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DEPT. OF WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls-State of Idaho
AUG 7 2025
By _____ Clerk
Deputy Clerk

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

In Re SRBA	)	Subcase Nos. 67-15263, et al.
	)	
Case No. 39576	)	**MEMORANDUM DECISION AND ORDER**
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I.
PROCEDURAL BACKGROUND

Keith and Karen Hood own real property at 3101 Rush Creek Road in Cambridge, Idaho. The Court will refer to this as the "Base Property." The Hoods run a cattle operation on the Base Property. The Base Property is associated with a grazing permit issued to the Hoods by the United States Bureau of Land Management on March 14, 2013. It authorizes the Hoods to graze cattle on a federal grazing allotment known as the Horse Flat Allotment, which is comprised of federal rangeland located in Washington County, Idaho.

On July 23, 2020, the Hoods filed 27 motions for determination of deferred de minimis domestic or stock water use in the Snake River Basin Adjudication ("SRBA"), along with associated water right claims. The claims seek instream water rights for watering livestock with points of diversion and places of use within the Horse Flat Allotment. The claims all seek a priority date of December 28, 1896.

On September 21, 2021, the Idaho Department of Water Resources issued Director's Reports containing recommendations for the claims. The Department recommended the claims be decreed with the claimed priority date of December 28, 1896. The United States objected to the recommended priority dates, asserting the evidence submitted by the Hoods "does not

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support the 1896 date of priority recommended by IDWR." The Hoods filed responses to the United States' objections.

Trial was held before the special master on October 2-3, 2024. At trial, the Hoods amended the claimed priority date for their claims from December 28, 1896, to October 15, 1900. Both parties submitted post-trial briefing. On January 8, 2025, the special master issued his report and recommendation. He recommended the claims be decreed to the Hoods with a priority date of April 1, 1911.

On February 2, 2025, the United States filed a motion to alter or amend the report and recommendation. The special master issued an amended report and recommendation on April 24, 2025, wherein he altered some of his findings of fact and conclusions of law, but ultimately reached the same recommendation that the claims be decreed to the Hoods with a priority date of April 1, 1911. The United States timely filed a notice of challenge. The parties briefed the issues raised on challenge. A hearing on challenge was held before the Court on July 17, 2025.

II.
STANDARD OF REVIEW

A. Challenge.

A district court is required to adopt a special master's findings of fact unless they are clearly erroneous. I.R.C.P. 53(j); *Rodriguez v. Oakley Valley Stone, Inc.*, 120 Idaho 370, 377, 816 P.2d 326, 333 (1991). In determining whether findings of fact are clearly erroneous, a reviewing court "inquires whether the findings of fact are supported by substantial and competent evidence." *Gill v. Viebrock*, 125 Idaho 948, 951, 877 P.2d 919, 922 (1994). The district court's review is not limited to the parties' objections to the special master's report. *Dorsey v. Dorsey*, 172 Idaho 667, 680, 535 P.3d 1040, 1053 (2023). The district court has a heightened obligation to review a special master's report as compared to its review of a magistrate court's findings of fact on an appeal. *Id.* As the appointment of a special master does not displace the district court's role as the ultimate trier of fact, "a district court's obligation upon review of a special master's recommendations is to conduct an 'independent' and 'careful review' of the record in addition to objections brought to its attention by counsel." *Id.* at 680-681, 535 P.3d at 1053-1054.

The special master's conclusions of law, however, are not binding upon a reviewing court, although they are expected to be persuasive. *Higley v. Woodard*, 124 Idaho 531, 534, 861 P.2d 101, 104 (Ct. App. 1993). This permits the district court to adopt the special master's conclusions of law only to the extent they correctly state the law. *Id.* Accordingly, a reviewing court's standard of review of the special master's conclusions of law is one of free review. *Id.*

B. Court's Independent Review of Record.

Consistent with the standard of review of a special master's report the Court has conducted a review of the record in this case independent of the findings of fact and conclusions of law set forth in the special master's report and recommendation. After reviewing the record, the Court adopts findings of fact 1-83 as set forth in the report and recommendation, and as amended by the amended report and recommendation. Those findings of fact are incorporated herein and will not be repeated.

