

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/25/2020

Water Application 45-7459

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WILLIAM M HEPWORTH 1495 E 550 N JACKSON, ID 83350-5071 (208) 436-4848

Status: Closed

Source

Tributary

Beneficial Use

From

To

Diversion Rate

Volume

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Number of Protests: 0
Water District Number: TBD
Application Type: New Appropriation
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

RECEIVED

JUN 29 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

Department of Water Resources
Southern Region

IN THE MATTER OF PERMIT)
NO. 45-07459 IN THE NAME)
OF WILLIAM M. HEPWORTH)

**PRELIMINARY ORDER
VOIDING PERMIT**

This matter having come before the Department of Water Resources (Department) as a result of an examination by Department staff to determine the extent of beneficial use of water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On December 24, 1980, E. Wayne Brown applied to the Department of Water Resources for a permit to appropriate 1.0 cubic feet per second of water from ground water within the Snake River Basin at SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 9S, Range 25E, B.M., Cassia County, to be used for irrigation purposes.

2. On March 3, 1981, the Department approved the Application for Permit No. 45-07459.

3. On April 1, 1982, the Department received Proof of Beneficial Use for the permit.

4. On September 9, 1982, the Department received an Assignment of Permit assigning Permit 45-07459 to H2O Farms.

45-07459

5. On November 19, 1987, District Judge Daniel C. Hurlbutt Jr. of the Fifth Judicial District issued a Commencement Order commencing the Snake River Adjudication of Rights to the Use of Water from the Snake River Basin Water System. The Commencement Order states in pertinent part as follows:

....In addition, all holders of state permits for which proof of beneficial use was filed prior to the issuance of this commencement order . . . shall file a notice of claim with the Department within the time set by the notice of the commencement order prepared for the Director.

6. On March 6, 1989, the Department sent H2O Farms and William Hepworth each a Commencement Notice notifying them of their obligation to file notices of claim in the Snake River Basin Adjudication by June 8, 1989.

7. On December 3, 1993, Department staff conducted a field examination and found that no notice of claim to a water right corresponding to this permit has been filed in the Snake River Basin Adjudication.

8. On December 9, 1993, the Department received an Assignment of Permit assigning Permit No. 45-07459 to William M. Hepworth.

9. On October 18, 1994, the Department sent William M. Hepworth a Notice of Intent to Void Permit notifying him of his obligation to file a Notice of Claim to a Water Right in the Snake River Basin Adjudication, and notifying him that the Department will begin taking action to void Permit 45-07459 if a Notice of a

Claim to a Water Right is not filed within 30 days of the date of the letter.

10. On October 24, 1994, Department staff notified William M. Hepworth by telephone that a Notice of Claim to a Water Right corresponding to Permit 45-07459 is required to be filed in the Snake River Basin Adjudication.

11. The provisions of Section 42-219, Idaho Code, authorize the Director of the Department to void permits for which the applicant has not fully complied with the law and the conditions of the permit.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, states:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

2. The Commencement Order issued for the Snake River Basin Adjudication required that the permit holder file a Notice of Claim to a Water Right for Permit 45-07459 in the Snake River Basin Adjudication.

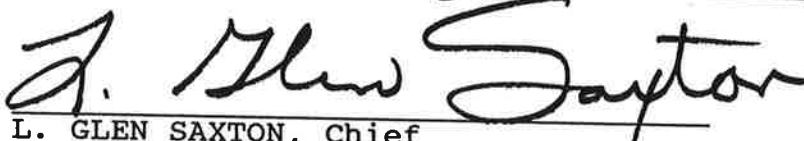
3. Examination by the Department revealed that the permit holder has not complied with the Commencement Order by not filing a Notice of Claim to a Water Right in the Snake River Basin Adjudication.

4. The permit should be voided pursuant to Section 42-219,
Idaho Code.

ORDER

IT IS THEREFORE HEREBY ORDERED that Permit No. 45-07459 is
VOIDED and issuance of a license is **REFUSED** under Section 42-219,
Idaho Code.

Dated this 27TH day of June, 1995.


L. GLEN SAXTON, Chief
Water Allocation Bureau

TELEPHONE MEMORANDUM

Incoming Call

Outgoing Call

Returning Call

TO:

DATE:

FROM:

FILE:

FILE NO:

SUBJECT:

file)

REMARKS:

TCW: note assignment, letter
sent by SK - & SRBA claim. CW JS- &
1/15 TT/TCW/SK: review file - w/call it find.
20 ADI- &. Put in w/ file.

