

RECEIVED

NOV - 4 2008

Department of Water Resources
Adjudication Bureau

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
NOV - 3 2008
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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
_____	)	FOR WATER RIGHT 63-21602

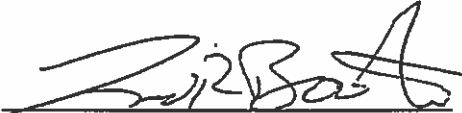
A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On June 18, 2007, the Wilder Irrigation District, through its attorney Albert P. Barker, filed an objection to the *Director's Report*, asserting that the source of the water right should be described as wastewater. On October 20, 2008, the parties filed a *Standard Form 5 - Stipulated Elements of a Water Right* which resolved the objection. The Idaho Department of Water Resources concurred with the stipulation.

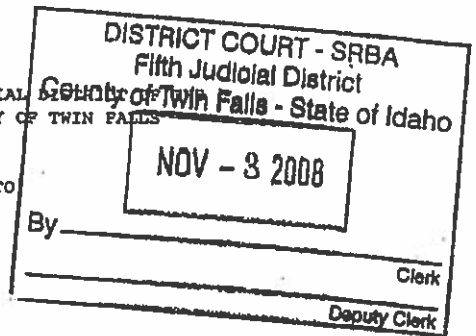
II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 63-21602 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Nov. 3, 2008


Theodore R. Booth
Special Master
Snake River Basin Adjudication

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



In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-21602

NAME AND ADDRESS: BRENDA PEARSON
PAUL D PEARSON
PO BOX 1161
HOMEDALE, ID 83628

SOURCE: HELLYER DRAIN TRIBUTARY: SNAKE RIVER

An easement or right of way agreement providing for access to the drain by its owner and those responsible for maintaining it, and/or for access to the drain by the appropriator to divert water pursuant to this right, must be executed among the appropriator, the owner of the drain, and, if appropriate, those responsible for maintaining the drain. Failure to execute such an agreement will constitute grounds for legal action to prevent water from being diverted under this right.

The source of this water right is waste water. The wasting of water may be discontinued at any time.

QUANTITY: 0.06 CFS

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION: T03N R05W S11 LOT 1 (NWNWSW) Within Canyon County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.06 CFS

PLACE OF USE: Irrigation Within Canyon County
T03N R05W S11 LOT 1 (NWSW) 4.0
4.0 Acres Total

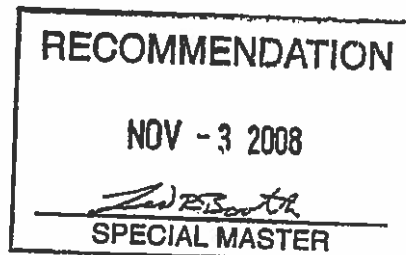
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

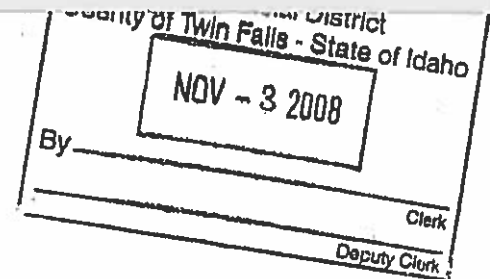
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication





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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

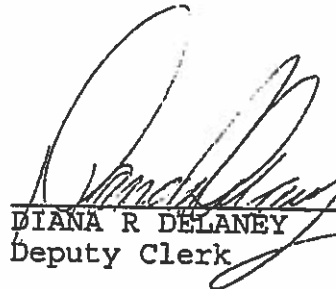
Water Right(s): 63-21602

On November 03, 2008, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), Section 13a.

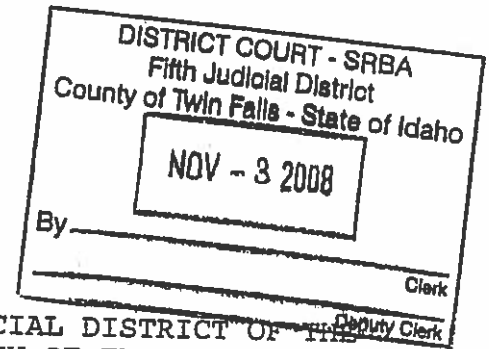
Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED November 03, 2008.



DIANA R DELANEY
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)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 63-21602

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 03, 2008, with sufficient first-class postage prepaid to the following:

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

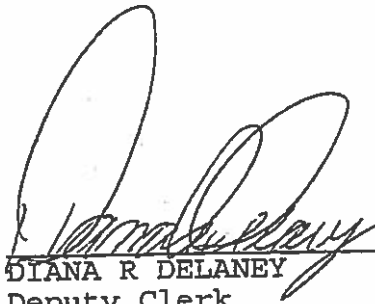
WILDER IRRIGATION DISTRICT
Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

CERTIFICATE OF MAILING

PAGE 1
11/03/08

BRENDA PEARSON
PAUL D PEARSON
PO BOX 1161
HOMEDALE, ID 83628
Phone: 208-337-4456



DIANA R DELANEY
Deputy Clerk

SF5 Right No. 63-21602

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

RIGHT NUMBER: 63-21602

NAME AND ADDRESS: PAUL D PEARSON
PO BOX 1161
HOMEDALE ID 83628

BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628

SOURCE: HELLYER DRAIN

TRIBUTARY: SNAKE RIVER

The source of this water right is waste water. The wasting of water may be discontinued at any time.

QUANTITY: 0.060 CFS

This right when combined with all other rights shall not exceed 0.02 cfs per acre at the field headgate

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION:

T03N R05W S11 NWNWSW Lot 1 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.060 CFS

PLACE OF USE: IRRIGATION in CANYON County

T03N R05W S11 Lot 1 NWSW 4.00

4 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

An easement or right of way agreement providing for access to the drain by its owner and those responsible for maintaining it - and/or for access to the drain by the appropriator to divert water pursuant to this right - must be executed among the appropriator, the owner of the drain, and, if appropriate, those responsible for maintaining the drain. Failure to execute such an agreement will constitute grounds for legal action to prevent water from being diverted under this 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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Wilder Irrigation District.

08/27/2008

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-21602

NAME AND ADDRESS: PAUL D PEARSON
PO BOX 1161
HOMEDALE ID 83628

BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628

SOURCE: HELLYER DRAIN

TRIBUTARY: SNAKE RIVER

The source of this water right is waste water. The wasting of water may be discontinued at any time.

QUANTITY: 0.060 CFS

PRIORITY DATE: 03/01/1964

POINT OF DIVERSION:

T03N R05W S11 NWNWSW Lot 1 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.060 CFS

PLACE OF USE: IRRIGATION in CANYON County

T03N R05W S11 Lot 1 NWSW 4.00

4 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

An easement or right of way agreement providing for access to the drain by its owner and those responsible for maintaining it - and/or for access to the drain by the appropriator to divert water pursuant to this right - must be executed among the appropriator, the owner of the drain, and, if appropriate, those responsible for maintaining the drain. Failure to execute such an agreement will constitute grounds for legal action to prevent water from being diverted under this 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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Wilder Irrigation District.

This right when combined with all other rights shall not exceed 0.02 cfs per acre.

2008 AUG 04 AM 11:52
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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	)	NOTICE SETTING STATUS
	)	CONFERENCE
Case No. 39576	)	
_____	)	SUBCASE NO: 63-21602

Please be advised that Special Master THEODORE R. BOOTH
has set a Status Conference in the above subcase(s)
as follows:

TUESDAY, AUGUST 12, 2008 at 04:00 PM (MT)

SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number
225-383-1099 and when prompted entering the code 675342.