III.
ANALYSIS

A. The Hoods' predecessors established pre-Taylor Grazing Act stockwater rights on the federal rangeland now known as the Horse Flat Allotment.

The special master determined the Hoods' predecessors established pre-Taylor Grazing Act stockwater rights on the federal rangeland now known as the Horse Flat Allotment. The United States argues the special master misapplied the Idaho Supreme Court's decisions in *Joyce Livestock Company v. United States*, 144 Idaho 1, 156 P.3d 502 (2007) and *LU Ranching Company v. United States*, 144 Idaho 89, 156 P.3d 590 (2007) in making that determination.

Joyce and *LU* were companion cases in the SRBA. They involved questions concerning (1) whether cattle grazers established beneficial use stockwater rights on federal rangeland by grazing livestock thereon prior to the enactment of the Taylor Grazing Act, (2) whether such water rights were held by the United States or the cattle grazer, (3) the appropriate priority date for such water rights, and (4) whether such water rights transferred as an appurtenance with the base property used in conjunction with the cattle operation.

In *Joyce*, the Idaho Supreme Court held that a cattle grazer who grazed cattle on federal rangeland prior to the enactment of the Taylor Grazing Act "could obtain water rights simply by

watering their livestock in the springs, creeks, and rivers on the range they used for forage." *Joyce*, 144 Idaho 8, 156 P.3d at 509. Such water rights were based on the cattle grazer's "application of the water to a beneficial use by grazing livestock where they would have access to the water sources at issue." *Id.* at 16, 156 P.3d at 517. The Court directed that any stockwater rights resulting from such grazing were held by the cattle grazer that made the beneficial use. They attached as appurtenances to the base property used in conjunction with the cattle operation. *Id.* The Court then directed that when the base property was sold, the appurtenant stockwater rights transferred with the land "unless expressly reserved or the parties clearly intend[] that the conveyance not include the water right." *Id.* at 12-14, 156 P.3d at 513-515.

The evidence here establishes the Hoods' predecessors established pre-Taylor Grazing Act stockwater rights on the federal rangeland now known as the Horse Flat Allotment consistent with the Idaho Supreme Court's decision in *Joyce*. Hoods' predecessor, Charles Edwards, filed two applications for a grazing permit under the Taylor Grazing Act with the United States in 1935. The first was filed in July 1935. Joint Ex. 308. In that application, Edwards expressly stated he previously used the federal rangeland covered by that application for cattle grazing for the past 40 years (i.e., since 1895). *Id.* The federal rangeland covered by the July 1935 application included a portion of that rangeland now known as the Horse Flat Allotment. *Id.* The second application was filed in December 1935.[1] Joint Ex. 309. In that application, Edwards expressly stated he previously used the federal rangeland covered by that application for cattle grazing for the past 40 years (i.e, since 1895). *Id.* The federal rangeland covered by the December 1935 application included the entirety of that rangeland now known as the Horse Flat Allotment. *Id.* In addition, in a letter to the United States dated December 28, 1955 regarding a grazing permit, Edwards again states "This is for the Taylor land which we have used continuously for sixty years [i.e., since 1895] on exactly the same lands and have never missed a year of use. . . ." Joint Ex. 316.

The special master found the statements made by Edwards in the 1935 applications and 1955 letter to be reliable and credible evidence that Edwards grazed cattle on the federal rangeland now known as the Horse Flat Allotment prior to the enactment of the Taylor Grazing Act. This Court agrees. These statements establish that Edwards actually grazed cattle on the

[1] The December 1935 application was jointly submitted to the United States by Charles Edwards and his son Elmo Edwards. Joint Ex. 309.

