

*Hand delivered to Dylan Lawrence
on 9/24/09*

**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	)	Subcase No. 63-5199
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:
Pioneer Irrigation District

RESPONDENT:
State of Idaho

Scott L. Campbell Date
Attorney for Claimant/Objector

David I. Stanish Date
Attorney for Respondent

STANDARD FORM 5 – 63-5199

IDWR Concurrency:

Jan Shurte 9-23-09
Jan Shurte Date
Water Rights Supervisor


Nicholas B. Spencer Date 9-21-09
 Deputy Attorney General
 Attorney for IDWR

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

RIGHT NUMBER: 63-5199
NAME AND ADDRESS: PIONEER IRRIGATION DISTRICT
PO BOX 426
CALDWELL ID 83606 83605

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 3.800 CFS ~~1.000 CFS~~
1,960.000 AFY ~~50.000 AFY~~

PRIORITY DATE: 10/15/1950

POINT OF DIVERSION:

T03N R02W S8 SWSW Within CANYON County
T03N R02W S12 SENW 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	<u>3.800 CFS</u> <u>1,960.00 AFY</u>
		1.000 CFS 50.00 AFY

JP
NBS

PLACE OF USE:

34204.61 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

This right can be used to irrigate up to 34,204.61 acres within the boundary of the Pioneer Irrigation District.

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

Source is also known as the Post well in Sec. 8 and the Korn well in Sec. 12.

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid 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, IDAHO 83303-2707

2. Copies to:

PIONEER IRRIGATION DISTRICT
Represented by:
SCOTT L. CAMPBELL
101 S. CAPITOL BLVD. 10TH FLOOR
P.O. BOX 829
BOISE, ID 83701-0829

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

Signature of person or attorney mailing the form

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

RIGHT NUMBER: 63-5199
NAME AND ADDRESS: PIONEER IRRIGATION DISTRICT
PO BOX 426
CALDWELL ID 83606 ~~83605~~

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 3.800 CFS ~~1.000 CFS~~
1,960.000 AFY ~~50.000 AFY~~

PRIORITY DATE: 10/15/1950

POINT OF DIVERSION:

T03N R02W S8 SWSW Within CANYON County

T03N R02W S12 SENW 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	<u>3.800 CFS</u> <u>1,960.00 AFY</u>
		1.000 CFS 50.00 AFY

PLACE OF USE:

34204.61 ACRES TOTAL

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Source is also known as the Post well in Sec. 8 and the Korn well in Sec. 12.

Sent to
SO 9-17-09

SFS

12/13/2006

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

RIGHT NUMBER: 63-5199

NAME AND ADDRESS: PIONEER IRRIGATION DISTRICT
PO BOX 426
CALDWELL ID. ~~83605~~ 83606

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: ~~1.000 CFS~~ 3.8 CFS
~~50.000 AFY~~ 1960 AF

PRIORITY DATE: 10/15/1950

POINT OF DIVERSION:

T03N R02W S12 SENW Within CANYON County

PURPOSE AND
PERIOD OF USE: T3NR2W S8 SWSW

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

~~1.000 CFS~~

3.8 CFS

~~50.00 AFY~~

1960 AF

PLACE OF USE:

34204.61 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

EXP. SOURCES ARE THE POS. WELL ^{LOCALLY KNOWN AS} IN SEC. 8 AND
THE KORN WELL ^{IN} SEC. 12.

From: Shurte, Jan

Sent: Tuesday, September 08, 2009 2:46 PM

To: Spencer, Nick; Williams, Ray; Harris, Lori

Subject: Pioneer ID Updates

This is an update (on the info I have) for Pioneer's. Don't quote me on this, it's just to follow along. Andy should have the updates on these for the conference. If not, here's my best take from all my notes.