Dated: AUGUST 04, 2008

/S/ DIANA R DELANEY
Deputy Clerk
Snake River Basin Adjudication

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

Page 1 8/04/08

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING STATUS CONFERENCE was mailed on AUGUST 04, 2008, with sufficient first-class postage to the following:

WILDER IRRIGATION DISTRICT

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

BRENDA PEARSON
PAUL & BRENDA PEARSON
PAUL D PEARSON
PO BOX 1161
HOMEDALE, ID 83628
Phone: 208-337-4456

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



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

July 23, 2008

Albert P. Barker, Esq.
BARKER, ROSHOLT & SIMPSON, LLP.
P.O. Box 2139
Boise, Idaho 83701-2139

Re: 63-5112, 63-5114, 63-5221, 63-19875, 63-21602,
63-21924, 63-32166 & 63-32348

Dear Al:

Something that I thought had been resolved several months ago with regard to the SF-5s you guys are preparing to resolve wastewater objections in Basin 63 Part 3 has come to my attention again. We are holding the listed above SF-5s because each of them contains the following remark, which you are using to settle objections involving access to the drain:

Water shall not be diverted under this permit until an easement or right of way with the owner of the drain providing for access to the drain is filed with the Department.

Earlier I had alerted you to the fact that the use of the word "permit" caused confusion because the remark was being applied to rights that were not in the permit stage, and that ultimately would be decreed rights. I had suggested that the term "water right" be substituted for "permit". IDWR changed several SF-5s to use that term. Additionally it looks like several SF-5s with that remark have slipped through and made it unchanged to the Court.

On reflection the use of the remark causes additional problems that I had not initially recognized. First, it imposes upon IDWR the burden of keeping a repository of access agreements. That can be a problem because IDWR doesn't really have a place to file them. Since the agreements will be legally significant contracts I would think the irrigation districts themselves would want to keep them in their own records so they would have easy access to them.

Additionally, my understanding is that the same remark is being used to resolve two different situations, but does not make this clear. In some cases the irrigation district wants an agreement authorizing the appropriator to access the drain to divert the water; in other cases the irrigation district wants what Paul Arrington is calling a "crossing" agreement, whereby the appropriator grants to the irrigation district a right of way to cross the appropriator's property in order to get to the drain to maintain it. This is not in itself a problem, but I think it would help if the situation were clarified, since even we at IDWR did not initially understand the remark was doing double duty.

However, the remark creates a much more significant problem: it can be construed as placing upon the watermaster, and therefore by extension, IDWR the responsibility for policing the situation with regard to these agreements and shutting off the water of appropriators who have not entered into them. I do not think IDWR has legal authority to do this. Moreover, I would think that the irrigation districts would not want the watermaster or IDWR to be the arbiter of the meaning of private easement and right of way agreements. That is a responsibility for the courts.

For these reasons IDWR will not be able to sign off on any more SF-5s containing that remark. But in order to help keep the pace of settlement of this type of objection moving along, I have tried very hard to come up with a substitute remark that I believe more accurately describes what you are trying to accomplish in this type of situation. The remark is as follows:

An easement or right of way agreement providing for access to the drain by its owner and those responsible for maintaining it—and/or for access to the drain by the appropriator to divert water pursuant to this right—must be executed among the appropriator, the owner of the drain, and, if appropriate, those responsible for maintaining the drain. Failure to execute such an agreement will constitute grounds for legal action to prevent water from being diverted under this right.

Please ponder this and let me know what you think. I have tried to make it cover both of the situations you are dealing with, and to apply irrespective of whether the drain is owned by the Bureau of Reclamation or the irrigation district itself. I am not wedded to the language and would welcome any suggestions for improvements.

Assuming we can soon reach agreement on a substitute remark, IDWR will prepare substitute SF-5s for the group enumerated above and get them into circulation for re-signing. Also, in the future IDWR will gladly undertake the responsibility for preparing any additional SF-5s you wish to send out to claimants.

Thank you for your consideration. I look forward to hearing from you.

Best wishes,

A handwritten signature in black ink, appearing to read "Nick Spencer", with a long horizontal flourish extending to the right.

NICHOLAS B. SPENCER
Deputy Attorney General

Cc: David Gehlert
Gail McGarry

RECEIVED

MAY 26 2008

DEPARTMENT OF
WATER RESOURCES

2008 MAY 23 PM 12:55
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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	)	ORDER SETTING SUBCASE(S)
	)	FOR INITIAL HEARING
Case No. 39576	)	
	)	SUBCASE NO: 63-21602

The Initial Hearing for this subcase will be held before
Special Master THEODORE R. BOOTH

THURSDAY, JUNE 19, 2008 at 02:45 PM (MT)
IDAHO SUPREME COURT BUILDING
451 WEST STATE STREET
BOISE, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
JUNE 16, 2008 or hearing will not be vacated.

IT IS SO ORDERED.

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

Page 1 5/22/08

(continued)

Dated: MAY 23, 2008

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING
SUBCASE(S) FOR INITIAL HEARING was mailed on MAY 23, 2008,
with sufficient first-class postage to the following:

WILDER IRRIGATION DISTRICT

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

BRENDA PEARSON
PAUL & BRENDA PEARSON
PAUL D PEARSON
PO BOX 1161
HOMEDALE, ID 83628
Phone: 208-337-4456

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

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

RECEIVED

JUL 16 2007

DEPARTMENT OF
WATER RESOURCES

InReSRBA

)

A. Subcase 63-21602

Case No. 39576

)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Paul & Brenda Pearson

Address: PO Box 1161 Homedale, ID, 83628

Daytime Phone: (208) 337-4456

Name & Address of Attorney, if any:

C. NAME AND ADDRESS OF PERSON WHO FILED THE
OBJECTION TO

WHICH YOU ARE RESPONDING

Name: Wilder Irrigation District

Address: 709 Cleveland Blvd. Caldwell, ID 83605

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☒ Source: Natural spring waters on Pearson property draining into Hellyer Drain
3. ☐ Quantity
4. ☐ Priority Date
5. ☐ Point (s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☐ Place of Use
11. Recommendation
 - ☐ This water right should not exist.
 - ☒ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Canyon)

Paul and Brenda Pearson, duly sworn, upon oath, deposes and says:
(Name of person filing response)

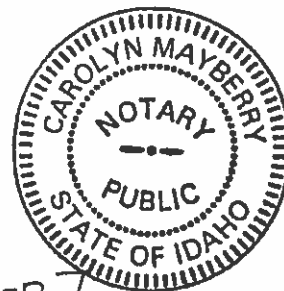
That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

Paul Pearson & Brenda Pearson

(Signature of person filing response)

Subscribed and sworn to before me on: JUL 13 2007

Notary Public for Idaho
Residing at: Nampa
My Commission Expires: 8-10-07



Carolyn Mayberry

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING
I certify that on JUL 13 2007, 2007, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court Snake River
Basin Adjudication 253 Third Avenue
North PO Box 2707 Twin Falls, ID
83303-2707

2. One copy to the party who filed the objection at the following address:

Name: Wilder Irrigation District

Address: 709 Cleveland Blvd.

