

SEP 22 2026

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

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Deputy Clerk

Claim Nos. 37-23477, 37-23478, 37-23479, 37-23480, 37-23481, 37-23482, 37-23484, 37-23485, 37-23486, 37-23487, 37-23488, 37-23489, 37-23490, 37-23491, 37-23492, 37-23493, 37-23494, 37-23495, 37-23496, 37-23497, 37-23498, 37-23499, 37-23500, 37-23501, 61-12396, 61-12398, 61-12400, 61-12401, and 61-12490

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
Scott Luvaas, Manager, Adjudication Section

September 4, 2026

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 a Water Right, was submitted to the Court by Claimant Casa Del Norte, LP (CDN) on January 28, 2025, for water rights claim nos. 37-23477, 37-23478, 37-23479, 37-23480, 37-23481, 37-23482, 37-23484, 37-23485, 37-23486, 37-23487, 37-23488, 37-23489, 37-23490, 37-23491, 37-23492, 37-23493, 37-23494, 37-23495, 37-23496, 37-23497, 37-23498, 37-23499, 37-23500, 37-23501, 61-12396, 61-12398, 61-12400, 61-12401, and 61-12490.

The Director published notice of the Motions and has now completed his examination of water right claims 37-23477, 37-23478, 37-23479, 37-23480, 37-23481, 37-23482, 37-23484, 37-23485, 37-23486, 37-23487, 37-23488, 37-23489, 37-23490, 37-23491, 37-23492, 37-23493, 37-23494, 37-23495, 37-23496, 37-23497, 37-23498, 37-23499, 37-23500, 37-23501, 61-12396, 61-12398, 61-12400, 61-12401, and 61-12490 (Claims 37-23477, et al.).

The examination was conducted by Bob Howe, Principal Water Rights Agent, Adjudication Section. The materials used in and results of the examination of the elements of water right claims are discussed below.

DISCUSSION

Under Idaho Code § 42-1411(5), "Each claimant of a water right acquired under state law has the ultimate burden of persuasion for each element of a water right."

Claims 37-23477, et al. are located on endowment lands owned by the State of Idaho, by

and through the State Board of Land Commissioners and the Idaho Department of Lands (IDL). Claimant provided copies of grazing leases, land patents, warranty deeds, and agreements between parties which include legal descriptions for deeded lands and grazing leases for Claims 37-23477, et al. as evidence of beneficial use.

Relevant Grazing Lease Rules and Provisions

Any person determined legally competent to contract is an eligible applicant for grazing leases issued by IDL on behalf of the State of Idaho, however, IDL may, at its discretion, exclude any person in breach of any contract with the state of Idaho or any department or agency thereof (IDAPA 20.03.14.01).

Unlike federal grazing leases there is no base property element of applications for State leased lands. The lessee is required to provide a legal description of the endowment land sought to be leased and a Proposed Management Plan (IDAPA 20.03.14.020.02.a.iv. & vi.). The leased area is dictated by availability and the legal description of the specific lands requested in the person's application. In general, for eligible applicants, complete and nonconflicted applications (leases with no competing applications) leases are issued if there are no concerns with the current lessee's management of the leased lands, or the new lessee's proposed management plan. However, conflicted applications are required to meet further criteria including proof of legal access to the requested endowment lands. There is no presumption that the current lessee has previously or will in the future continuously hold a lease for the same lands.

Grazing Lease No. G700105 Lease Provisions, Section 8 describes the terms and conditions related to water rights and water use agreed to by the lessee signatory (the claimant). Subsection 8.A. states that the lessee shall identify any right held for use on, or diversion from, the leased premises. Subsection 8.A. further states that the lessee shall identify any water rights

they own for use on, or diversion from, the leased premises that are not on record with IDWR and any relevant water right adjudication court (for example, unclaimed de minimis stockwater rights), and that any unclaimed rights be filed within six (6) months of the execution of Grazing Lease No. G700105 or any lease adjustment. No water rights existing or unclaimed, were identified by the lessee in Grazing Lease No. G700105, executed October 24, 2011.

Additionally, subsection 8.B. states that any future water rights are appurtenant to the land and held by the lessor. Finally, subsection 8.E. states that upon termination of the lease, the lessee shall have no right to access any point of diversion or any place of use of any water right on the leased premises without prior written consent of the lessor.