63-5199 – Received ERO's measurement copy on 9/2/2009 (last week) from Andy. Measurement was taken in 7/07 and no copy given to us or found until recently. Agreed to add a pod and up the diversion rate to 3.8 cfs per amount filed on claim. Actual measured amount for both wells is 4.02 cfs. Zip code and Pioneer is ok on the acre foot amount on this one since it is based on b/u. Ready to do SF5.

63-5200 – Pioneer ok with cfs and acre foot amount now. Agreed to put that one of the wells is on the centerline between the SENE and NESE, S34 and put both of those pods on the right. It is on the line per gps by ERO. Also corrected AF amount under POU – was 3,989.8 AF/YR and should be 3,898.8. Total was correct. Ready to do SF5.

63-166A, B, 167A, B, 179A, C – All were going to settle on language that basically stated that Mason Creek and Franklin could not file a transfer to change the pod, pou or nou unless Pioneer was first contacted and ok'd it. Then, Andy mentioned something along the line that he was talking with Scott and realized that when Mason Creek &/or Franklin Ditch do not need their water (for whatever reason) then it goes on down and irrigates Pioneer lands, so now they were wanting to put their pou on Franklin and Mason Creek's rights. It kind of goes back to why they may have filed competing rights anyway. We will likely hear what the outcome of their discussions were. Not ready for SF5s.

63-2891 & 63-32513 – Rec. as applied, permitted and licensed. Objection wanted 13 cfs. ERO measured 10.6 cfs. PID ok with the 10 cfs on 63-2891. Want us to delete the wastewater condition even though not objected to. NOTE: 63-32513 filed for the same pod, Dave disallowed because Scott wrote letter that stated the bigger pump went in 1983. They can file a new application for permit for any extra water (.6 cfs). Andy was going to get back to me on whether they wanted to continue the .6 cfs portion of the objection. Will also need NMID settlement language as used in 63-2275. Not ready for SF5s.

63-5255 – Objected to quantity. Still no measurement submitted – Andy feels there was a measurement done and he is still tracking it down. Want to add another pod now and I told him to get me some evidence it was in there before 1987. Needs NMID Settlement language also. Not ready for SF5.

63-2114 – Claimed and licensed for 8.64 cfs – recommended that way. Objection wants 20 cfs. ERO measured 10.2 cfs. Pioneer is now ok with 8.64 cfs, however, they want the remaining 1,56 cfs to be recommended on their Claim No. 63-32584. This was a claim that came in between 12-6 and 12-14 the year I filed the report on 12-12. So, it did not get recommended in the report and needs to go into the fall report this year. Both of these need the NMID settlement language on them. I have evidence of a larger diversion flow from the backfile on 63-2114 and the measurement so should be able to recommend late claim. Probably won't want SF5 signed until late claim gets decreed. Andy will need to speak to that, so no SF5 done on 63-2114 yet. *LATE REPORT*

63-21706 – Pioneer ok with .1 cfs (if you can believe it). We are ok with Ada rather than Canyon & zipcode of course. SOU objection was the hold up – Andy wanted the SOU remark removed because this is a 1961 priority dated right which is junior to all the reservoirs anyway and he thought it was useless. Was to talk with BPBC & BOR about it and if they agree to remove SOU remark per Andy's idea, then ready for SF5. Otherwise, not ready for SF5 now.

63-21713 – Claim was for 15 cfs and we recommended 11.2 cfs from ERO measurement (fall). We allowed them to do a summer measurement and they came back with 17.9 cfs. Pioneer only claimed 15 cfs, so at the time I spoke with Andy that was ok to recommend 15 cfs. I did not find out until today when

I looked in the file that Wilder withdrew it's objection, so basically as long as Andy is still ok with the 15 cfs we can do an SF5 on this one.

SF5's done:

63-161BU

63-224

63-225

63-294

63-295

63-371

63-2275

can go forward to PD as

63-2276

email.

63-2294

63-5219

63-5237

63-21714 - PD Issued

63-21731

63-21739

63-32514

63-32515

NOTE: Talk with Nick about 63-32496 to see if it

an uncontested overlap - send SM Booth an

That's the best I got and it is in the order of the hearing schedules. See ya later – have questions call me quick.