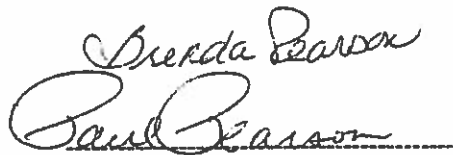
Caldwell, ID. 83605

3. Copies to:

IDWR Document Depository, PO Box 83720 Boise, ID 83720-0098

United States Department of Justice, Environment & Natural Resource Division, 550 West Fort
Street, MSC 033 Boise, ID 883724

Chief, Natural Resources Division Office of the Attorney General State of Idaho PO Box 44449 Boise, ID
83711-4449



Signature of Objector or Attorney
Mailing on Objector's behalf

12/04/1964

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

RIGHT NUMBER: 62 22603
NAME AND ADDRESS: PAUL D PEARSON
PO BOX 1161
HOMEDALE ID 83628

BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628

SOURCE: HELLIER DRAIN TRIBUTARY: SNAKE RIVER
QUANTITY: 0.040 CPS
PRIORITY DATE: 03/01/1964
POINT OF DIVERSION: TEN ACRES S1/4 NW1/4 Lot 1 Within CANYON County
PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01/1964	0.040 CPS

NATURE OF USE: IRRIGATION IN AGRICULTURE
TEN ACRES S1/4 NW1/4 Lot 1 NW1/4 4.00
4 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT

This right remains subject to the right of the principal applicant, or good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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. Section 41-1104(a), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Wilder Irrigation District.

This right when combined with all other rights shall not exceed 0.40 cfs per acre.

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) A. Subcase 63-21602
(Insert water right number)
)
Case No. 39576) STANDARD FORM 1
) OBJECTION
_____)

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Wilder Irrigation District
Address: 709 Cleveland Blvd
Caldwell, ID 83605
Daytime Phone: 208-459-3421

Name & Address of Attorney, if any:

Albert P. Barker
Barker Rosholt & Simpson, LLP
1010 W. Jefferson, Ste. 102, Boise ID 83702

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Paul and Brenda Pearson
Address: P.O. Box 1161
Homedale, ID 83628

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: The source should be described as waste waters. and waste waters belong to the Wilder Irrigation District.
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
☒ This water right Should not exist.
☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): There has been no lawful appropriation of this right. The description of the source should have been waste water. The waste waters belong to the Wilder Irrigation District and are not available for private development and appropriation. Further, any attempted development of this right constitutes a trespass against the drains of the Wilder Irrigation District. Proposed wastewater remark does not sufficiently protect original appropriator.

F. VERIFICATION (must be completed)

State of Idaho)
County of Ada)ss.

Albert P. Barker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

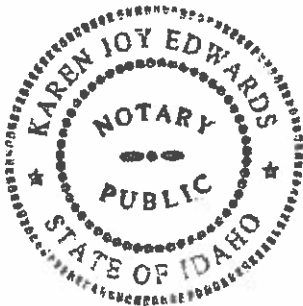
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

Albert P. Barker

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 6/18/07



Notary Public for Idaho
Residing at: Bonne, Idaho
My Commission Expires: 8/2/2012

Karen Joy Edwards

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on JUN 18 2007, 200 , I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Paul and Brenda Pearson
Address: P.O. Box 1161
Homedale, ID 83628

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

12/10/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-21602
NAME AND ADDRESS: PAUL D PEARSON
PO BOX 1161
HOMEDALE ID 83628

BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628

RECEIVED
DEC 12 2006
DEPARTMENT
WATER RESOURCES

SOURCE: HELLYER DRAIN TRIBUTARY: SNAKE RIVER
QUANTITY: 0.060 CFS
PRIORITY DATE: 03/01/1964

POINT OF
DIVERSION: T03N R05W S11 NWNWSW Lot 1 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.060 CFS

PLACE OF USE: IRRIGATION in CANYON County
T03N R05W S11 Lot 1 NWSW 4.00

4 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Wilder Irrigation District.

This right when combined with all other rights shall not exceed 0.02 cfs per acre.

09/29/2006

NOTICE OF ERROR
REPLY

RECEIVED

NOV 03 2006

DEPARTMENT OF
WATER RESOURCES

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: October 31, 2006

Water right number: 63-21602

PAUL D PEARSON
PO BOX 1161
HOMEDALE ID 83628
Telephone Number: (208)337-4456

BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628
Telephone Number: (208)337-4456

RECEIVED

NOV 01 2006

WATER RESOURCES
WESTERN REGION

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: Oct. 24, 2006 SIGNATURE: Paul D Pearson

Please print your name: Paul D. Pearson

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

Vpw

08/04/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-21602
NAME AND ADDRESS: PAUL D PEARSON
PO BOX 1161
HOMEDALE ID 83628

BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628

SOURCE: HELLYER DRAIN TRIBUTARY: SNAKE RIVER
QUANTITY: 0.060 CFS
PRIORITY DATE: 03/01/1964
POINT OF DIVERSION:

T03N R05W S11 NWNWSW Lot 1 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.060 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T03N R05W S11 Lot 1 NWSW 4.00

4 ACRES TOTAL

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Use of this right is combined with water from Wilder Irrigation District.

This right when combined with all other rights shall not exceed 0.02 cfs per acre.



Idaho Department of Water Resources

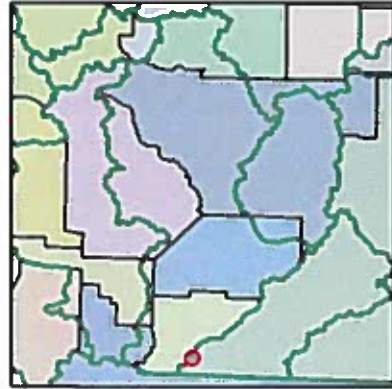
SRBA Recommendation:

