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DEPARTMENT OF
WATER RESOURCES

IDWR

Gusman Livestock-----Call For Water District

Comments-----Craig Brasher

3-1-2022

What proof can GL provide it did not receive water allotment?

What proof can GL provide stream flow was adequate to provide water?

What proof can GL provide users contacted didn't release water when contacted?

What proof can GL provide which users it contacted? Or dates?

Can GL measure the water available at delivery system?

Can GL delivery system function with limited water?

The cost of forming a water district, operating and maintenance will be very expensive. It seems forming a water district with little or no monitoring history is premature. Just wishing to have a water district in a drainage that has worked for years should not be good enough.

Craig Brasher

4401 Edison Rd

Marsing ID 83639

(208)896-4153



**BOULDER CREEK RANCH LLC
410 S. ORCHARD STREET SUITE #176
BOISE, ID 83705
5633 FLINT CREEK ROAD
OWYHEE COUNTY, ID
PHONE: (208) 344-1096 FAX: (208) 384-0710
kim@dancaf.com**

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MAR 07 2022
WATER RESOURCES
WESTERN REGION**

**TO: Director Spackman
Idaho Department of Water Resources
322 Front St. Ste. 648
Boise, ID. 83702-7371
Gary.spackman@idwr.idaho.gov**

Re: Proposed Jordan Creek Water District

Dear Director Spackman,

Boulder Creek Ranch is a water right permittee pursuant to IDWR water right No's 55-4028 and 55-4029. Priority dates are both 6/1/1884. This letter is additional comment to the public hearing held February 23, 2022 addressing the proposed creation of a State of Idaho, Jordan Creek Water District.

By way of clarification, Gusman Livestock attorney, Laura Schroeder asserted by letter dated January 4, 2022 that Gusman Livestock is the senior water user on Jordan Creek in the Jordan Valley with a date of 4/15/1872. In fact 06 Livestock is the most senior water right permittee on Jordan Creek with priority dates of 3/15/1871 and 4/15/1871 for a total of 536 acres downstream from Gusman Livestock.

At the meeting of February 23, 2022 there was no representative or comment regarding 06 Livestock water rights or injury thereto which would support the creation of a water district under Idaho Code Section 42-604. The requested district formation by Gusman Livestock, was in accordance with the provisions addressed by I.C. Section 42-602. Section 42-602 addresses only administration or distribution and "priority of appropriators" regulated by a water master. I.C. Section 42-701 et.seq. addresses issues of headgates and measuring devises presumably located at points of diversion.

Teo Masterjuan, the current Leasee of the Gusman Livestock property attended the meeting of Feb. 23, 2022 and submitted written comment and testimony into the record. That letter and testimony did

not request or suggest that any Section 42-701 requirements were necessary or required regarding the creation of a State of Idaho Jordan Creek Water District. In the final paragraph of the Masterjuan letter, the Gusman request is for the water district formation in conjunction with the provisions of Section 42-602 which addresses "water distribution to appropriators by a water master".

This letter request that the Director take into consideration the perameters of the request by Gusman and the limitation of that request. In addition this document sets forth factual administrative considerations under I.C. Section 42-604 that allows for the District to be split into two Districts as provided in said section if the distance exceeds 40 miles from extreme points of diversion. This District exceeds that 40 mile distance provisions. It also presents differing water administrative needs distinguished between the lower Pleasant Valley road, "Valley" water users and the higher Flint Creek and Backman Road mountainous "Mountain" users.

ADMINISTRATIVE CONSIDERATIONS and DIFFERNCES BETWEEN "Mountain" and "Valley" WATER USERS:

TOPOGRAPHY

1. Mountain water users generally entail multiple points of diversion on relatively small irrigated fields with slope and run off calculations utilizing a single crop of grass hay for the preponderance of these water users. In addition these users leave the same crop with its root system in tack for multiple years because of extremely erosive conditions in the flood plains of the fields until crop roots system can be established and matured. Also soil limitations, topography, access, uncontrollable water flows with seasonal extremes in creek and irrigation ditch flows, snow melts and storm levels make irrigation on the mountain problemtic at best. Each year ditches are washed out and breached usually in multiple locatons, creek dams are breached and washed away and material utilized to create the dams are lost downstream during seasonal fluctuations. Whether there is drought or abundant moisture these fluctuations in a mountainous environment always persist.

BUREAU OF LAND MANAGEMENT:

2. Points of diversion located on United States Department of Interior Lands. This will require Federal government approval prior to modification or installation of I. C. Section 42-701 construction and installation of diversion or measurement devices. That approval would most likely entail enviornmental impact statements, assements and studies prior to consideration or approval. Note: Enclosed are

copies of written responses from Jeremy Bluma, Supervisory Realty Specialist, BLM-District Office, regarding Boulder Creek Ranch and its four year failed effort, to confirm by written document easement rights crossing BLM land to guarantee continued utilization and access on the existing eighty year old roadway to the ranch residence, outbuildings and fields. The BLM written easement was never agreed to between the parties due the reversion provisions of the BLM standard lease agreement.

