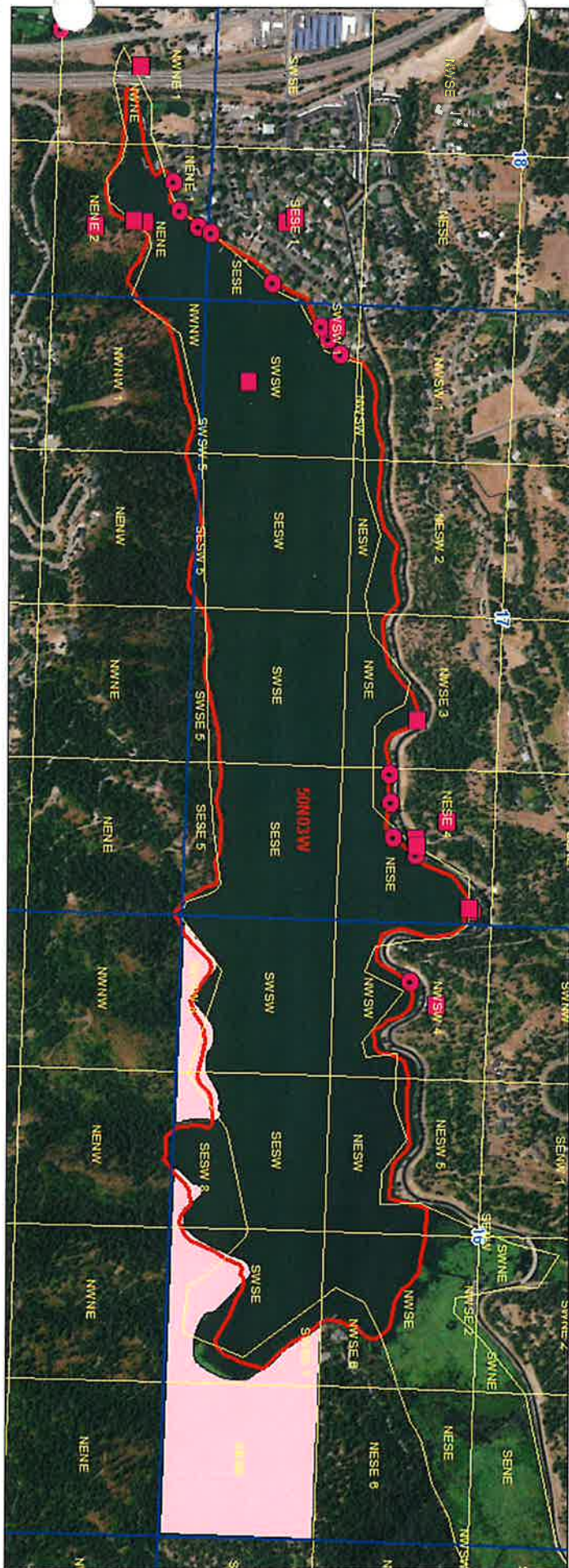
>

> Take care.

>

> c

>



Basin	Sequence	Suffix	Ver	Process	Basis	Status	Draft	RightID	Priority Date	Diversion Rate	Source List	Tributary List
95	12650		1	Recommendation	Beneficial Use	Active		679429	12/31/1905	0.040	FERNAN LAKE	FERNAN CREEK
95	16058		1	Recommendation	Beneficial Use	Active		667087	12/31/1920	0.040	FERNAN CREEK	FERNAN LAKE
95	4356			Water Right	Statutory Claim	Active	N	92480	5/1/1946	0.030	FERNAN LAKE	FERNAN LAKE
95	11247		1	Recommendation	Beneficial Use	Active		636396	12/31/1954	0.040	FERNAN LAKE	FERNAN CREEK
95	4104			Water Right	Statutory Claim	Active	N	92241	6/1/1955	0.020	FERNAN LAKE	FERNAN LAKE
95	4443			Water Right	Statutory Claim	Active	N	92571	7/1/1955	0.020	FERNAN LAKE	FERNAN LAKE
95	4381			Water Right	Statutory Claim	Active	N	92505	1/1/1955	0.040	FERNAN LAKE	FERNAN LAKE
95	4419			Water Right	Statutory Claim	Active	N	92545	1/1/1956	0.040	FERNAN LAKE	FERNAN LAKE
95	2116			Water Right	License	Active	N	92033	1/16/1956	0.260	FERNAN CREEK	FERNAN LAKE
95	4342		1	Recommendation	Beneficial Use	Active		658384	6/1/1956	0.020	FERNAN LAKE	FERNAN CREEK
95	15699		1	Recommendation	Beneficial Use	Active		666789	12/31/1956	0.030	FERNAN LAKE	FERNAN CREEK
95	17242		1	Recommendation	Beneficial Use	Active		681450	1/1/1958	0.020	FERNAN LAKE	FERNAN CREEK
95	4128			Water Right	Statutory Claim	Active	N	92261	6/1/1959	0.020	FERNAN LAKE	
95	4146		1	Recommendation	Beneficial Use	Active		658177	6/1/1961	0.040	FERNAN LAKE	FERNAN CREEK
95	4124		1	Recommendation	Beneficial Use	Active		681699	5/1/1965	0.020	FERNAN LAKE	FERNAN CREEK
95	16044		1	Recommendation	Beneficial Use	Active		679882	7/1/1966	0.040	FERNAN LAKE	FERNAN CREEK
95	4463		1	Recommendation	Beneficial Use	Active		681758	6/1/1967		FERNAN LAKE	FERNAN LAKE
95	7016			Water Right	License	Active	N	92882	5/23/1968	0.380	FERNAN CREEK	FERNAN LAKE
95	7016		1	Recommendation	License	Active		680315	5/23/1968	0.380	FERNAN CREEK	FERNAN LAKE
95	7319			Water Right	License	Active	N	93187	7/9/1973	0.090	FERNAN LAKE	FERNAN LAKE
95	15054		1	Recommendation	License	Active		662803	7/9/1973	0.070	FERNAN LAKE	FERNAN CREEK
95	15055		1	Recommendation	License	Active		662806	7/9/1973	0.040	FERNAN LAKE	FERNAN CREEK
95	7351			Water Right	License	Active	N	93217	8/27/1973	0.200	FERNAN LAKE	FERNAN LAKE
95	7458		1	Recommendation	License	Active		679744	6/13/1974	0.020	FERNAN LAKE	FERNAN CREEK
95	7522		1	Recommendation	License	Active		658524	3/20/1975	0.020	FERNAN LAKE	FERNAN CREEK
95	7542			Water Right	License	Active	N	93419	6/20/1975	0.020	FERNAN LAKE	
95	7652		1	Recommendation	License	Active		667089	7/15/1976	0.040	FERNAN LAKE	FERNAN CREEK
95	7946			Water Right	License	Active	N	93815	6/19/1979	0.030	FERNAN LAKE	FERNAN LAKE
95	8136			Water Right	License	Active	N	94003	9/25/1981	0.040	FERNAN LAKE	FERNAN LAKE
95	8196		1	Recommendation	License	Active		677906	6/30/1982	0.040	FERNAN LAKE	FERNAN CREEK
95	8952		1	Recommendation	License	Active		679428	9/17/1996	0.010	FERNAN LAKE	FERNAN CREEK
95	11248			Water Right	License	Active	N	656415	9/29/2009	0.040	FERNAN LAKE	FERNAN CREEK
95	11249			Water Right	License	Active	N	656016	9/29/2009	0.040	FERNAN LAKE	
95	16547			Water Right	License	Active	N	676103	2/13/2013	0.050	FERNAN LAKE	COEUR D'ALENE LAKE
95	13207		1	Recommendation	Beneficial Use	Active		662346	12/31/1890	0.040	FERNAN LAKE	FERNAN CREEK