63-21602

Acres = 4

Legend

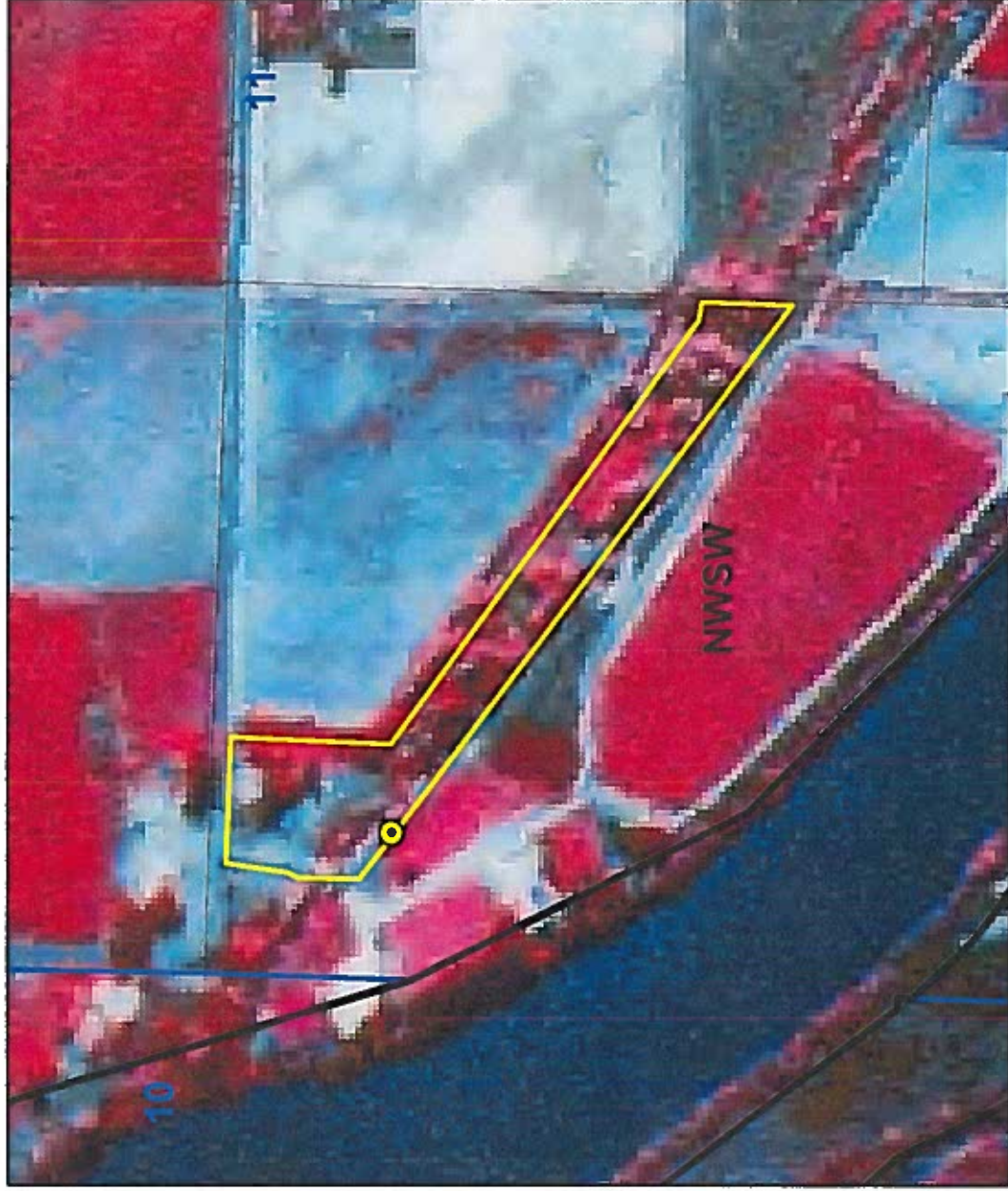
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63

Prepared by K. Walker
On Friday, August 4, 2006
1987/88 Aerial Photography

R05W



T03N



System User- IDWRR Date 03/29/2006 Time 13:54

REAL PROPERTY INQUIRY

```
+++++
01 6R33738-000--0 078-00 SCH370+ 18 100 .04
+++++
PEARSON, PAUL D +
& PEARSON, BRENDA H/W +
+
+
+
PO BOX 1161 +
HOMEDALE ID 83628 +
+++++
11-3N-5W SW + TOTAL 100 .04
TX 97315 IN NWSW IN GOVT LT 1 ++++++
+ SURVEY INST 200363879
+ DRAIN DR VALUE APPR CTR
+ CLASS REAP 02 MAN UNIT 0
+ PARCEL 6R03N05W115756 H/O N C/B N
+ PRIOR ACCOUNT 5R33738-000- -0
+ 02 MH on Property NO
GRAPHIC LN, WI
SEE R33738-010
MODE:F ACTION: TRAITS INQUIRY TRQK318
```

ACCOUNT NUMBER R33738000 0 UNIT 001 TOTAL UNITS

```
SITE GRAPHIC LN WI SEC/TWN/RNG 11-3N-5W
ASSESSED VALUE 100 ACREAGE .04
SUB/PARK NAME YEAR/MAKE
CLASS NO BUILDING CLASS SPACE LOT BLOCK
+++++
YR BUILT 0 AIR COND AIR - NONE CARPORT N
STORY NO BLDG HEATING CARPORT SQ FT
FIRST SQ FT 0 EXTERIOR UNKNOWN DECK/PATIO? N
SECOND SQ FT ROOF UNKNOWN POOL? N
BEDS 0 BSMT SQ FT SPA? N
BATHS .00 % BSMT FIN LOT SIZE
FRPLC 0 GARAGE N NEIGHBORHOOD 0
GARAGE SQ FT
```

```
+++++
COMMENTS MOBILE HOME ONLY
WIDTH/LENGTH
EXPANDO
```

MODE:F ACTION: PRESS {01 RETURN} TO VIEW ANOTHER ACCOUNT TRQK101

System User- IDWRR Date 03/29/2006 Time 13:54

REAL PROPERTY INQUIRY

```
+++++
01 6R33738-010--0 078-00 SCH370+ 12 24,200 1.00
+++++
2A 25,200 3.27
PEARSON, PAUL D + 34 99,700
& PEARSON, BRENDA J H/W +
+
+
+
PO BOX 1161 +
HOMEDALE ID 83628 +
+++++
11-3N-5W SW + TOTAL 149,100 4.27
TX 6 IN SW 1/4 ++++++
+ SURVEY INST 200363879
+ DRAIN DR VALUE APPR RET
+ CLASS +2 REAP 02 MAN 03 UNIT 1
+ PARCEL 6R03N05W115550 H/O N C/B N
+ PRIOR ACCOUNT 5R33738-010- -0
+ 02 MH on Property NO
25947 GRAPHIC LN, WI
SEE R33738
```

ACCOUNT NUMBER R33738010 0 UNIT 001 TOTAL UNITS 1

SITE 25947 GRAPHIC LN WI SEC/TWN/RNG 11-3N-5W

ASSESSED VALUE 149,100 ACREAGE 4.27

SUB/PARK NAME YEAR/MAKE

CLASS +2 OWNER / OCCUPIED HOUSE CLASS '+2' SPACE LOT BLOCK

+++++

YR BUILT 2003 AIR COND CENTRAL AIR CARPORT N

STORY 1 STORY HEATING ELECTRIC FA CARPORT SQ FT

FIRST SQ FT 1364 EXTERIOR HARDBOARD DECK/PATIO? Y

SECOND SQ FT ROOF COMP POOL? N

BEDS 3 BSMT SQ FT SPA? N

BATHS 2.00 % BSMT FIN LOT SIZE

FRPLC 0 GARAGE A2 NEIGHBORHOOD 0

GARAGE SQ FT 478

+++++

COMMENTS OLD HOUSE TORN DOWN MOBILE HOME ONLY

WIDTH/LENGTH

EXPANDO

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested



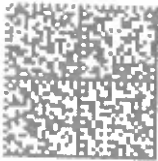
- ☐ Forwarding Order Expired
- ☐ Insufficient Address
- ☐ Moved, Left No Address
- ☐ Unclaimed ☐ Refused
- ☒ Attempted - Not Known
- ☐ No Such Street
- ☐ No Such Number

Route No. _____ Date _____
Carrier/Initial _____

PAUL D OR BRENDA PEARSON
25947 GRAPHIC LN
HOMEDALE ID 83628

RETURN SERVICE
REQUESTED

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE
02 1A
\$00.293
0004389390 AUG 07 2006
MAILED FROM ZIP CODE 83702

RECEIVED

AUG 11 2006

DEPARTMENT OF
WATER RESOURCES



83720-0098

P.O. Box 1161
HOMEDALE ID, 83628-1161



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

July 7, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

PAUL D OR BRENDA PEARSON
25947 GRAPHIC LN
HOMEDALE ID 83628

RE: Notice of Claim to a Water Right No. 63-21602

Dear Mr. and Mrs. Pearson:

Upon receipt of the field examination from our contractor, I noticed that she has recommended we change your mailing address on this claim to the address shown above. Pursuant to Department policy, we must have a signed request in order to make a change to an address. Enclosed you will find a form that, once completed and submitted, will allow me to change our computer records. I have completed the form with information from our contractor for your convenience. Please review the form, and if all the information is correct, sign the form and return it to me in the enclosed envelope.