Horse Flat Allotment and that he started doing so in 1895. Under *Joyce*, Edwards obtained pre-Taylor Grazing Act stockwater rights in the area now comprising the Horse Flat Allotment through these actions. *Joyce*, 144 Idaho 8, 156 P.3d at 509. There is no evidence that Edwards' livestock would not have had access to the various water sources located throughout the Horse Flat Allotment. It follows that Edwards established beneficial use stockwater rights on what is now known as the Horse Flat Allotment prior to the passage of the Taylor Grazing Act.

B. The pre-Taylor Grazing Act water rights established by the Hoods' predecessors were not lost following the enactment of the Taylor Grazing Act.

The Taylor Grazing Act was signed into law on June 28, 1934. 43 USC § 315, et seq. On October 5, 1936, the United States issued a Class 1 Grazing License to Hoods' predecessors under the Act. Joint Ex. 312. The 1936 Grazing License permitted the Hoods' predecessors to graze cattle on a portion of what is now known as the Horse Flat Allotment. *Id.* As time went on, the boundary of the permitted grazing area expanded. The first expansion occurred in 1942. In that year, the United States issued the Hoods' predecessors a Grazing Permit expanding the boundary of the permitted grazing area for the 1943 grazing season onward. Joint Ex. 307 at BLM_619-620. The next expansion occurred in 1975. On April 1, 1975, what is now referred to as the "Horse Flat Allotment" came into existence. Joint Ex. 317 at BLM_1823. On that date, the Hoods' Predecessors received a Grazing Authorization expanding the boundary of the permitted grazing area to include the entirety of the Horse Flat Allotment. Joint Ex. 317 at BLM_1932-1933. Since April 1, 1975, the Hoods and their predecessors have been authorized to graze the entirety of the Horse Flat Allotment.

The Hoods' water right claims are based on pre-Taylor Grazing Act beneficial use stockwater rights established by their predecessors. They have points of diversion and places of use within the Horse Flat Allotment. That said, the United States broadly separates the Hoods' claims into two categories.[2] The first category is comprised of those claims based on pre-Taylor Grazing Act stockwater rights located inside the grazing boundary authorized by the 1936 Grazing License. The Court will refer to this category of claims as the "inside rights." The

[2] The United States actually separates the Hoods' water right claims into five categories. *See* U.S. Opening Brief on Challenge, Exhibit B. However, for purposes of the Court's analysis in this section the Court will simplify the five categories into those water rights claims located within that area of the Horse Flat Allotment authorized for grazing in 1936, and those located outside of that area.

second category is comprised of those claims based on pre-Taylor Grazing Act stockwater rights located outside of the grazing boundary authorized by the 1936 License. The Court will refer to this category of claims as the "outside rights."

The United States asserts the outside rights were lost in 1936.[3] It argues the loss of the outside rights was a consequence of the inability of the Hoods' predecessors, beginning in 1936, to continue to access those portions of the Horse Flat Allotment located outside of the grazing boundary established by the 1936 License. It then contends the Hoods' predecessors acquired new post-Taylor Grazing Act stockwater rights when they subsequently regained grazing access to those portions of the Horse Flat Allotment via the 1942 and 1975 grazing area expansions.

The United States relies on this Court's decision in SRBA Subcases 55-10288B, et. al., *Memorandum Decision and Order on Challenge* (Jan. 3, 2005) to support its position. In that case, the Court examined the establishment of beneficial use stockwater rights on federal rangeland in light of grazing permits issued under the Taylor Grazing Act. In a footnote, the Court stated:

> New rights could not be established outside the boundaries authorized by a permit, since after the Taylor Grazing Act, new rights would require trespass in order to appropriate. The use of water rights alleged to have existed prior to the Taylor Grazing Act, but located outside the boundaries of a subsequently issued permit would not have been able to be maintained.

SRBA Subcases 55-10288B, et al, *Memorandum Decision and Order on Challenge*, p.27 fn.13 (Jan. 3, 2005). The first sentence of the footnote is inapplicable here as the outside rights are not "new rights," but rather pre-Taylor Grazing Act water rights.[4] It is the second sentence that the United States argues is pertinent. It argues the second sentence establishes a legal mechanism through which pre-Taylor Grazing Act rights are extinguished as a matter of law when located outside of the boundary of a subsequently issued grazing license under the Taylor Grazing Act. The Court disagrees.