ROUTING
INSTRUCTIONS:

CALENDAR
DATES:

45-7459

SD-0601-1

Idaho Department of Water Resources
Adjudication Claims Name Query

Date: 11/14/94
Time: 13:23:55

STATE

Last Name: HEPWORTH, WILLIAM M. _____

Exact Match: Y

Basin Number: 45

Owner Code: X (Blank = Selects O, C, P, D and K)
('X' = Selects All Owner Codes)

O=Original
R=Representative
T=Trustee

C=Current
L=Lien Holder
D=Dir Rpt Owner

P=Present
A=Attorney

K=Also Known As
S=Lessee

NO RECORDS FOUND...ENTER MENU OPTION AND/OR PRESS ENTER TO CONTINUE
(Enter=Run) (Menu _____)

by H

45-7549

DEPARTMENT OF WATER RESOURCES

DEC 03 1993

Department of Water Resources
Southern Region Office

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, H2O Farms, hereby assign to William M. Hepworth
(Permit Holder)
of Rt. 1 Box 368, Rupert, ID 83350
(Full Address)

All my right, title, and interest in and to Permit No. 45-07459
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Permit No. _____ to appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision,
point of diversion location, and the amount of water in cubic feet per second.

Made this 2nd day of December, 1993.

William M. Hepworth
Permit Holder(s)

State of Idaho)
County of Twin Falls ^{SS}

On this 2ND day of December, 1993, personally appeared before me
the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

Steve Clelland
Notary Public

SEAL

STEVE CLELLAND OF TWIN FALLS
Signature

My commission expires: Dec 7, 1994

INTER-DEPARTMENT MEMO — 1

FROM Jim Stanton

DATE 5-6-87

TO File

SUBJECT Licensing Exam, 45-7459

I talked to Bill Hepworth today concerning this exam. He stated that the land is grain ground that is locked into the government set-aside program. Of the 320 acres under the permit, only 250 acres are being farmed. The sprinkler system that was on the other 70 acres has been removed and sold. So it is not possible at this time to measure the full pumping capacity of this system. Since this permit is for supplemental water in addition to that already licensed, measuring the system under these conditions would not tell us how much, if any, additional water has been developed under this permit. Apparently this situation will continue for some time, so I do not plan to do this exam until the system returns to full operating condition.



SIGNATURE

4/86

For Office Use Only
Fee Received \$100
Date 9-16-86
Receipt # 38711
Receipt by JS
Sent to S.O. 9-16-86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EXAMINATION FEE INFORMATION

1. Permit No. 45-7459

ONE OF THE FOLLOWING BOXES SHOULD BE MARKED TO DESIGNATE YOUR CHOICE:

☒ I choose to have the department make the field examination of this permit; attached is the examination fee. (If this box is marked, complete items 1 thru 8.)

2. Permit Holder: H2O Farms

3. Post Office Address: Rt. 1 Box 368, Rupert, ID 83350

Telephone No. 436-4848

4. Source of Water: Groundwater

5. Extent of Use:
Domestic (No. of households) Stockwater (No. and type of stock)
Irrigation 320 (acres) Other/Remark

6. Total rate &/or volume for which proof is submitted 1.0 cfs acre-feet

7. Show the date water was first diverted and beneficially used under this permit:

1978 01/1978

8. Person to contact to accompany the department representative during the field examination:

Bill Hepworth

(Name)

Same

(Address)

Same

(Telephone Number)

☐ I choose to have the field examination conducted by a certified water right examiner. Attached is a statement from the certified examiner I have selected verifying that he has been retained to conduct the examination. (If this box is marked, complete items 1 thru 7.)

9/16/86
Date

Bill Hepworth owner
Signature of Permit Holder (and title, if appropriate)



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

45-7459
H2O FARMS
RT. 1
RUPERT, ID 83350

138101

August 12, 1986

CERTIFIED MAIL

EXAMINATION FEE NOTICE

Dear Permit Holder:

Department records show that proof of beneficial use has been submitted for the above-referenced permit, but that a field examination has not yet been conducted to determine the extent of beneficial use of the water for licensing purposes.

House Bill 671 (effective April 4, 1986) enacted by the 1986 Idaho Legislature requires the payment of a fee before this department can conduct the field examination needed to issue a license confirming use of water under the permit. This letter is notification that the license examination fee is due within sixty (60) days of the date of this letter. The examination fee information sheet (enclosed) must be returned with the fee.

As an alternative to submitting the fee, the department will accept a field examination report completed by a certified water right examiner from the private sector. If you choose to have the examination done by a certified water right examiner, you need not submit the license examination fee to the department, but you must within sixty (60) days of the date of this letter return to the department, the examination fee information sheet showing appropriate information together with a statement from the certified examiner to verify that you have retained a certified examiner to conduct the field examination. If you choose this alternative, a completed field examination report must be submitted within one year of the date of this letter. You cannot later change your decision to use this alternative and submit the fee needed for the department to conduct the field examination, but you may change to another certified examiner.