I also noticed that our contractor has recommended we add stockwater as a use on your claim. We cannot add any uses without an amended claim form. If you want to add stockwater to this claim, please advise me and I will prepare a form for your convenience.

If you have any questions in regard to this matter, please do not hesitate to contact me at (208)287-4953.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

KW:k
Enclosure

Field Exam Date 7/10/2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

RECEIVED
JUL 19 2006
WATER RESOURCES
WESTERN REGION

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is complete

Claim No(s) AL 3 - 21607

Owner: Paul D or Brenda Pearson Phone No. (208) 337-4456

Current Address: 25947 Graphic Ln, Homedale, Id 83628
Po Box 1161

☒ No change NAME IS THE SAME

☐ NEW OWNER

☐ No change Address

☒ NEW ADDRESS 25947 Graphic Ln, Homedale, Id 83628

☒ How long owned property? 1981

Accompanied by: Brenda Pearson

PRIORITY DATE

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 3/15/1930 (submitted information is for 1960)

(If priority date, based on your exam, seems questionable, explain below.)

G.W. Mc Mullen & Bonnie (wife) were previous owners, but cannot be located. They both would be in their 90's now. Only written/confirmed evidence is what has been submitted.

Source: Hellyer Drain Tributary to Snake River

☒ No Change – SAME SOURCE

☐ Source found is different than claimed: _____

POINT OF DIVERSION

☒ No change

☐ POD found is different than claimed: _____

☐ If different, when did POD change? _____

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
A0002129	1	NW	NW	SW	11	3N	5W	Canyon	N 43° 36.544 W 116° 54.658

Description of diverting works

1.5 Hp Monarch Industries pump, 2" ABS pipe from Hellyer drain to pump, 1 1/2" ABS discharge

OVERLAP REVIEW

Other water rights with the same point of diversion: None

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES

☐ No change

☒ Different Uses

Use Stockwater From 01/01 To 12/31 Amount 0.02 CFS AFA
 Use Irrigation From 3/15 To 11/15 Amount 0.06 CFS AFA
 Use From To Amount CFS AFA

Total 0.06

TOTAL VOLUME – Groundwater only

N/A

☐ Incomplete on claim, the total is, Amount CFS AFA

☐ Changes found, the new total is, Amount CFS AFA

☐ More than 1" per Acre? Yes (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

☐ No change

☒ Changes Exam found: Domestic # of homes Stock # 2 cattle

Types Additional comments: * Cattle drink out of ditch while acreage is being flood irrigated

PLACE OF USE:

☐ No Change

☒ Changes shown below:

S = stockwater

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	5W	11										4							4.0
3N	5W	11										5							

Overlap with other water rights: A63-21603 Domestic well (internal use only unless shortage of water - drought - since well produce sand)
 Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain: No. Drain totally used for all irrigation + stockwater. Groundwater has never been used for domestic external or irrigation.

Delivery System Narrative: 1 1/2" ABS pipe w/ 20' lift, 168' north to generic sprinklers attached to hoses in the yard (4 sprinklers run at one time). To irrigate garden, hoses & dirt ditch are used on east side of house. Run-off of water through 1 1/2" ABS goes to dirt ditches running west-east with gravity flow north to south. Parts of the dirt ditch are knocked out to allow the water to flood irrigate. Gravity flow in garden is from west to east.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
A0002129	Monarch Industries	1.5	C48804AB7	No tag	1 1/2"

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

Recommend priority date of 01/01/1964. Spoke with Paul & Brenda Pearson about this matter, & this is all the confirmed information they could come up with.
Supplemental water: some waste water from field to the north of them sometimes comes down their ditch since the farmer to the north does not know where else to send the water. They do not get this water regular.
Total property owned is 4.25 acres with a 1369 sq ft home & 800 sq ft shop. Property irrigated is 4.0 acres.

The 4 acres is bordered with trees & consists of grass pasture.

Direction: 184, Hwy 19 through Greenleaf toward Wilder, south on Hwy 95, Lt. on Garnet (at curve in Hwy 95 before the bridge crossing the Snake River), Garnet turns into Graphic Ln. Physical address is 25947 Graphic Ln.

POD located directly south of house 168' (pump set in Hellyer Drain). POU is yard around house, garden area to the east of house, & property south & southeast of the house that butts up to Hellyer Drain.

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☒ Completed claim checklist
- ☒ Photographs of POD's and POU
- ☒ GPS readings
- ☒ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: 7-12-06

FIELD EXAMINER: Judy Hemminger

Claim No. and Name: A63-21602 Pearson

Date of Inspection: 7/10/2006

Field Inspector: Sandy Hemenway

Measurements/Calculations:

Maximum Capacity Pipe Flow:

$1.5" = 0.061 = 0.06 \text{ cfs}$

$Q = 5 \times 3.1416 \times \text{radius squared} = 5 \times 3.1416 \times 0.625 = 0.061 = \mathbf{0.06 \text{ cfs}}$

Bucket Measurement:

***Four generic sprinklers run at the same time. Measurement was taken through one of the hoses while the system was running. All four hoses were running at the same time, since there was too much pressure going through the lines to take a measurement with the total flow coming through only one hose (per owners request).

$5 \text{ gallon} \times 60 \text{ seconds} / 40 \text{ second} = 7.5 \text{ gpm} \times 0.00223 \text{ cfs} = 0.016725 \times 4 \text{ lines} = \mathbf{0.0669 = 0.07 \text{ cfs}}$

Irrigation:

Confirmed acres irrigated: $4.0 \text{ acres} \times 0.03 \text{ cfs} = 0.120 = 0.12 \text{ cfs}$

Season 3/15 - 11/15 = 246 days

Required V.i.r = allowable acres under permit x requirement IDWR chart (figure 2)=

$4 \text{ acres} \times 4.5 = \mathbf{18.0 \text{ afa}}$

Potential V.d.r. = max. allowable cfs x permit season x 1.9835 =

$0.06 \times 246 \times 1.9835 = 29.27646 = \mathbf{29.3 \text{ afa}}$

***Pumpback calculation (0.058 cfs), pipe capacity for 1 1/2" pipe (0.06 cfs), and bucket measurement (0.0669 cfs) were averaged to obtain $0.061 = 0.06 \text{ cfs}$, since they all were so similar. This was used for the maximum allowable cfs in the Potential Vdr formula.

