

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

Claim Nos. 86-12145, 86-12146, 86-12147, 86-12148, 86-12149, 86-12150, and 86-12151

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 Saxton, Manager, Adjudication Section

September 25, 2023

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 received by the Court on March 15, 2022, for water right claim nos. 86-12145 through 86-12151. The Director published notice of the Motion, and has now completed his examination of the water right claim. The examination was conducted by Jared Klay, Water Resource Agent, Adjudication Section, on behalf of the Director. The materials used in and results of the examination of the elements of water right claim nos. 86-12145 through 86-12151 are discussed below.

DISCUSSION

Priority Date

The claimed priority date for claim nos. 86-12145 through 86-12151 is December 31, 1917. Land patents available on-line through the Bureau of Land Management General Land Office Records have been used to support the priority date of each claim. Patent Nos. ID0420.125, ID0420.126, ID0440.038 and ID0630.240 were issued under the May 20, 1862 Homestead Act¹.

Patent Nos. ID0350.325 and ID0370.372 were issued under the April 24, 1820 Sale Act. The 1820 Sale Act allowed someone to obtain a patent through purchase of land. A patent obtained through the 1820 Sale Act doesn't, in itself, prove evidence that stock were grazing the

¹ Patent Nos ID0420.125, ID0420.126, ID0440.038 and ID0630.240 were established under the Homestead Act of 1862. To receive a patent, applicants were required to live on the property for 5 years for the purpose of settlement and cultivation. It's reasonable to assume that applicants would have stock that drank from available water sources. IDWR has regularly accepted land patents as evidence of in-stream or non-diverted stock water use.

property when the patent was issued, but the property established under the 1820 Sale Act patents is adjacent to property obtained through the Homestead Act of 1862 and it is reasonable to assume that stock associated with the 1862 patented property also grazed on adjacent properties. See the table below for summary of claims and associated patents:

Claim No.	Patent No	Date Issued	Act
86-12145	ID0420.125	2/2/1889	May 20, 1862 Homestead Act
86-12146	ID0420.125	2/2/1889	May 20, 1862 Homestead Act
	ID0630.240	3/28/1906	May 20, 1862 Homestead Act
86-12147	ID0420.125	3/2/1889	May 20, 1862 Homestead Act
	ID0420.126	3/2/1889	May 20, 1862 Homestead Act
	ID0350.325	3/4/1882	April 24, 1820 Sale Act
	ID0370.372	11/9/1889	April 24, 1820 Sale Act
86-12148	ID0630.240	3/28/1906	May 20, 1862 Homestead Act
86-12149	ID0370.372	11/9/1889	April 24, 1820 Sale Act
86-12150	ID0370.372	4/23/1892	May 20, 1862 Homestead Act
86-12151	ID0420.125	3/2/1889	May 20, 1862 Homestead Act

The evidence provided supports the claimed priority date for all claim nos. 86-12145 through 86-12151. The priority date for all claims is recommended as December 31, 1917.

Point of Diversion

The claimed points of diversion for claim nos. 86-12145 through 86-12151 are located on the claimant's property within Township 38 North, Range 03 West, and Sections 27, 28, 33 and 34. Specifically, these points of diversion lie on the following Latah County parcels: RP38N03W287805, RP38N03W288405, RP38N03W276504, RP38N03W330162 and RP38N03W342511. The claimed points of diversion are all recommended as claimed.

Source

The claimed sources and tributaries are summarized in the table below:

Claim	Source	Tributary
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86-12145	unnamed stream	Middle Potlach Creek
86-12146	unnamed stream	Middle Potlach Creek
86-12147	unnamed streams ²	Potlach River
86-12148	spring	Middle Potlach Creek
86-12150	spring	Middle Potlach Creek
86-12151	spring	Middle Potlach Creek
86-12149	spring	sinks

All sources and tributaries were verified using USGS Quadrangle maps in conjunction with aerial photography available to IDWR through our GIS system. The sources claimed for claim nos. 86-12145 through 86-12151 are recommended as claimed.

