

Roda, Evan

From: Roda, Evan
Sent: Friday, November 14, 2025 9:46 AM
To: Dylan R. Hedden-Nicely
Subject: RE: Preliminary Recommendations for CFPRBA Claim Nos. 97-7541 & 97-7544
Attachments: Application-for-Permit.pdf; Application-for-Permit-Instructions.pdf

Good morning, Dylan,

The Idaho Department of Water Resources has reviewed the Notice of Error Reply for CFPRBA water right claim no. 97-7541. We are unable to make the requested revisions to your claim recommendation at this time for the following reasons.

Notice of Claim to a Water Right no. 97-7541 was filed for the use of water from Goose Creek for the irrigation of 71.5 acres with a claimed priority date of June 1, 1925. Through our review of the claim, associated evidence, and an on-site field examination, the claim was recommended as disallowed due to a lack of beneficial use. In your Notice of Error Reply, you requested that the claim be recommended as claimed, stating that the field has been flood irrigated since the claimed priority date. However, previous correspondence and submitted evidence did not include any descriptions of flood irrigation, no flood irrigation infrastructure or conveyance ditches were observed by IDWR staff during our field exam, and the property manager there informed IDWR staff that the land was never irrigated because it was already sufficiently saturated through natural processes.

The reports you submitted with your Notice of Error reflect a recent development on site, and a wetland restoration project at that location. These reports do not include any evidence reflecting historic flood irrigation on site, and actually include indications that the historic hay farming on that property was dependent on them removing water from the land to make it dry enough to be farmed. One example of this can be found in the Introduction of the Restoration of Goose Creek and Big Meadows Conceptual Design Plan which states: *Previous management of the parcels included channelizing and dredging portions of Goose Creek in an effort to drain the meadow and create better growing conditions for hay production.* The condition of the land claimed in 97-7541, and historic nature of its use, is further described on Page 12 of that report in the description of "Reach B" which states:

Reach B extends from the bridge crossing to a forested portion of the valley bottom. The entire length of Goose Creek in Reach B is channelized. The creek acts more like a drain and conveyance ditch through Reach B and has virtually no habitat complexity in the form of riffle/pool sequences. Aquatic habitat is available in the form of woody debris, as the channel is lined with large alders on both banks. The channel is moderately incised and drains adjacent hay pastures. Upland grasses and forbs grow down to the edge of the channel but provide little cover or habitat. Although the creek has been altered to maximize hay production in this portion of the valley, the stream banks have generally maintained lateral stability and riparian vegetation is vigorous along a thin band immediately adjacent to the creek. Overall habitat quality is relatively poor in Reach B due to simplified plan form, lack of a functional floodplain, and reduced riparian vegetation complexity.

This description of Reach B explains how the fields were drained for hay production, and also describes upland grasses and forbs growing down the edge of the stream channel, rather than riparian or wetland

vegetation. The overall extent of that report, as well as the Goose Creek Final Design report, reflect the Tribe's intentions to restore the land into a wetland as it had been historically drained to allow for hay production. The wetland restoration work at this location was extensive, and required a significant redesign of the Goose Creek channel. Each phase of the project was permitted by IDWR through stream channel alteration permit nos. S97-20040, S97-20044, and S97-20048. In all three Joint Applications for Permit, there was no stated intent to flood irrigate the land, and the proposed check dam structures were to allow for passage of discharge only at bankfull levels. Any intentionally constructed diversion points allowing water to flood into the fields when flows are below the ordinary high water mark would require a permit for that purpose.

According to the reports provided, the Kalispel Tribe purchased the subject property in 2007, and the first phase of the wetland restoration project was applied for on May 23, 2014. If the claimed property is being flood irrigated as a result of the wetland restoration project's work on site, then that use began after the Mandatory Permit Statute for surface water, and an Application for Permit should be submitted for that water use. For your convenience, I have attached an Application for Permit with instructions.

Please feel free to contact me if you have any further questions or concerns, and I will be happy to help.

Respectfully,

~ Evan



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From: Dylan R. Hedden-Nicely <dylan@hedden-nicely.com>
Sent: Tuesday, October 28, 2025 6:03 PM
To: Roda, Evan <Evan.Roda@idwr.idaho.gov>
Subject: RE: Preliminary Recommendations for CFRBA Claim Nos. 97-7541 & 97-7544

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Greetings Evan,

Please find attached a notice of error for water right claim no. 97-754. I understand that this notice is past due. However, it took us a little while to get the documents together that were necessary to file this notice. I respectfully ask that you consider this notice so we can continue working toward a resolution without resorting to filing an objection. We appreciate your time and willingness to review this matter, and we remain committed to resolving it cooperatively.

Thank you for your consideration, and please let me know if you need any additional information.