Stockwater:

Table 1 Recommended Diversion Rates for Stockwater 0 - 25 horses = 0.02 cfs

Stock: 2 head cattle

Season: 1/1 - 12/31 = 365 days

Required V.i.r. = (#head x gallons/day/head x days of use per year) / 325,850 =

NOW and in 1987: $(2 \times 12 \times 365 / 325,850 = 0.02688 = \mathbf{0.03 \text{ afa}}$

Potential V.d.r = Max. allowable cfs x permit season number of days x 1.9835 =

Both Now, and in 1987: $0.02 \times 365 \times 1.9835 = 14.479 = \mathbf{14.5 \text{ afa}}$

***Cattle drink out of the ditch while acreage is being flood irrigated.

Pumpback Information:

***See attachment for calculation.

Vertical lift 20'

required pressure 40 psi (no gauge; irrigation standard for small systems used)

1 1/2 Hp pump

168' ABS pipe (smooth/straight pipe)

Pumpback Computation Spreadsheet (DRT 1/24/1985)

Data Entered By: Sandy Hemenway

Project: Flow Computation for A63-21802 Pearson

Given: See Data Table

Compute head losses with the Williams and Hazen Formula:
 $f = 0.2083 \cdot (100/\text{roughness})^{1.85} \cdot ((\text{cfs} \cdot 448.8)^{1.852} / \text{ID}^4 \cdot 9855 \cdot \text{Length} / 100)$

To Find: Compute Rate of Flow for a Pumpback System

Data Table

Vertical Lift: 20.00 feet

Pressure Req'd: 40.00 psi

Required Head: 112.40 feet

Pump Horsepower: 1.50 horsepower

Pipe Roughness: 140.00 Note: pvc = 150, smooth and straight pipe = 140
 aluminum - joint length 20' = 125, joint length
 30' = 130, joint length 40' = 132, joint length
 50' = 134, new riveted steel = 100
 old riveted steel = 100, old cast iron = 95,
 old pipes in poor condition = 80 to 80

Inside Diameter In Inches	Equivalent Length in Feet	Unit Head Loss	Total Friction Head Loss from Pipe Friction	Head Loss per 100 ft
1.00	168.00	78.55		48.75
1.50	0.00	0.00		#DIV/0!
1.00	0.00	0.00		#DIV/0!

78.55

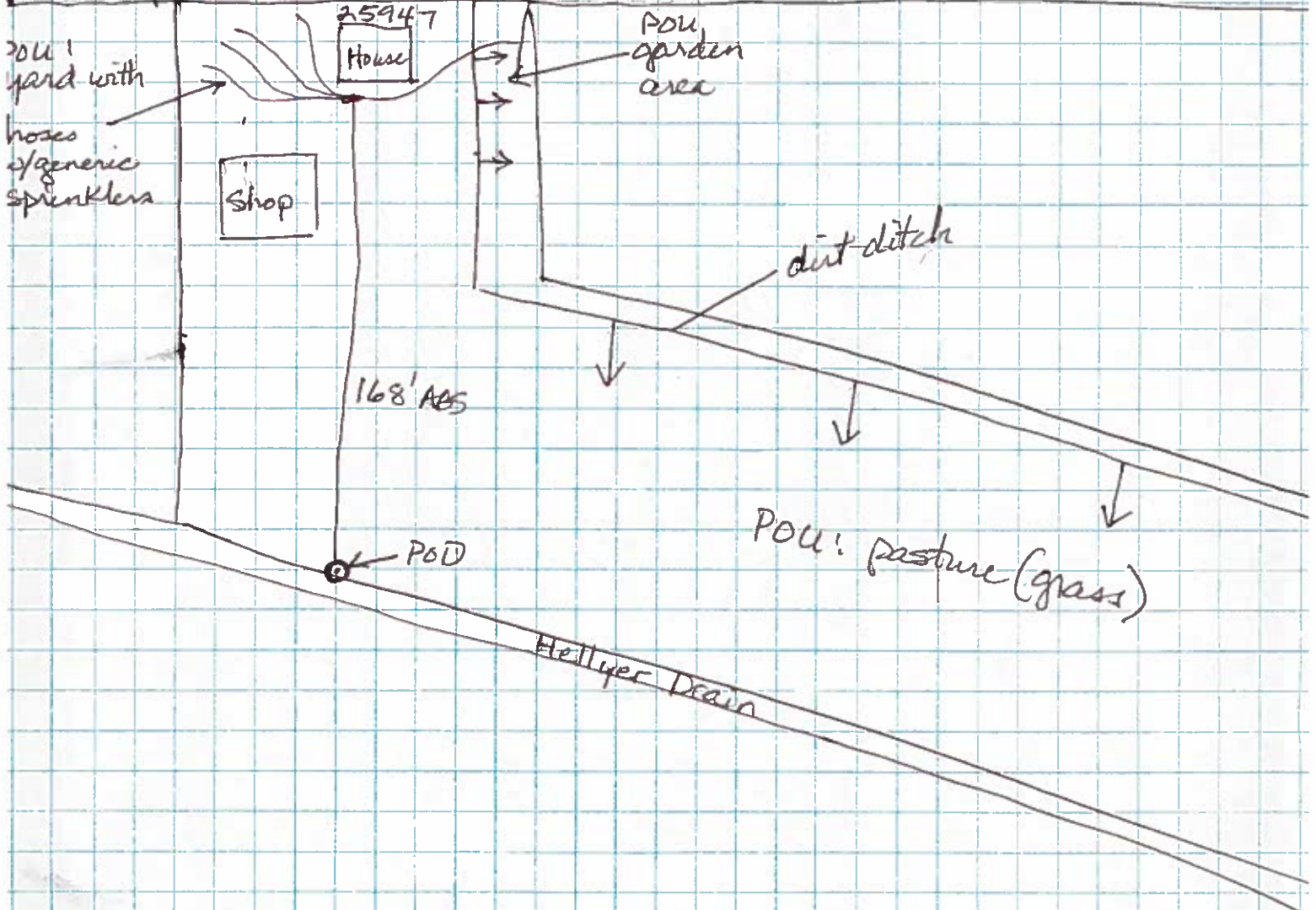
Initial Estimate of Rate of Flow:

Computation of Rate of Flow:

0.058 CFS
0.05

Garnet

Graphic Ln.



63-21602 Pearson
7/10/2006 S.H.

63-21602



Compton
Co. dot for diamonds
dot for these

1987 photo



Idaho Department of Water Resources

Claim Number: 63-21602
Legal: T03N, R05W, S11
Reviewed By:

● Point of Diversion

Place of Use

Section Lines

Quarter Quarter Lines



1987 Naip Photo



2004 Aerial Photo





POD:

Hellye
Drai

168
of 2"1
to far
in la
w/ Ho

July 10, 2006 SH attach



POD
Hellye
Drai

1.5 Hp
Monaco
Indust
pump
2" ABS
dischar.

A63-21607 Pearson

July 10, 2006 SH



POU:

fancet
w/ hose
attachmen
- generic
sprinkl
attache

July 10, 2006 SH



POU:
yard

fence
w/ hose
attachm

A63-21602 Pearson

July 10, 2006 SH



POU:

stockwater
2 head ca

July 10, 2006 SH



POU:
dirt diti
running
west to
gravity
flow noi
to south

A63-2006 21602 Pearson

July 10, 2006 SH



Pou:
dirt ditch
on north
property
running
west to
gravity of
north to
south

A63-21602 Pearson

July 10, 2006 SH

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-21602
Date Received: 3/16/1990
Receipt No: W011953
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PAUL D. PEARSON 208-337-4456
Address: P.O. BOX 1161
HOMEDALE, ID 25947 83628
OR
Name: BRENDA PEARSON *Graphic Ln*
Address: P.O. BOX 1161 *Homedale, Id* 208-337-4456
HOMEDALE, ID 83628

2. Date of Priority: MAR 15, 1930

3. Source: HELLYER DRAIN Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
03N	05W	11	NW NW SW	1	CANYON

5. Description of diverting works:
1.5 HP PUMP IN DRAIN FOR SPRINKLER IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.120		

7. Total Quantity Appropriated is:
0.120 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
~~NONE.~~ Stockwater : 2 head cattle

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	05W	11	NW	SW	1	IRR	4.0
3N	5W	11	NW	SW	1	Shedwater	4.0
Section Acres							4.0
Total Acres							4.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

CLAIM NO. A63-21603 - DOMESTIC WELL.