An established water right can be lost as a result of non-use under Idaho law by way of two legal mechanisms: abandonment or forfeiture. *See e.g., Jenkins v. State, Dept. of Water Resources*, 103 Idaho 384, 387-388, 647 P.2d 1256, 1259-1260 (1982) (stating a water right that

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[3] The United States does not argue the "inside rights" were lost in 1936.

[4] As a general matter, prior to the passage of the Taylor Grazing Act there was an implied license to graze federal land. *Joyce*, 144 Idaho at 18, 156 P.3d at 519 (citing *Buford v. Houtz*, 133 U.S. 320 (1890)).

has been lost through abandonment or forfeiture "reverts to the state and is subject to further appropriation").[5] The footnote does not create an additional legal mechanism through which an established water right may be lost. In arguing that it does, the United States improperly reads the footnote in vacuum. Context is relevant.

The footnote informs a sentence summarizing an earlier analysis on the issue of whether a pre-Taylor Grazing Act stockwater right on federal rangeland transfers as an appurtenance to the base property. Earlier in the opinion, when the Court was addressing the issue in earnest, it provided:

> [A]ssuming that a [pre-Taylor Grazing Act] water right could be proven to historically exist, concluding that the water right could not transfer as an appurtenance to the patented or base property would result in *an immediate abandonment or forfeiture of the water right five years after the property was conveyed.* The successor-in-interest would then be appropriating a new water right when the same water source was used to water cattle.

SRBA Subcases 55-10288B, et al, *Memorandum Decision and Order on Challenge*, p.25 (Jan. 3, 2005) (emphasis added). The Court ultimately concluded that "[a]n instream stock water right appropriated on the public domain can transfer as an appurtenance to patented or base ranch property." *Id.* at p.22. In so doing, the Court rejected the notion that a pre-Taylor Grazing Act water right would potentially be lost to forfeiture or abandonment each time the base property was conveyed. *Id.*

The footnote must be read inside of this context of this analysis. When the Court refers in the footnote to whether a water right is "able to be maintained," it is referencing whether such a water right is, under the circumstances, able to be maintained in light of the legal mechanism of

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[5] In *Crow v. Carlson*, 107 Idaho 461, 467, 690 P.2d 916, 922 (1984), the Idaho Supreme Court distinguished between abandonment and forfeiture:

> Abandonment is a common law doctrine involving the occurrence of (1) an intent to abandon and (2) an actual relinquishment or surrender of the water right. Forfeiture, on the other hand, is predicated upon the statutory declaration that all rights to use water are lost where the appropriator fails to make beneficial use of the water for a continuous five- year period. I.C. § 42-222(2).
>
> . . .
>
> While under the doctrine of forfeiture mere non-use of water for a sufficient period of time may be sufficient to bring about a loss of water rights, abandonment is more difficult to prove than forfeiture, in that mere non-use does not result in abandonment. Rather, the party alleging abandonment must prove by clear and convincing evidence that the owner of the water right intended to abandon that right.

Id. at 467, 690 P.2d at 922.

statutory forfeiture under Idaho Code § 42-222. The footnote did not elaborate further as forfeiture (and its related defenses) were tangential to the issue before the Court and were briefly mentioned to provide context. The recognition or adoption of a new legal concept would have required significantly more discussion than a brief reference in a footnote. Therefore, the Court finds the outside rights were not lost via operation of the Court's memorandum decision in SRBA Subcases 55-10288B, et al. It further finds that the subject footnote did not create a new legal mechanism through which an established water right may be lost under Idaho law.