Place of Use

The claimed places of use for claim nos. 86-12145 through 86-12151 are located on the claimant's property within Township 38 North, Range 03 West, and Sections 27, 28, 33 and 34. Specifically, these places of use lie on the following Latah County parcels: RP38N03W287805, RP38N03W288405, RP38N03W276504, RP38N03W330162 and RP38N03W342511. The places of use are all recommended as claimed.

Purpose of Use and Period of Use

The claimed purpose of use for claim nos. 86-12145 through 86-12151 is in-stream stockwater for up to 35 head of cattle.

Historical photograph provided by the claimant supports historical water use for this purpose by showing a stock barn and several head of cattle. The purpose of use for claim nos. 86-12145 through 86-12151 is recommended as claimed.

The claimed year-round period of use for all claims is standard for in-stream stock. A year-round period of use for stockwater for claim nos. 86-12145 through 86-12151 is

² The source recommended for 86-12147 was recommended as "unnamed stream" tributary to "Potlach River".

recommended as claimed.

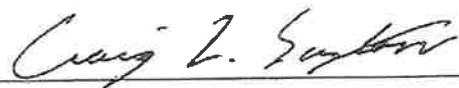
Quantity

The claimed quantity for claim nos. 86-12145, 86-12146, 86-12147, and 86-12149 are 0.02 cubic feet per second ("cfs"). The claimed quantity for claim nos. 86-12148, 86-12150, and 86-12151 are 0.03 cubic feet per second ("cfs"). The stockwater use for all 7 claims is described as in-stream stockwater use. In-stream stockwater rights are limited to 0.02 cubic feet per second ("cfs")³. Therefore, the total quantity recommended for claim nos. 86-12145 through 86-12151 is 0.02 cfs.

CONCLUSION

There is sufficient evidence to recommend water right claims 86-12145 through 86-12151, as claimed, for in-stream stockwater 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 nos. 86-12145 through 86-12151, which includes the recommendation of deferred *de minimis* water right nos. 86-12145 through 86-12151.

Respectfully submitted this 25th day of September, 2023.


CRAIG L SAXTON
Manager, Adjudication Section

³ See IDWR's Adjudication Memorandum #58 and the discussion on SRBA Basin Wide Issue # 12.

CERTIFICATE OF SERVICE

I certify that on September 26, 2023, 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
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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

2. Copies to:

Chief, Natural Resources Div.
Office of the Attorney General
P.O. Box 83720
Boise, ID 83720-0010

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

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

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

Latah County Courthouse
522 S. Adams St
Moscow, ID 83843

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

Donald Halvorson
Charolette Halvorson
1290 American Ridge Rd
Kendrick, ID 83537

☐ Overnight Mail
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U.S. Attorney's Office
1290 West Myrtle Street
Suite 500
Boise, ID 83702

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

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

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



Signature of person mailing the form

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

RIGHT NUMBER: 86-12145

NAME AND ADDRESS: CHARLOTTE HALVORSON
1290 AMERICAN RIDGE RD
KENDRICK ID 83537-9504

DONALD L HALVORSON
1290 AMERICAN RIDGE RD
KENDRICK ID 83537-9504

SOURCE: UNNAMED STREAM

TRIBUTARY: MIDDLE POTLATCH CREEK

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1917

POINT OF DIVERSION: T38N R03W S28 NWSE Begin of Stream Flow Within LATAH County
T38N R03W S28 NWSE End of Stream Flow Within LATAH County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

0.020 CFS

Stockwater use is for the in-stream watering of livestock.

PLACE OF USE:

STOCKWATER in LATAH County

T38N R03W S28 NWSE

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).