Priority Date

1. General overview of priority date considerations for stockwater claims on state land

Idaho Law recognizes in-stream stock water as a beneficial use. Idaho Code § 42-113. “‘Stock watering use’ means the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day.” Idaho Code § 42-1401A(11). “[I]n-stream watering of livestock” means the drinking of water by livestock directly from a natural stream, without the use of any constructed physical diversion works.” Idaho Code § 42-113(1). The Idaho Supreme Court in *Joyce Livestock Co. v. United States of America*, 144 Idaho 1 (2007) made clear ranchers could establish beneficial use instream water rights on federal land for watering their livestock if the ranchers held a valid grazing permit for grazing livestock on the federal land. The Court also determined that these instream water rights so acquired by ranchers were appurtenant to the ranchers’ patented or base property. *Joyce Livestock*, 144 Idaho at 12. However, *Joyce* and its legal progeny did not address the establishment of instream water rights by private claimants on public lands owned by the State of Idaho.

Effective July 1, 2021, the Idaho Legislature passed House Bill No. 186 which modified Section 42-1411, Idaho Code, to instruct the Director of IDWR to accept the date of the first grazing permit issued on the federal grazing allotment to establish the date of priority and that there shall be a rebuttable presumption that the claimant's base property relates back to the base property when the first grazing permit was issued on the federal grazing land or when water was first applied to beneficial use on the federal land. The statutory amendments did not provide a similar procedure for claimants seeking to establish a date of priority for water rights claimed on endowment lands owned by the State of Idaho.

Therefore, for beneficial use instream stockwater claims on lands owned by the State of Idaho, IDWR will review these claims pursuant to the processes used for any state-based beneficial use claim; namely through the claimant's production of evidence establishing the claimed priority date, as well as IDWR's own investigation.

2. Casa Del Norte, LP's claimed priority date

The claimed priority dates for CDN's Basin 37 claims are: June 1, 1883.

The claimed priority dates for CDN's Basin 61 claims are: September 18, 1880.

On February 4, 2025, Bill Baker (rep. CDN) submitted Grazing Lease No. G700105 showing an effective date of January 1, 2012, for grazing on Idaho State Lands in Elmore County, Idaho. Basin 61 claims all have places of use within Township 2 South, Range 10 East and the Basin 37 claims are all within Township 2 South, Range 11 East; all claims are within the leased premises described in Grazing Lease No. G7001057. Although many of the claims directly overlap State of Idaho held water rights, these claims are for unique beneficial uses predating the ownership of the lands by the State of Idaho. The connection between the senior ownership documents received and the claimed onset of beneficial use for the claimed places of use is not apparent based on the evidence received from the claimant. On March 1, 2026, in

email correspondence from Ramona Morrison (rep. CDN), the claimant stated that CDN has continuously held Idaho state grazing leases “appurtenant to several of the CDN home ranches or base properties”, which were conveyed in deeds, mortgage records, and other related agreements included in a 444-page report submitted.

Evidence of priority received for claim nos. 37-23477, 37-23478, 37-23479, 37-23480, 37-23481, 37-23482, 37-23484, 37-23486, 37-23487, 37-23489, 37-23490, 37-23491, 37-23492, 37-23493, 37-23494, 37-23495, & 37-23496 describes the POUs claimed in the claimant’s current Grazing Lease No. G700105 for a term from January 1, 2012, to December 31, 2031, and State Land Lease 327 for a term from February 16, 1918 to December 31, 1922.

Evidence of priority received for claim nos. 37-23485, 37-23488, 37-23497, 37-23498, 37-23499, 37-23500, and 37-23501 describes the POUs claimed in the claimant’s current Grazing Lease No. G700105 for a term from January 1, 2012, to December 31, 2031, and in State Land Lease 3747 for a term from February 25, 1922, to December 31, 1926.

Evidence of priority received for claim nos. 61-12396, 61-12400, 61-12401, and 61-12490 describes the POUs claimed in the claimant’s current Grazing Lease No. G700105 for a term from January 1, 2012, to December 31, 2031, and in a private agreement for grazing leases and deeded lands dated February 20, 1976, which states the grazing leases and deeded lands described therein had been in possession since May 10, 1973.

