

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

Claim No. 63-11858

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Mathew Weaver, Director
Craig L. Saxton, Manager, Adjudication Section

February 26, 2024

DESCRIPTIVE SUMMARY

This is a Director's Report of Deferred *De Minimis* Domestic and/or Stock Water Use submitted by the Director of the Idaho Department of Water Resources (IDWR).

INTRODUCTION

A Motion for Determination of Deferred *De Minimis* Domestic and/or Stock Water Use (Motion), as well as a Notice of Claim to Water Right, was submitted to the Court on December 20, 2021, for water right claim no. 63-11858. The examination was conducted by Craig L. Saxton, Manager, Adjudication Section, on behalf of the Director. The materials used in and results of the examination of the elements of water right claims are discussed below.

DISCUSSION

Basis of Claim

Claim no. 63-11858 appears to be based on water right license 63-11858. The claim was filed using the license water right number and lists the basis of claim under Item 14 on the claim as "License". Most of the claimed elements of the water right are consistent with the water right elements authorized under license 63-11858, except the purpose of use and the season of use. Claim no. 63-11858 describes the purpose of use as domestic with a year-round season of use, while license 63-11858 authorizes use for irrigation of 0.4 acres with the season of use as 3/15 thru 11/15.

The *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims* issued on June 28, 2012, defines what a Deferrable *De Minimis* Domestic and Stock Water Use is. Water rights for irrigation purposes are not deferrable and therefore cannot be recognized through a *Motion for Determination of Deferred De Minimis Domestic and Stockwater Use*.

License 63-11858 was issued on October 14, 1994, after the commencement of the Snake

River Basin Adjudication. If the claimants' intent was to file claim no. 63-11858 to reflect an accomplished change in purpose of use authorized under Idaho Code § 42-1425, this intent was not mentioned on the claim. Likewise, the licensed date is after November 19, 1987, which is the commencement date of the SRBA and the "cut off" date for recognizing an accomplished transfer.

CONCLUSION

IDWR cannot recommend claim no. 63-11858 as a valid water right for domestic purposes.

IDWR cannot recommend claim no. 63-11858 consistent with license 63-11858 because license 63-11858 describes a water right for irrigation purposes which is not a deferrable water right.

Nicholas R Drake submitted claim 63-11858 and IDWR recommends it **Disallowed**. There is not sufficient evidence to recommend water right claim 63-11858, for domestic use. Pursuant to Judge Wildman's *Order Amending Procedures in the SRBA for Adjudication of Deferred De Minimis Stockwater Claims*, dated October 17, 2017, the Director submits this Director's Report of Deferred *De Minimis* Domestic and/or Stock Water Use, Claim No. 63-11858, which includes the recommendation of deferred *de minimis* water right no. 63-11858.

Respectfully submitted this 26th day of February, 2024.


CRAIG L. SAXTON
Manager, Adjudication Section

CERTIFICATE OF SERVICE

I certify that on February 27, 2024, I caused to be served a true and correct copy of this Director's Report of Deferred *De Minimis* Domestic and/or Stock Water Use, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court
Idaho Water Adjudications
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail
☐ FAX

2. Copies to:

Chief, Energy and Natural Resources Div.
Office of the Attorney General
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Boise, ID 83720-0010

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United States Department of Justice
Environment & Natural Resources Div.
550 W. Fort Street MSC 033
Boise, ID 83724

☐ Overnight Mail
☒ Regular Mail
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☐ E-mail

Ada County Courthouse
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Boise, ID 83702

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Signature of person delivering form

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHT NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
63-11858	NICHOLAS DRAKE 6107 W HOLLILYNN DR BOISE ID 83709	Disallowed	Right not claimed in prior adjudication.
	REBECCA DRAKE 6107 W HOLLILYNN DR BOISE ID 83709		