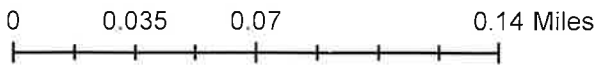
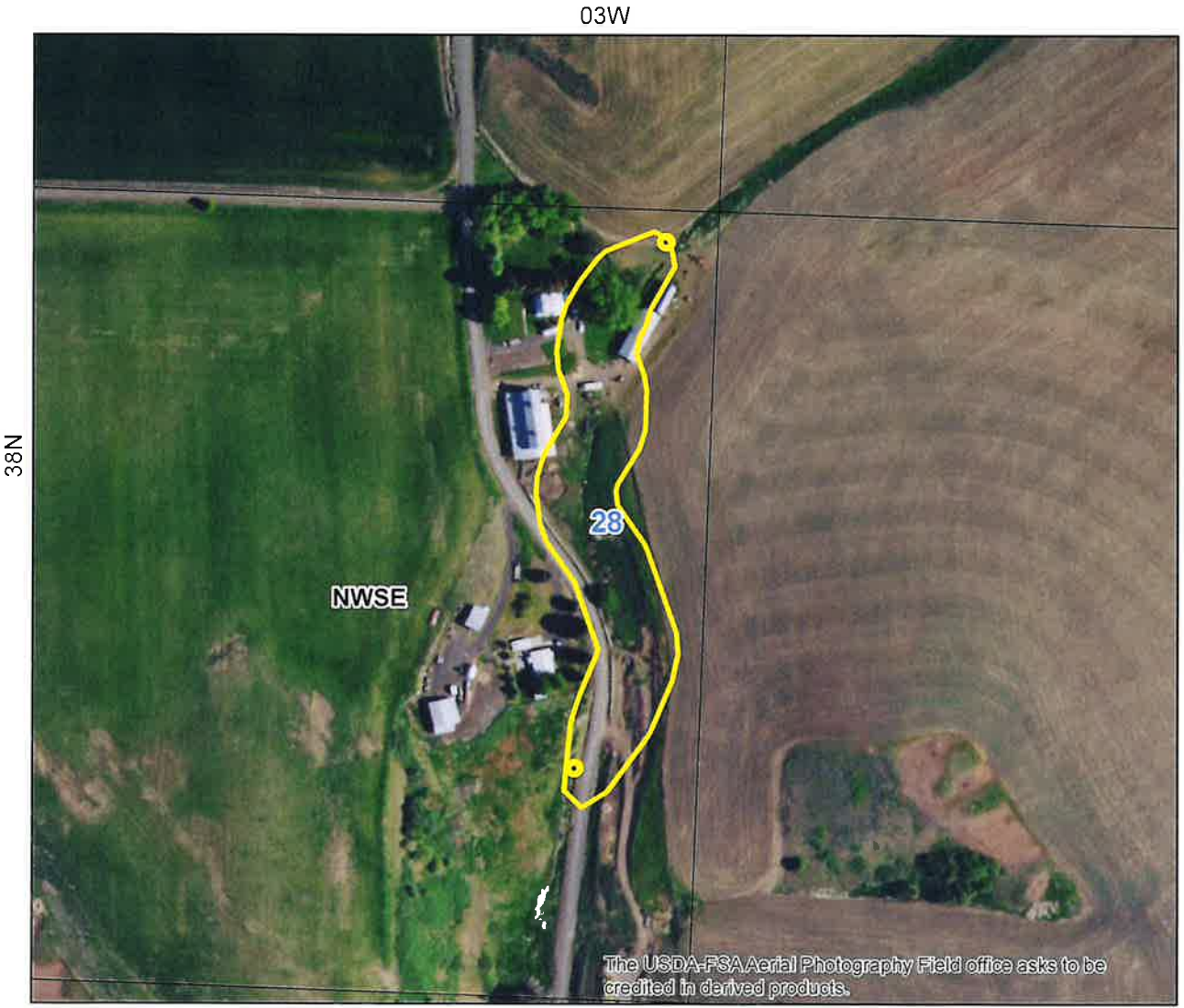
The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 35 range cattle.

Parcel No(s). RP38N03W287805.