Evidence of priority received for claim no. 61-12398 only describes a small area of the claimed POU, within the SESW of Section 27 (approx. 120ft of the 1.4-mile reach) in the evidence of priority predating the current Grazing Lease No. G700105, which describes the entire claimed POU for a term from January 1, 2012, to December 31, 2031.

Point of Diversion

All claimed instream diversion of the water for Claims 37-23477, et al. occurs within the leased premises described in IDL Grazing Lease No. G700105.

Source

All claimed streamflow and spring sources of water for Claims 37-23477, et al. are within the leased premises described in IDL Grazing Lease No. G700105.

Place of Use

All claimed beneficial use of the water for Claims 37-23477, et al. occurs within the leased premises described in IDL Grazing Lease No. G700105. The claimed place of use for Claims 37-23477, et al. uses the public land survey to describe the place of use and includes each quarter-quarter or government lot between the beginning and ending points that the source passes through. The places of use for Claims 37-23477, et al. were verified using USGS Quadrangle maps. The IDWR Adjudication Rules address a claimant's authority to assert a claim by requiring that the claimant must "Indicate whether the claimant is the owner of the place of use. If [the claimant is] not the owner of the place of use, describe the authority to assert the claim." (IDAPA 37.03.01.60.03.1.) Claimant asserts that the grazing lease provides the authority to assert the claim.

Purpose of Use and Period of Use

The claimed beneficial use for Claims 37-23477, et al. is instream stockwater with a year-round season of use. IDWR generally recommends a year-round season of use if year-round use is claimed.

Quantity

Claims 37-23477, et al. claim diversion rates of 0.02 cfs. IDWR generally recommends 0.02cfs if claimed for instream stockwater use.

CONCLUSION

The claimant is the Lessee in a grazing lease for legal access to lands owned by the State of Idaho. In lease provision 8.A. the Lessee reported holding no water rights, on record or unclaimed, for use on, or diversion from the leased premises. IDWR does not investigate whether a claimant has right of way or other access to the property at the time of the appropriation. IDWR investigates water rights existing prior to the 1987 commencement of the SRBA as part of its role as an independent expert and technical assistant to the Idaho Water Adjudications Court. Where a claimant has an otherwise valid water right, the user must have valid right-of-way to access the water right. Claimant asserts beneficial use for instream stock watering on lands owned by the State of Idaho, with access granted through Grazing Lease No. G700105.

All claims of Claims 37-23477, et al., submitted by CDN for watering livestock within the leased premises of Grazing Lease No. G700105, are recommended as claimed, except for the date of priority.

The priority date recommended for claim nos. 37-23477, 37-23478, 37-23479, 37-23480, 37-23481, 37-23482, 37-23484, 37-23486, 37-23487, 37-23489, 37-23490, 37-23491, 37-23492, 37-23493, 37-23494, 37-23495, & 37-23496 is February 16, 1918, based on the lease commencement date of their earliest executed state grazing lease.

The priority date recommended for claim nos. 37-23485, 37-23488, 37-23497, 37-23498, 37-23499, 37-23500, and 37-23501 is February 25, 1922, based on the lease commencement date of their earliest executed state grazing lease.

The priority date recommended for claim nos. 61-12396, 61-12400, 61-12401, and 61-12490 is May 10, 1973, based on the earliest date of possession for state grazing leases and

deeded lands cited on a private agreement received from the Claimant.

The priority date recommended for claim no. 61-12398 is January 1, 2012, based on commencement date of the current state grazing lease, which describes the entire claimed POU.

Pursuant to Judge Wildman's *Order Amending Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*, dated October 17, 2017, the Director submits this Director's Report of Deferred *De Minimis* Domestic or Stock Water Uses for claims of Claims 37-23477, et al., which includes the recommendation of the deferred *de minimis* water right numbers listed above.

Respectfully submitted this 8th day of September 2026.



SCOTT LIVAAS
Manager, Adjudication Section

CERTIFICATE OF SERVICE

I certify that on SEPTEMBER 16, 2026, 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
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☐ E-mail
☐ FAX

2. Copies to:

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

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United States Department of Justice
Environment & Natural Resources Division
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

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Elmore County Courthouse
150 S. 4th E St #3
Mountain Home, ID 83647

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Garrett M. Kitamura
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