Jan

Shurte, Jan

From: Shurte, Jan
 Sent: Tuesday, September 08, 2009 2:46 PM
 To: Spencer, Nick; Williams, Ray; Harris, Lori
 Subject: Pioneer ID Updates

63-32496 Done
 UNCONTESTED OVERLAP
 SHOOT EMAIL TO TED
 & ANDY. —

This is an update (on the info I have) for Pioneer's. Don't quote me on this, it's just to follow along. Andy should have the updates on these for the conference. If not, here's my best take from all my notes.

* 63-5199 – Received ERO's measurement copy on 9/2/2009 (last week) from Andy. Measurement was taken in 7/07 and no copy given to us or found until recently. Agreed to add a pod and up the diversion rate to 2.96 cfs. Zip code and Pioneer is ok on the acre foot amount on this one since it is based on b/u. Ready to do SF5. ^{3.8 cfs} STATUS CONF. 2/25/09

* 63-5200 – Pioneer ok with cfs and acre foot amount now. Agreed to put that one of the wells is on the centerline between the SENE and NESE, S34 and put both of those pods on the right. It is on the line per gps by ERO. Ready to do SF5. STATUS CONF. 2/25/00

63-166A, B, 167A, B, 179A, C – All were going to settle on language that basically stated that Mason Creek and Franklin could not file a transfer to change the pod, pou or nou unless Pioneer was first contacted and ok'd it. Then, Andy mentioned something along the line that he was talking with Scott and realized that when Mason Creek &/or Franklin Ditch do not need their water (for whatever reason) then it goes on down and irrigates Pioneer lands, so now they were wanting to put their pou on Franklin and Mason Creek's rights. It kind of goes back to why they may have filed competing rights anyway. We will likely hear what the outcome of their discussions were. Not ready for SF5s. SET STATUS SCHEED. CONF AT 10:30 AM.

63-2891 & 63-32513 – Rec. as applied, permitted and licensed. Objection wanted 13 cfs. ERO measured 10.6 cfs. PID ok with the 10 cfs on 63-2891. Want us to delete the wastewater condition even though not objected to. NOTE: 63-32513 filed for the same pod, Dave disallowed because Scott wrote letter that stated the bigger pump went in 1983. They can file a new application for permit for any extra water (.6 cfs). Andy was going to get back to me on whether they wanted to continue the .6 cfs portion of the objection. Not ready for SF5s. SET STATUS CONF. 2/23/10 11:00 AM

63-5255 – Objected to quantity. Still no measurement submitted – Andy feels there was a measurement done and he is still tracking it down. Want to add another pod now and I told him to get me some evidence it was in there before 1987. Not ready for SF5. SET STATUS FOR 2/23/00 AT 11:00 AM

63-2114 – Claimed and licensed for 8.64 cfs – recommended that way. Objection wants 20 cfs. ERO measured 10.2 cfs. Pioneer is now ok with 8.64 cfs, however, they want the remaining 1.56 cfs to be recommended on their late claim No. 63-32584. I have evidence of a larger diversion flow from the backfile on 63-2114 and the measurement so should be able to recommend late claim. Probably won't want SF5 signed until late claim gets decreed. Andy will need to speak to that, so no SF5 done on 63-2114 yet. ^{needs a recommendation} NOT A LATE CLAIM. ^{NO LATE SETTLEMENT REMARK.} FILED TO FILE.