State of Idaho
Department of Water Resources
Adjudication Recommendation
86-12145



- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Point of Diversion



Patent Summary

Date Created: September 19, 2023

From: Jared Klay

Re: Patents covering the claimed place of use were used as the basis of claimed priority date

86-12145:

2/2/1889

	<u>ID0420 .125</u>	 GAMMELL, ARCHIBALD	2/2/1889	656	ID	Boise	038N - 003W	SW¼SW¼	27	Latah
							038N - 003W	E½SE¼	28	Latah
							038N - 003W	NW¼SE¼	28	Latah

86-12146:

3/28/1906

	<u>ID0630 .240</u>	 COX, WILLIAM	3/28/1906	4657	ID	Boise	038N - 003W	SW¼SE¼	28	Latah
							038N - 003W	NW¼NE¼	33	Latah

2/2/1889

	<u>ID0420 .125</u>	 GAMMELL, ARCHIBALD	2/2/1889	656	ID	Boise	038N - 003W	SW¼SW¼	27	Latah
							038N - 003W	E½SE¼	28	Latah
							038N - 003W	NW¼SE¼	28	Latah

86-12147:

3/4/1882

	<u>ID0450 .325</u>	 STRANAHAN, CLINTON	3/4/1882	630	ID	Boise	038N - 003W	E½NW¼	27	Latah
							038N - 003W	N½SW¼	27	Latah

2/2/1889

	<u>ID0420 .125</u>	 GAMMELL, ARCHIBALD	2/2/1889	656	ID	Boise	038N - 003W	SW¼SW¼	27	Latah
							038N - 003W	E½SE¼	28	Latah
							038N - 003W	NW¼SE¼	28	Latah
	<u>ID0420 .125</u>	 PHILLIPS, IRA B	2/2/1889	657	ID	Boise	038N - 003W	SE¼SW¼	27	Latah
							038N - 003W	E½NW¼	34	Latah, Nez Perce
							038N - 003W	SW¼NW¼	34	Latah, Nez Perce

11/9/1889

	<u>ID0370 .372</u>	 ALTMILLER, JAKOB	11/9/1889	1700	ID	Boise	038N - 003W	NW¼NW¼	34	Latah, Nez Perce
							038N - 003W	NE¼NE¼	33	Latah

86-12148:

3/28/1906

	<u>ID0630 .240</u>	 COX, WILLIAM	3/28/1906	4657	ID	Boise	038N - 003W	SW¼SE¼	28	Latah
							038N - 003W	NW¼NE¼	33	Latah

86-12149:

11/9/1889

	ID0370 .372	 ALTMILLER, JAKOB	11/9/1889	1700	ID	Boise	038N - 003W	NW¼NW¼	34	Latah, Nez Perce
							038N - 003W	NE¼NE¼	33	Latah

86-12150:

4/23/1892

	ID0440 .038	 NICHOLS, JOSEPH J	4/23/1892	1060	ID	Boise	038N - 003W	S½NE¼	33	Latah
							038N - 003W	E½NW¼	33	Latah

86-12150:

2/2/1889

	ID0420 .135	 GAMMELL, ARCHIBALD	2/2/1889	656	ID	Boise	038N - 003W	SW¼SW¼	27	Latah
							038N - 003W	E½SE¼	28	Latah
							038N - 003W	NW¼SE¼	28	Latah

86-12145

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
General Land Office Records

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Search Documents Results List Patent Details

Accession Nr: ID0420_.125 Document Type: State Volume Patent State: Idaho Issue Date: 2/2/1889 Cancelled: No

Patent Details Patent Image Related Documents 

Names On Document
GAMMELL, ARCHIBALD

Miscellaneous Information
Land Office: Lewiston
US Reservations: No
Mineral Reservations: No
Tribe: ---
Militia: ---
State In Favor Of: ---
Authority: May 20, 1882: Homestead Entry/Original (12 Stat. 392)
General Remarks: ---

Military Rank: ---

Document Numbers
Document Nr: 656
Misc. Doc. Nr: 1112
BLM Serial Nr: IDIDAA 019470
Indian Allot. Nr: ---
Coal Entry. Nr: ---

Survey Information
Total Acres: 160.00
Survey Date: ---
Geographic Name: ---
Meters/Bounds: No

Land Descriptions					
Map	State	Meridian	Twp - Rng	Aliquots	Section Survey # County
☐	ID	Boise	038N - 003W	SW $\frac{1}{4}$ SW $\frac{1}{4}$	27 Latah
☐	ID	Boise	038N - 003W	E $\frac{1}{4}$ SE $\frac{1}{4}$	28 Latah
☐	ID	Boise	038N - 003W	NW $\frac{1}{4}$ SE $\frac{1}{4}$	28 Latah