ELECTRICITY:

3. Lack of electricity to develop alternative watering methods from traditional flood irrigation for "Mountain" users. There is no electrical grid to hook into to establish different irrigation methods that are available on the valley floor. Historical flood irrigation over short grass fields with multi-generational root systems, ditches and flood corridors irrigate and recharge creek flows and underground aquifers. This extends the seasonal creek flow and enhances down stream recharge and late season flows. Valley water users have the latitude to develop alternative irrigations methods with automated pivot irrigation which off-grid irrigators do not enjoy. In addition "Mountain" users do not have field formations that lend to modern irrigation methods.

TEMPERATURE AND ELEVATION:

4. Multiple crop choices and cuttings for "mountain" water users are constrained due to increased altitude with elevations which produce lower temperatures, shorter growing seasons and earlier freezing conditions. The additional 500-700 feet of elevation shortens and eliminates some alternative farming and grazing methods that are present on the valley floor.

The topography of the Owyhee Mountain plateau combined with its distance from the 06 Livestock diversion point would require that two water districts be created to properly administer this resource.

In addition the complaining letter from Gusman stated that all water users that present the current creation dispute are in close proximity to each other on the valley floor. I.C. Section 42-604 gives the Director latitude to "create, revise the boundaries of, or abolish a water district and/or create two (2) or more districts to properly administer State of Idaho water.

If no other alternative is viable then (2) water districts should be created to satisfy the (40) mile distance provision and the separate

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**and distinguishable “Mountain vs. Valley”, administration/
application differences presented by this water drainage area.**

Dated this 17th day of March 2022

Boulder Creek Ranch LLC

Member Kim Kildew
Kim Kildew

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MAR 07 2022

DEPARTMENT OF
WATER RESOURCES

To Whom It May Concern,

My name is Bryce Kershner, representing Kershner Ranch LLC. Kershner Ranch LLC is the senior irrigation rights holder on Flint Creek, a tributary to Jordan Creek. I recently testified at the Public Hearing, held on February 23, 2022, regarding the Idaho Department of Water's decision to form a water district on Jordan Creek and all of its tributaries. My testimony was against the formation of a water district and I would like to further comment and solidify reasoning for this opinion.

The senior water rights holder who has put forth the request for a water district (Gusman Livestock and operator Teo Mastrejuan) have claimed that Junior water rights users have not complied with requests to send water to fulfill their allotment of water. However, in the past four years since the second public meeting (held in 2017) there appear to have been discrepancies in terms of the amount of water actually being used by Gusman Livestock and its current operator. Since 2017, Gusman livestock has planted over 40 acres of alfalfa as well as installed two center rotation pivots.

Since planting alfalfa stands and operation of pivots, the land with which the senior water right is attached, has never reflected the drought conditions which have plagued the county for the past 3 years. The past year in particular, many of neighbors and tributary irrigators have noticed multiple cuttings taken off the particular alfalfa stand as well as an elongated duration of operation on the 2 center pivots. Mr. Mastrejuan operated both center pivots from the first week of April until the first week of November of 2021, only turning off to hay the last two weeks of June. After the crop was harvested, the center pivot resumed irrigating until well past the late fall freeze. However, since the meeting of 2017, shortage of water during the entire irrigation season has not appeared to be a problem for Gusman Livestock. Also, Mr. Mastrejuan has told many of the water users in the area that he hasn't had to buy any hay since making said improvements. I wish all of the water users in the proposed water district could say the same.

In closing, I would strongly recommend measuring the water usage of the senior water rights users before placing the entire basin within a water district. The burden of proof needs to fall on Gusman Livestock to show, without a doubt, there is actually a shortage when it comes to their allotment of water. I believe this is simply a disagreement between water users based on a perceived shortage of water.

Bryce Kershner

Kershner Ranch LLC

March 7, 22

06 livestock
Dennis Stanford
Box 167
Jordan Valley OR 97910

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MAR 10 2022

DEPARTMENT OF
WATER RESOURCES

State of Idaho
Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

Comments to Proposed Creation
of the Jordan Creek Water District:

I am opposed to this
proposed action for the reasons:

Water in Jordan Creek is
completely dependent on snow pack
and annual rain fall, there is
no storage. 2021 was a very
dry year. Most of the upper
reaches of Jordan Creek didn't
run water after May. Therefore
no recharge to the system.

Creating a water district will not and can not produce more water only more expenses for both Idaho Department of Water and Gordon Creek water users.

Paying for a water master, at what cost?

Updating existing diversions or in some cases building new ones will be very costly.

Designing, building and maintaining water measuring structures will come at enormous cost. Hard to design because ditches have very little fall.

This proposed action will be very costly and time consuming for both the Department and water users in the Gordon Creek drainage.

The action will create no more water. I have lived on Gordon Creek 69 years this is what I see.