63-21706 – Pioneer ok with .1 cfs (if you can believe it). We are ok with Ada rather than Canyon & zipcode of course. SOU objection was the hold up – Andy wanted the SOU remark removed because this is a 1961 priority dated right which is junior to all the reservoirs anyway and he thought it was useless. Was to talk with BPBC & BOR about it and if they agree to remove SOU remark per Andy's idea, then ready for SF5. Otherwise, not ready for SF5 now. ~ SM WANTS 63-230M LANGUAGE IF SOU LEFT SET mem

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SF5's done:

63-161BU – COURT HRS
 63-224 – "
 63-225 – "
 63-294 – "
 63-295 – "
 63-371 – "
 63-2275 – WE HAVE
 63-2276 – "

9/8/2009

63-2294 ✓

63-5219 ✓

63-5237 ✓

63-21714 (?) Sent & returned yet

63-21731 ✓

63-21739 ✓

63-32514 ✓

63-32515 ✓

~~WHAT HAS HAPPENED HERE?~~ BP ISSUED

That's the best I got and it is in the order of the hearing schedules. See ya later – have questions call me quick.

Jan

9/8/2009

From 63-230M

Possible settlement in 63-21706 – 9-09

Comment: Per Court Hearing and ruling of Special Master Ted Booth the language in the period of use remark under this right was changed from what appeared on the SF5 as follows (1st sentence only) - Diversion under this water right prior to April 1 and after October 31 shall occur - nothing else changed in the entire paragraph from that which was signed off on and proposed under the SF5. Order will be following this change here.

Shurte, Jan

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Sent: Tuesday, September 08, 2009 2:46 PM
To: Spencer, Nick; Williams, Ray; Harris, Lori
Subject: Pioneer ID Updates

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63-161BU
 63-224
 63-225
 63-294

9/16/2009

63-295
63-371
63-2275
PD as
63-2276
63-2294
63-5219
63-5237
63-21714 - PD Issued
63-21731
63-21739
63-32514
63-32515

NOTE: Talk with Nick about 63-32496 to see if it can go forward to
an uncontested overlap - send SM Booth an email.

That's the best I got and it is in the order of the hearing schedules. See ya later – have questions call me quick.

Jan

Consultants in
natural
resources and
the environment

Denver • Boise • Durango • Western Slope



ERO Resources Corp.
3314 Grace Street
Boise, ID 83703
(208) 373-7983
Fax: (208) 373-7985
www.eroresources.com
eroboise@eroresources.com

*Emailed on 9/2/09
See email in file.
63-5199*

**DISCHARGE MEASUREMENTS
FOR
PIONEER IRRIGATION DISTRICT
JULY 25, 2007**

Prepared for—

Moffatt Thomas Barrett Rock & Fields
101 S. Capitol Blvd., 10th Floor
Boise, Idaho 83701

Prepared by—

ERO Resources Corporation
3314 Grace Street
Boise, Idaho 83713
(208) 373-7983

April 6, 2009

**DISCHARGE MEASUREMENTS
FOR
PIONEER IRRIGATION DISTRICT
JULY 25, 2007**

This report describes two discharge measurements made for Pioneer Irrigation District on July 25, 2007. The discharge of the Korn and Post wells were measured on July 25, 2007. The measurements were made with a Polysonics Model DCT 7088 transit time sonic meter, serial No. 33508. All measurements were made according to procedures published for this meter.

The discharge measurement of the Korn Well was made on the discharge pipe shown in Photo 1 in Attachment 1. The well is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 12 Twp 3N Rge 2W, B.M. The meter showed a discharge of 1,327 gpm or 2.96 cfs at 10:29 am on July 25, 2007.

The discharge measurement of the Post Well was made on the discharge pipe shown in Photo 2 in Attachment 2. The well is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 8 Twp 3N Rge 2W, B.M. The meter showed a discharge of 474 gpm or 1.06 cfs at 11:15 am on July 25, 2007.

ATTACHMENT 1



Photo 1. Polysonics Meter installed on Korn Well discharge pipe.

ATTACHMENT 2



Photo 2. Polysonics meter installed on Post Well discharge pipe.

STATUS CONFERENCE NOTES:

RIGHT NO. 63-5199

DATE: 2-3-09

Needs meas. from Dave Shaw
still - He has meas. just needs
to put them in the form for IDWR.
Think they did the meas. on 8-3-2007