(internal use unless shortage of H₂O due to well producing alot of sand)

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

Sandy

A63-21602 Field Exam Request:
Paul and Brenda Pearson

Contact:

06/01/2006

Contact **Paul and/or Brenda Pearson** at 337-4456 to set up a field exam or

Property Address:

Get directions from claimant when setting up appointment.

Requests:

*Please verify **all the elements** of this right.

In addition, please verify:

- ✓ • GPS the location of the diversion point.
- ✓ • **1987 Aerial Photo:** Please confirm that there are 4 acres irrigated and describe what they are irrigating. Looks like they may use the land for pasture on the aerals. *pasture (2 calves)*
livestock (drink from ditch)
- ✓ * **Also, please let the claimants know that the evidence submitted only gets the priority date back to 1964 and they may want to seek additional evidence.**
They claimed a 1930 priority date. *J.W. McMullen (previous owner)*
Bonnie (wife)
- **Capacity of System:** Verify that the claimed **0.12 cfs** is possible/applicable. *Not possible*
Capacity of system is 0.06 cfs.

Kay Walker
287-4953
Sr. Water Resource Agent
IDWR – State Office via Western Region

Exam 7/10/2006 4:00

May 26, 2006

Wf
RECEIVE
MAY 30 2006
DEPARTMENT OF
WATER RESOURCE

Kay Walker
Sr. Water Resource Agent
RE:Water Right No. 63-21602

Dear Kay Walker

Enclosed is a copy of the State Deed and Memorandum of Contract of Sale for Assessment of Irrigation charges.

The 1930 date was chosen by the clerk that helped us establish our water rights in 1990.

The first paper work I have on this property, is the 1925 sale of property to C.L. and Opal Barnard, and the first recorded paper work was recorded in 1964. All who would know about the water rights established for this property are either deceased or cannot be located at this time.

As Hellyer Drain runs through this property, it would be reasonable Hellyer Drain would serve this piece of property and its stock, from the beginning of C.L. and Opal Barnard's ownership.

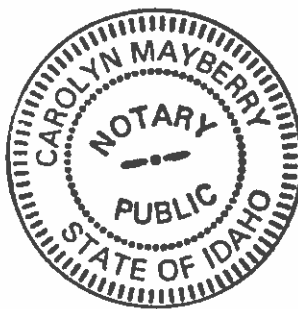
The copies enclosed, show the original property was purchased from the State, and shows all water, ditch, etc. rights sold to the Stone brothers, we have the papers showing the land was purchased from the Stone's by Barnards in 1925, McMullen bought from Barnard, and I (Paul Pearson) bought from McMullen. The Memorandum of Contract of Sale for Assessment of Irrigation Charges states in the 17th paragraph states water ditch rights and etc. This document is dated 1982. I placed my pump in Hellyer Drain on the same metal rack that had been in use before I bought this property in January of 1982.

In 1964-65, my family lived about one & one-half miles from Hellyer Drain, Mr. Barnard allowed my brothers, friends and myself to fish for trout in Hellyer Drain. I saw the water was used for Barnards animals and I believe the water was used for the landscaping. I would have been 11-12 years old.

Sincerely,

Paul Pearson

PAUL PEARSON
Enclosure



Carolyn Mayberry
8-10-07

MEMORANDUM OF CONTRACT OF SALE FOR
ASSESSMENT OF IRRIGATION CHARGES

THE PARTIES hereto are J. W. MCMULLEN and BONNIE J. MCMULLEN, husband and wife, (herein called seller), and PAUL D. PEARSON and BRENDA J. PEARSON, husband and wife, (herein called buyer).

AGREEMENT: It is mutually agreed by and between the parties hereto as follows:

Premises. The seller shall sell and the buyer shall buy that real property (herein called premises), which term includes all buildings, improvements and fixtures now on or hereafter placed on such real property, situated in Canyon County, Idaho, and described as follows:

A part of Government Lot 1 (NW.¼ of SW.¼) Section 11, Township 3 North, Range 5 West of the Boise Meridian in Canyon County, Idaho, more particularly described to wit:

Commencing at the Northwest corner of the said Government Lot 1;

thence South 89° 36' 30" East 234.10 feet, along the North line of said Government Lot 1, to the INITIAL POINT of this description;

thence continue South 89° 36' 30" East 206.22 feet, to a point on an existing fence line;

thence meandering along said fence line South 0° 45' 05" West 306.11 feet;

thence South 55° 42' 58" East 995.18 feet;

thence South 81° 04' 48" East 36.98 feet, to a point on the East line of the said Government Lot 1;

thence leaving said fence line South 0° 02' 36" East 167.71 feet, along the said East line, to a point on the centerline of Hellyer Drain;

thence North 54° 02' 36" West 1337.90 feet, along said centerline;

thence North 0° 17' 00" West 118.54 feet, to a point on the Easterly right of way line of a road;

thence meandering along said right of way line North 26° 52' 30" East 18.76 feet;

thence North 6° 35' 30" East 121.46 feet, to the INITIAL POINT of this description.

This tract contains 4.266 acres, more or less, and is subject to a 25 foot road right of way along the said North line of Government Lot 1, and to all other existing rights of way and easements.

Together with all water rights, ditch rights, rights of way, tenements, hereditaments and appurtenances thereto belonging or used in connection therewith.

Irrigation charges - irrigation season - calendar year.
Irrigation charges mean all general and special taxes and assessments levied against the premises by any irrigation or drainage unit for any purpose and includes but is not limited

to bonds, construction charges, special improvements, irrigation and drainage. For the purposes of prorating irrigation charges, the irrigation season shall be deemed to be the calendar year. The seller shall pay before delinquency all irrigation charges levied for the irrigation season of 1981 and all irrigation seasons prior thereto, excepting therefrom that the buyer shall pay any excess water irrigation charges for the year 1982. The buyer shall pay before delinquency all irrigation charges levied for the irrigation season of 1982 and all irrigation seasons subsequent thereto. Any payments due from one party to the other party shall be paid forthwith.

Other provisions. This memorandum of contract of sale is subject to all of the terms and provisions of the contract of sale of even date herewith between the parties hereto pertaining to the premises, which contract of sale is by this reference incorporated herein and made a part hereof.

Binding effect. The agreements herein shall apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties.

DATED: January 5, 1982

SIGNED: J. W. McMullen
J. W. McMullen, Seller

Address: Route 1
Wilder, Idaho 83628

SIGNED: Bonnie J. McMullen
Bonnie J. McMullen, Seller

Address: Route 1
Wilder, Idaho 83676

SIGNED: Paul D. Pearson
Paul D. Pearson, Buyer

Address: Box 1161
Homedale, Idaho 83628

SIGNED: Brenda J. Pearson
Brenda J. Pearson, Buyer

Address: Box 1161
Homedale, Idaho 83628

STATE OF IDAHO

-TO-

C. L. BARNARD and OPAL E. BARNARD,
husband and wife

550872

STATE DEED.

Dated, April 16, 1925.

Recorded, May 28, 1964 10:50 A.M.

Book 247 Deeds Page 23/

Consideration: \$1,342.50.