For these reasons I oppose this action.

Sincerely
Dennis S. Stanford

**FOREST FRETWELL
GUSMAN LIVESTOCK COMPANY, INC.**

27058 Pleasant Valley Road
Jordan Valley, OR 97910
(208) 583-2361

My name is Forest Fretwell and I am the representative of Gusman Livestock Company, Inc. My mailing address is 27058 Pleasant Valley Road, Jordan Valley, OR 97910. My grandfather homesteaded this property and I have lived on this property since I was 2 years old. I am now 82 years old. I hold water rights for irrigation from Jordan Creek for this property as follows:

Water Right Number	Priority	Rate	Acres
55-4045	4/15/1872	0.15 cfs	5
55-4046	4/15/1872	16 cfs	490
55-10064	3/31/1872	0.24 cfs	

These water rights are titled on the IDWR website in ownership to Gusman Livestock Co.

According to the limited research performed by Schroeder Law Offices, there are approximately 60 water users on Jordan Creek. In relative priorities, I am the second most senior water rights holder. The most senior water user is Dennis Stanford of 06 Livestock under water right 55-40218 with a 4/15/1871 priority date. Dennis Stanford's water right provides for a smaller diversion than mine. His point of diversion is located directly downstream from mine. Thus, if I have water so does Dennis Stanford. In terms of call, I believe that any call for water that I would make on Jordan Creek would require the following junior upstream users to turn off their respective diversions in priority: Dave Rutan, Tommy Gluch, and Robert Bruce. According to the limited research, Rutan, Gluch, and Bruce hold the following water rights:

Name	Water Right Number	Priority	Rate
Robert C. Bruce	55-2150	9/25/1963	.52 cfs
Robert C. Bruce	55-4018	11/06/1882	4.46 cfs
Robert C. Bruce	55-10082	01/01/1883	.02
Thomas Gluch	55-2065	11/02/1917	7.56
Thomas Gluch	55-4017	02/01/1882	3.96
Thomas Gluch	55-4023	05/19/1919	.02
Thomas Gluch	55-4060	04/15/1887	5.59
Thomas Gluch	55-4061	04/15/1884	1.17
Morgan Ranches LLC	55-4036	6/1/1884	5.6
Morgan Ranches, LLC	55-10269	6/1/1884	.02

As told to me by previous generations, my family has received delivery and used water under these water rights since 1872 as now confirmed by decree. As long as I can remember, we have been struggling to receive water delivery at our diversion as legally entitled from junior upstream users.

After the decree was issued in 2014, we had our confirmed priority dates and diversion rates to aid in enforcement, but even so, the upstream junior users would still not turn off water when called in favor of senior users. Dennis Stanford joined me in attempting to make calls on the junior users, but the calls were never successful.

As the Director knows, I asked the Idaho Department of Water Resources to become involved in 2017. As a result of that request, Director Spackman held a meeting on May 25, 2017, at which time Director Spackman explained the water allocation rules to all the Jordan Creek water users. He informed everyone that the highest priority water users were most entitled to water and that junior users had to shut off water to allow senior users to receive their legally entitled water in times of scarcity. He informed all the users that they needed to self-regulate if they wish to avoid a district and that it would only take one water user calling his office to start the district proceedings.

Since that meeting and pursuant to Director Spackman's request, I have attempted informal regulation. There was only one year, the year which immediately followed Director Spackman's meeting, in which self-regulation went smoothly. Ever since then, the junior water users are not honoring calls to regulate off on a senior call.

Each year when I was not receiving my entitled water diversion, I made calls to upstream junior users. In the past year (2021), our lessee, Teo Maestrejuan, has called the three junior users (Rutan, Gluch, and Bruce) to make Gusman Livestock's senior priority call. After the 2021 call, Gluch did not shut off water for 40 days and Bruce likewise did not shut off water for 20 days.

As a result of my unsuccessful attempts at informal regulation, I would ask IDWR to form a district with a water master to enforce senior priorities on Jordan Creek.

/s/ Forest Fretwell

Forest Fretwell
February 23, 2022

From: [Nicole Vetter](#)
To: [Spackman, Gary](#)
Subject: Gusman Livestock: Testimony re Jordan Creek Water District
Date: Monday, March 7, 2022 10:34:27 AM
Attachments: [image001.png](#)
[Fretwell Testimony for Feb 23 meeting \(P0564859xA1B60\).pdf](#)

Good morning Director Spackman,

We hope you had a good weekend. Please find attached Mr. Fretwell's testimony, which was presented at the public hearing on February 23, 2022, and previously sent to you via email on the same day. We did not receive confirmation that you received our previous email, and noting the deadline to submit written comments is today, we wanted to provide you with a second copy of the testimony.

We request that you please confirm that you have received a copy of Mr. Fretwell's testimony.

Thank you,

Nicole Vetter

Associate Attorney
Schroeder Law Offices, P.C.
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