The argument that the outside rights were lost following the enactment of the Taylor Grazing Act is a statutory forfeiture argument under Idaho Code § 42-222. "The party asserting that a water right has been forfeited has the burden of proving the forfeiture by clear and convincing evidence." I.C. § 42-222. The United States has failed its burden with respect to the outside rights. The issue of statutory forfeiture and the accompanying defenses were not raised or argued by the United States at trial.[6] Forfeiture is disfavored under the law. *Sagewillow, Inc v. Idaho Dept. of Water Resources*, 138 Idaho 831, 836, 70 P.3d 669, 674 (2003). As such, Idaho recognizes the resumption-of-use-doctrine. *Id.* at 842, 70 P.3d at 680. Under that doctrine, "statutory forfeiture is not effective if, after the five-year period of nonuse, use of the water is resumed prior to the claim of right by a third party." *Id.* In this respect, forfeiture is not self-executing.

It is undisputed that no prior proceeding has been initiated to declare a forfeiture of any of the outside rights. The Court further finds the record contains no evidence of any intervening user in this case. That is, the record is devoid of any evidence that another cattle grazer was issued a grazing permit between 1936 and 1975 for any portion of that area of the Horse Flat Allotment located outside of the grazing boundary authorized in the 1936 Grazing License.[7] To the contrary, the record establishes that the Hoods' and their predecessors were, over time, permitted to graze the entirety of the Horse Flat Allotment via the 1942 and 1975 grazing area expansions. There is simply no evidence of any third-party claim in the interim. For these reasons, the Court finds the pre-Taylor Grazing Act water rights established by the Hoods' predecessors were not lost following the enactment of the Taylor Grazing Act.

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[6] The United States further made clear during oral argument that it was not asserting a forfeiture theory.

[7] At oral argument, counsel for the United States represented that the grazing history was unknown during this period of time.

C. Priority date.

The Hoods assert a priority date of October 15, 1900, for their claims. The United States objects to that date and asserts various priority dates for the claims ranging from June 28, 1931 to April 1, 1975.[8] The special master recommends the Hoods' claims be decreed with a priority date of April 1, 1911. The United States challenges that recommendation. The special master reached his recommendation based in part on the number of cattle owned by the Hoods' predecessors by the 1911 grazing season. That said, the special master recognized that the Hoods' predecessors had grazed cattle on what would become the Horse Flat Allotment well prior to that time.

This Court has not generally considered the variable size of a stock herd when issuing partial decrees for de minimis stockwater rights in the SRBA. In the SRBA, it came to be the practice of the Director to quantify de minimis stockwater claims in his Director's Reports to the Court in a certain, generally uniform, manner. He would recommend a specific rate of diversion under the quantity element, coupled with the remark "[t]he quantity of water under this right shall not exceed 13,000 gallons per day." In conjunction, he would recommend the following remark under the other provisions element: "[t]he quantity of water decreed for this water right is not a determination of historical beneficial use." It was likewise the practice of the Court to decree de mininis stockwater rights in this same manner.

This practice arose out of basin-wide issue 12 in the SRBA. In that subcase, the Court designated the following basin-wide issue: "What should be the form and content of decrees for state-law based claims to de minimis amounts of stockwater?" At controversy was how to properly quantify de minimis stockwater claims. Prior to basin-wide issue 12, it had been the practice of the Director to quantify such claims by recommending a rate of diversion coupled with a remark identifying the number of stock associated with the claim. The United States objected to the Director's use of the number of stock as a means of quantification. *Motion to Designate Basin-Wide Issue No. 12*, SRBA Subcase 00-91012, p.3 (February 14, 1996).

The quantification issue was ultimately resolved by agreement of the parties and IDWR. *Special Master's Second Amended Recommendation Re: Basin-Wide Issue 12*, SRBA Subcase

[8] See Exhibit B to the United States' Opening Brief on Challenge for the various priority dates the United States asserts for each of the Hoods' claims.