Certified water right examiners are licensed engineers or geologists certified by the department to conduct water right examinations. The procedure for certifying examiners results from the recently enacted HB 671 and is being developed at this time. A listing of certified water

WATER RIGHT SPLIT

SUMMARY

*Southern
copy*

ACTION	RIGHT NO.	NAME	AMOUNT C.F.S.
Original Permit	45-7459	E. Wayne Brown	1.0 cfs
Full Assignment	45-7459	H2O Farms	1.0 cfs

RECEIVED

SEP 17 1982

Department of Water Resources
Southern District Office

45-7459

State of Idaho
Department of Water Resources
ASSIGNMENT OF PERMIT

RECEIVED
no (either)
SEP 9 1982

Department of Water Resources
9/14/82

I, Wayne Brown, hereby assign to H2O Farms
of 7. Bill Hepworth Rt. 1, Rupert, Id. 83350
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 45-2752 45-7459
to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 26 day of July, 19 82.

Wayne Brown
Permit Holder

Laverne Brown
Spouse of Permit Holder

State of Idaho)
County of Minidoka) ss.

On this 26th day of July, 19 82, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Karen A. Brown
Notary Public residing at
Burley, Idaho

My commission expires:
Aug 6th 1985



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Bill Hepworth
Rt. 1 Box 368
Rupert, ID
83350

November 30, 1993

RE: Water Permit 45-07459

Dear Mr. Hepworth;

The above-referenced water permit provides for an increased pumping rate from the well on the former Wayne Brown property northeast of Declo. This development needs to be inspected before the permanent water license can be issued. There is a problem, however. Because proof of beneficial use for the permit was filed prior to the start of the Snake River Basin Adjudication in 1987, the permit must be claimed in the adjudication. This has not been done, however. You claimed the original license on this farm, but not this permit. Unless the permit is also claimed, we will be forced to cancel it. Your pumping rate would then be limited to the original rate of 4.72 cfs.

Please let me know your desires in this matter. If you wish to file a claim, our adjudication section can assist you.

Thank You,

James E. Stanton

James E. Stanton
Sr. Water Resource Agent

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

DEC 1980

Department of Water Resources
Southern District Office

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant E. Wayne Brown Phone 438-8192

Post office address P. O. Box 45 - Paul, Idaho 83347

2. Source of water supply groundwater which is a tributary of _____

3. Location of point of diversion is SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31 Township 9S

Range 25E B.M. Cassia County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 1.0 for irrig purposes from Mar 15 to Nov 15 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 1.0 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. well, pump pivot sprinklers with
hand lines in corners

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir
capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial
use is 1 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.

(5) If water is to be used for other purposes describe: _____

45-7459

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

[illegible]

Total number of acres to be irrigated 320

c. Describe any other water rights used for the same purposes as described above. Lis. 45-2752

9. a. Who owns the property at the point of diversion applicant

b. Who owns the land to be irrigated or place of use applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Rge 25E

Sec 31

Sec 32



wp 4 S.

Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

E. Wayne Brown

(Applicant)

Proposed Priority 12/24/80

Received by yc Date 12-24-80 Time _____

Preliminary check by 11B Fee \$ 45.00 # 16746

Receipted by marya Date 1-5-81

Publication prepared by marya Date 1/5/81

Published in seach state press

Publication dates 1/27 + 2/3/81

Publication approved marya Date 2/12/81

Protests filed by: None

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by SL RA

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 45-7459, and said application is hereby approved.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 19 82.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.

Witness my hand this 3rd day of March, 19 81.

L. Glen Saxton

State Engineer



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

May 19, 1982

Wayne Brown
P. O. Box 45
Paul, Idaho 83347

Re: Permit 45-7459

Dear Mr. Brown:

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Field examinations must be done while the system is in operation. For this reason we concentrate on irrigation permits during the summer months and do examinations on permits for other uses during the non-irrigating months.

If you have any questions regarding the field examination, please contact our office.

Sincerely,

Gary L. Funderburg
Sr. Water Resource Agent

LOH:GLF:marya

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 45-7459.

Name(s) of Permit Holder: Wayne Brown

Post Office Address: P.O. Box 45

Paul, Id. 83347

Tel. No. 438-8192

Source of Water: Groundwater

Extent of Use:

☐ Domestic

☐ Stockwater

☒ Irrigation

☐ Other

(number of households)

(number and type of stock)

(acres)

320

Measuring Device:

Required?

☐ Yes ☐ No

Installed?

☐ Yes ☐ No

Access Port:

Required?

☒ Yes ☐ No

Installed?

☐ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

Mar 30 82

Date

Wayne Brown

Signature of Permit Holder