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

M E M O

TO: Dave LePard

DATE: March 18, 1987

FROM: Lotwick Reese *LR*

SUBJECT: Fernan Lake

I have made a hydraulic analysis of the Fernan Lake spillway/dam and have compared the spillway capacity before and after the modifications made in 1986. *ft. MSL*

I calculated the backwater surface elevation from the spillway/dam structure under the conditions that existed prior to the modification in 1986 at 2134.6. The backwater surface elevation under the existing conditions was calculated at 2136.3. The modified spillway/dam according to my calculations would therefore create a 1.7 ft. increase in backwater under a $Q_{100} = 2,130$ cfs flow. (See design sheets) *ft. MSL*

This 1.7 ft. increased backwater effect on the 13' x 160' multiplate under the interstate ramp upstream is probably not significant. It is in the realm of possibility that the 1.7 ft. increase could convert the multiplate culvert operation from inlet control to outlet control because of the higher tailwater, but additional field data would be needed to make a complete culvert analysis of the multiplate.

The downstream effect of the modification is probably very little. The 16' x 13' stiffleg structure under the frontage road will pass 2,160 cfs, 30 cfs more than the $Q_{100} = 2,130$ cfs.

One consideration should be the possibility of losing the dike under a Q_{100} flow condition. A 3.4 ft. depth of flow over the dike would create severe erosion problems and probably would result in failure of the dike. This failure would cause an overtopping of the stiffleg structure and frontage road but is doubtful if it would result in loss of life.

LR:cjk
Attachments

MICROFILMED

JUN 26 1989



Dam Safety Section

TRIP REPORT

TO: John Falk
CC: Northern File
FROM: Gio Del Papa **GDP**
DATE: August 19, 2013
SUBJECT: Fernan Lake Hydraulic Barrier – Coeur d’Alene, Idaho
IDWR File No. 95-4463

On Monday August 19, 2013, I visited the hydraulic barrier (Figure 1 and Photo 1) at the outlet of Fernan Lake (site), I arrived at the site at 9:05 a.m. and met with Richard Jurvelin representing the City of Fernan Lake Village (city). Shortly after my arrival, Jim Coleman (engineer for the city) arrived.

The purpose of the visit was to ascertain whether the downstream hazard has changed or if the size of the project has increased. The stop logs were reported to have been replaced about 5 years ago. No other alteration or change was reported to have taken place since the last IDWR dam safety inspection. I was informed that they remove the stoplogs every fall to prepare the lake for winter as an ice dam will form upstream of the barrier if the stoplogs are left in place.

The downstream receiving water is Lake Coeur d’Alene. The conveyance from the hydraulic barrier to Lake Coeur d’Alene flows through a golf course and appears to remain low hazard potential.

During the visit the dam height (hydraulic height as well for this structure) was measured at approximately 4 feet (4’01” measured). The freeboard at the time of the visit was 5 inches. The stoplog length was measured at just over 10 feet (10’02” measured). I departed the site at approximately 9:30 a.m.

It is suggested to remove the Fernan hydraulic barrier from the regulated dams list based upon a measured dam height of less than 6 feet and the current low downstream hazard potential. The structure should remain in the IDWR database.