00-91012, p.7 (August 12, 1996); *Memorandum Decision and Order Re: Basin-Wide Issue 12*, SRBA Subcase 00-91012, p.2 (April 25, 1997). They agreed to omit any reference to number of stock associated with the claim:

> Originally, IDWR included number of stock as a remark to purpose of use. Subsequently, IDWR proposed to include number of stock as a remark under quantity. The number of stock, along with other variables, was used to arrive at a diversion rate which attempted to recognize the actual and historic use for a particular stockwater right. During the hearing on this matter, IDWR abandoned number of stock in favor of capping stockwater uses to 13,000 gallons per day for all livestock and wildlife uses regardless of actual historic use. Under this method of determining quantity, the parties and IDWR agreed that it is not necessary to include the number of stock as a remark to quantity or purpose of use. The court concurs with this agreement.

SRBA Subcase No. 00-91012, *Special Master's Second Amended Recommendation*, pp.6-7 (Aug. 12, 1996) (internal citations omitted).[9] The parties and IDWR concurred that the quantity element for de minimis claims involving diversions should be decreed with the following remark: "claimed rate not to exceed 13,000 gallons per day." *Id.* at 7. The Court instructed that the use of such a remark "represents the upper limit for every de minimis claim and may not reflect the actual or historical beneficial use for any claimant." *Id.* at 9.

Therefore, very early on in the SRBA proceeding, the Court did not consider or include the size of a stock herd on partial decrees issued for de minimis stockwater rights. Likewise, the size of a stock herd at any given time, which as a practical matter can be variable, is not used to determine the priority date of a de minimis stockwater right. Prior to the Taylor Grazing Act, the Idaho Supreme Court has directed that a cattle grazer obtains a water right on federal rangeland "simply by watering their livestock in the springs, creeks, and rivers on the range they use for forage." *Joyce*, 144 Idaho 8, 156 P.3d at 509. And, that such water rights are based on the cattle grazer's "application of the water to a beneficial use by grazing livestock where they would have access to the water sources at issue." *Id.* at 16, 156 P.3d at 517. As a result, when establishing the priority date of a de minimis stockwater right, the Court "need only look at the earliest date that a water right can be established that is associated with a particular parcel of homestead or

[9] That portion of the *Special Master's Second Amended Recommendation* discussed and at issue here was adopted in its entirety by the Court. SRBA Subcase No. 00-91012, *Memorandum Decision and Order Re: Basin-Wide Issue 12*, p.5 (April 25, 1997).

base ranch property." SRBA Subcases 55-10288B, et al, *Memorandum Decision and Order on Remand*, pp.4-5 (July 3, 2008).

The Hoods claim a priority date of October 15, 1900. The evidence in the record supports that priority. The two grazing permit applications filed by Edwards in 1935 collectively state he grazed cattle on the Horse Flat Allotment for the past 40 years (i.e., since 1895). Joint Ex. 308 & 309. Likewise, Edwards letter to the United States dated December 28, 1955 regarding a grazing permit states "This is for the Taylor land which we have used continuously for sixty years [i.e., since 1895] on exactly the same lands and have never missed a year of use. . . ." Joint Ex. 316. This evidence supports the claimed priority date of October 15, 1990. The Court therefore declines to adopt the special master's recommended priority date of April 1, 1911. Instead, the Court finds the Hoods' claims should be decreed with a priority date of October 15, 1900, given that the evidence establishes the Hoods' predecessors were grazing cattle on the federal rangeland now known as the Horse Flat Allotment at that time.

Notwithstanding the forgoing analysis, the United States asserts that a pre-Taylor Grazing Act priority date can only apply to a de minimis stockwater right where there is a concordance between the grazing area claimed in the application for a grazing permit and the grazing area approved in the resulting Class 1 Grazing License. This is not the law. The grazing area claimed in an application for a grazing permit and/or the grazing area approved in a Class 1 Grazing License are merely evidence of the historic beneficial use of water used for watering livestock. They are not legal requirements.