In Witness Whereof, I, Robert E. Smylie, the Governor of the State of Idaho, do herebyunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the Board of Land Commissioners to be hereunto affixed, this 22 day of April, 1964. A.D.

Signed: Robert E. Smylie, Governor of Idaho and President of State Board of Land Commissioners.
Countersigned: Arnold Williams, Secretary of State; (Great-Seal).
Countersigned: O.J. Buxton, State Land Commissioner. (SEAL).
I, the Governor of the State of Idaho, do hereby personally appeared Robert E. Smylie, known to me to be the Governor of the State of Idaho, and Arnold Williams, known to me to be the Secretary of the State of Idaho, and O. J. Buxton, known to me to be the Land Commissioner of the State of Idaho, who executed said instrument and acknowledged to me that such State of Idaho executed the same, before me. C. Hamblin, Notary Public residing at Boise, Idaho. (SEAL).

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

Whereas, on the 16 day of April 1925 all that tract or parcel of University land of the State of Idaho, hereinafter mentioned and particularly described, was sold in the manner provided by law to Alfred F. Stone and Harold W. Stone of Caldwell State of Idaho, for the aggregate price of \$1,342.50 And Whereas, the said sum of \$1,342.50 has been fully paid to the proper receiving officer for the State of Idaho, by C. L. BARNARD and OPAL E. BARNARD, husband and wife, Route #1, Box 222, Honeedale, Idaho. Mabel R. Stone receiver her One-half Interest in said land sale certificate by DEED OF DISTRIBUTION IN THE ESTATE OF ALFRED F. STONE, Deceased 11/8/43; MABEL R. STONE assigned her One-half Interest in said land sale certificate to HAROLD W. STONE, 12/27/37, and recorded 12/23/43, making him full owner of said land sale certificate; HAROLD W. STONE and FRANCES H. STONE, husband and wife, assigned their equity to OLIVER W. COLLINS and BEULAH M. COLLINS, husband and wife 12/12/51, recorded 3/4/54; OLIVER W. COLLINS and BEULAH M. COLLINS assigned their equity to A. J. HENDER and NORMA J. HENDER, husband and wife, 3/19/54, recorded 4/5/54; A. J. HENDER and NORMA J. HENDER assigned their equity to C.L. BARNARD and O.E. BARNARD, husband and wife, 5.2.58, recorded 4/21/64, as shown by the records in the office of the State Board of Land Commissioners, the said sum being the whole amount of the purchase price for the said tract or parcel of land hereinafter described;

Now, Know Ye, That the said State of Idaho, in pursuance of law in such case made and provided, and in consideration of the premises aforesaid, and of the aforesaid sum of \$1342.50 to the said State of Idaho paid, doth by these presents grant, bargain, sell, convey and confirm, in fee, unto the said C.L. BARNARD and OPAL E. BARNARD, husband and Wife, their heirs and assigns, all of the said tract and parcel of land situated in the County of Canyon and State of Idaho, and described as follows, to-wit:

A tract of land described as follows: Beginning at the Northwest corner of Lot One (1), Section Eleven (11), Township Three (3) North, Range Five (5) West, Boise Meridian, and bearing East 400 feet along the North boundary of the aforesaid Lot One (1); thence South 266 feet on a line parallel to the West boundary of the aforesaid Lot One (1); thence South 55° 50' East 1112 feet to the intersection of the East boundary of the aforesaid Lot One (1); thence South 912 feet to the Southeast Corner of the aforesaid Lot One (1); thence northerly Northwest 1327 feet along the Northeast bank of the Snake River to the Southwest corner of the aforesaid Lot One (1); thence North 490 feet to the point of beginning. The area being conveyed by this deed is 26.85 acres, more or less.

To have and to hold the said premises and parcel of land above particularly described, with the appurtenances thereon, unto the said C.L. BARNARD and OPAL E. BARNARD, husband and wife, their heirs and assigns, in fee simple forever, subject to the provisions of Section 58-604, Idaho Code, as amended by Chapter 44, 1951 Session Laws; which grants over all lands belonging to the State a right of way for ditches constructed by authority of the United States; and to the provisions of Section 47-701, Idaho Code, reserving to the State all mineral rights in lands sold subsequent to the 6th day of May, 1923.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

May 5, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

PAUL D OR BRENDA PEARSON
PO BOX 1161
HOMEDALE ID 83628

Re: Claim to a Water Right No. 63-21602

Dear Claimants:

In March of 1990, you submitted the above referenced claim in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated, when this claim was filed, that the water right was based on a "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "Priority Date" as shown on the enclosed print-out. This claim has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is required to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority be submitted at this time.

Enclosed is a pamphlet entitled "Evidence of Priority" which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, the priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize the water use under this right, if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible. Field exams to verify claims in this area are now being conducted by Department personnel.

The required evidence supporting the priority date must be submitted by **May 26, 2006**, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter, or the enclosed pamphlet, please feel free to call me at 287-4953.

Sincerely,

Kay Walker
Sr. Water Resource Agent

Enclosures

5/24/06
Brenda Pearson
called - will be
submitting statement
from husband next
week - He has been
in neighborhood for
his entire life.
KW



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 7, 1995

A63-21602
PAUL D PEARSON
BRENDA PEARSON
PO BOX 1161
HOMEDALE

ID 83628

Re: Claim No(s). A63-21602

Dear Claimant(s):

In the past, you submitted the above referenced claim(s) in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim(s) for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated when this claim was filed that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "Priority Date" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is under a legal requirement to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority be submitted at this time.

Enclosed is a pamphlet entitled "Evidence of Priority" which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize your water use under this right(s), if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible. Field exams to verify claims in this area are now being conducted by Department personnel. Please contact this office as soon as possible to schedule a field exam appointment convenient for you.

The required evidence supporting the priority date(s) must be submitted by September 1 1995, referencing all documents with the corresponding claim number(s). If you have any questions not covered by this letter, or the enclosed pamphlet, please call the Western Region office shown above.

Adjudication Section
Department of Water Resources
Western Region Office

lh
Enclosures

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-21602
Date Received: 3/16/1990
Receipt No: W011253
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PAUL D. PEARSON 208-337-4456
Address: P.O. BOX 1161
HOMEDALE, ID 83628
OR
Name: BRENDA PEARSON 208-337-4456
Address: P.O. BOX 1161
HOMEDALE, ID 83628
2. Date of Priority: MAR 15, 1930
3. Source: HELLYER DRAIN Trib. to: SNAKE RIVER
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 03N | 05W | 11 | NW | NW | SW | 1 | CANYON |
5. Description of diverting works:
1.5 HP PUMP IN DRAIN FOR SPRINKLER IRRIGATION.
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.120 | | |
7. Total Quantity Appropriated is:
0.120 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	05W	11	NW	SW	1	IRR	4.0
Section Acres							4.0
Total Acres							4.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

CLAIM NO. A63-21603 - DOMESTIC WELL.

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Paul D Pearson Date: 3/16/90

Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 16th day
of March 19 90

Seal

Jan Shute
Notary Public

Residing at Meridian, ID
My Commission Expires 9-14-94

HOMEDALE QUADRANGLE
IDAHO

7.5 MINUTE SERIES (ORTHOPHOTOQUAD)

PARMA 14 MI.
WILDER 4.2 MI.

55'

507

508

509

116° 52' 30"
43° 37'

HUSTON 16.2 MI.
CALDWELL 13.3 MI.

710 000
FEET

4828

4827

4826

NOTED

2