As set forth above, the Hoods' predecessors established stockwater rights on the federal rangeland now known as the Horse Flat Allotment prior to the enactment of the Taylor Grazing Act by grazing livestock on that Allotment where they would have access to the water sources at issue. Those water rights pre-date the Taylor Grazing Act. The enactment of the Taylor Grazing Act did not result in the loss of any of those water rights, as there has been no establishment by the United States of either forfeiture or abandonment. It follows that the priority date of those stockwater rights pre-date, by necessity, the Taylor Grazing Act as a matter of Idaho law. That the grazing area of an approved Class 1 Grazing License is not in concordance with the grazing area claimed certainly cannot act to injure a pre-existing water right by pushing its priority to a

post-Taylor Grazing Act date as argued by the United States.[10] *See e.g., Jenkins v. Idaho Dept. of Water Res.*, 103 Idaho 384, 388, 647 p.2d. 1256, 1260 (1982) (stating "[p]riority in time is an essential part of western water law and to diminish one's priority works an undeniable injury to that water right holder"). It follows the United States' argument in this respect is unavailing.

D. The Court declines to adopt the special master's conclusion of law number 9.5.

In the amended report and recommendation, the special master made the following conclusion of law:

> 9.5. Once a de minimis instream stockwater right comes into existence, the water right can be subsequently used to water more livestock than it was used for at the time of creation, so long as the quantity element and any associated gallon-per-day limitation are not exceeded, and no injury result to other hydraulically connected water rights.

Order Amending Special Master's Report, p.8 (April 24, 2025). The United States challenges this finding of law.

For the reasons stated in the preceding section, the following remark is placed on partial decrees issued for de minimis stockwater rights: "[t]he quantity of water decreed for this water right is not a determination of historical beneficial use." Such is the case here. Thus, the Court is not making a determination as to the extent of actual beneficial use here, only that it occurred within the statutory parameters set for de minimis stockwater rights in Idaho Code § 42-1401A(11).[11] Therefore, the Court declines to adopt conclusion of law 9.5 on the basis it is unnecessary to the resolution of these subcases.

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[10] There could be many reasons other than existing water rights as to why the grazing area of an approved Class 1 Grazing License is not in concordance with the grazing area claimed. As previously noted, the grazing history for these lands not covered by the 1936 Grazing License is not in the record.

[11] As stated herein, a determination of the actual historical beneficial use of a de mininis stockwater right is generally not made in the SRBA, although such a determination may later be necessary in the context of water right administration. For example, in the case of a transfer proceeding or a delivery call for priority administration in a dispute between stockwater right holders. That said, given the unique characteristics of stockwater rights, particularly on federal grazing allotments, such circumstances would be fairly uncommon.

Subcase Nos:

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CONCLUSION

Pursuant to Idaho Rule of Civil Procedure 53(e)(2) and *SRBA Administrative Order 1*, Section 13.f., this Court has reviewed findings of fact 1-83 as set forth in the report and recommendation, and as amended by the amended report and recommendation, finds that they are supported by the evidence, and wholly adopts them. With respect to the conclusions of law contained in the report and recommendation and amended report and recommendation, this Court adopts them in part and rejects them in part. For the reasons set forth in this decision, this Court rejects the conclusion of law that the Hoods' water right claims should be decreed with a priority date of April 1, 1911. Rather, the Court finds the Hoods' water right claims should be decreed with a priority date of October 15, 1990. The Court additionally rejects conclusion of law 9.5.

V.

ORDER

BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The conclusions of law recommended by the Special Master are adopted in part and rejected and modified in part as set forth in this decision.

2. The above-captioned water rights shall be decreed with the elements set forth in the attached partial decrees.

IT IS SO ORDERED.

DATED: August 7, 2025.

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MEMORANDUM DECISION AND ORDER was mailed on August 07, 2025, with sufficient first-class postage to the following:

KAREN M HOOD
KEITH & KAREN HOOD
KEITH R HOOD
Represented by:
NORMAN M SEMANKO
PARSONS BEHLE & LATIMER
800 W MAIN STREET STE 1300
BOISE, ID 83702
Phone: 208-562-4900

UNITED STATES OF AMERICA
Represented by:
U S DEPARTMENT OF JUSTICE
ENVIRO & NAT'L RESOURCES DIV
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Deputy Clerk