



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

August 4, 2009

GARY SPACKMAN
Interim Director

RE: PROPOSED SETTLEMENT FOR CLAIMS FILED AGAINST DECREED RIGHT 37-353

To Whom It May Concern

The department was directed to prepare a proposal to resolve the Objections and Responses to the sub cases listed below. Objections and/or responses were filed against 6 recommendations and no objections were filed against 8 recommendations. Of the 8 unobjected to rights, changes are proposed for 6 of them. Five claims are associated with three transfers that have completed the administrative process and are being recommended based upon those transfers.

A proportional split analysis was then developed for the claims where no transfers exist. The proportional split analysis identifies the ratio of irrigated acreage to the total irrigated place of use (POU). This ratio is then applied to the available diversion rate and compared to the claimed rate ultimately distributing the entire 6.40 cfs across the claims recognized as valid (see Table 1 of the attachment).

The proposal does not address any overlapping right issues that may exist with individual rights within this group.

Sincerely

A handwritten signature in cursive script that reads "Kelly K. Christensen".

Kelly K Christensen

Sr Water Resource Agent

E-mail address: kelly.christensen@idwr.idaho.gov

Subcase Nos:

37-353	37-353B
37-353D	37-353E
37-353F	37-353G
37-353H	37-353J
37-353K	37-353L
37-20348	37-21146
37-22042	37-22043

DISTRIBUTATION ANALYSIS FOR 37-353 AND ASSOCIATED SPLITS

Prepared by: Kelly K. Christensen, IDWR

Water right no. 37-353 was originally decreed for 6.40 cfs on 160 acres (0.04 cfs/acre). Some documents suggest that Dean sold lots at varying rates per acre but all warranty deeds at best state "with appurtenances". The delivery ditch system has historically been acknowledged to have significant conveyance losses. Although no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%. This would be in line with the decree of 0.04 cfs/acre, where assuming a 50% conveyance loss, the result would be 3.20 cfs on 160 acres, or one inch per acre.

Some information exists that suggests that irrigation ceased on various lots for 20± years. No claims were filed against lots 10, 11, 13, 14, 15, 16, and 18. The Dean Ranch Subdivision is shown in Figure 1.

In reviewing the 13 claims recognized as valid, which are associated with this historic right (including previously disallowed 37-353G and 37-22042), the found/recommended acreage was compared against the decreed rate per acre to determine a proportional share of the decreed 6.40 cfs. Three transfers established the rate and acreage limits for their respective rights (37-353G, 37-353H, 37-21146, 37-22042, and 37-22043) and are therefore not included as a part of the Proposed Calculations shown in Table 1.

The analysis includes a tentative modification to the POU for 37-353J (Olsen Livestock) from 7.8 acres to 10 acres, as there were no farmstead buildings on lot 2 in 1987. All of the property was therefore available for irrigation. After reviewing the 1987 aerial photography, the analysis for 37-353K (Fisher) also includes a modification to the POU from 6.3 acres to 7.9 acres.

The combined transfer rates total 0.80 cfs. This leaves 5.60 cfs available for the 8 active claims that were not subject to transfer. The combined found and adjusted irrigated acreage for those claims is 137.7 acres. Distributing the remaining 5.60 cfs across those acres results in a calculated rate per acre of ≈ 0.041 cfs/acre, which is slightly greater than the decreed rate of 0.04 cfs/acre. Most of the lots recognized as valid apply water from the main ditch to the ground through various sprinkler irrigation systems. Considering the system's 50% conveyance loss, 2 inches per acre appears reasonable.

The Proposed Calculations in Table 1 show the values used in calculating a proportionate split of the 5.60 cfs across the found 137.7 acres for the 8 non-transferred claims. The calculated rates were done in two stages. After the first iteration, the calculated diversion rate exceeded the claimed rate for claims 37-353D, 37-353F and 37-353J. The recognized rates for those rights are capped at the claimed rate. A second

iteration was then run for the remaining 5 claims with the results for all claims being displayed in the last column.

The proposed rates from Table 1 and the rights associated with the transfers are then combined and shown in Proposed Recommendations in Table 2.

Please note, that at this time, the analysis does not include or recognize any overlapping rights. Any overlap should not affect the validity of any of the claims against 37-353, but would affect how that overlap will be addressed in any combined right language. For those rights that the POU acreage has been adjusted and the change stands, the same change should apply to any overlapping right(s).

FIGURE 1
DEAN RANCH SUBDIVISION

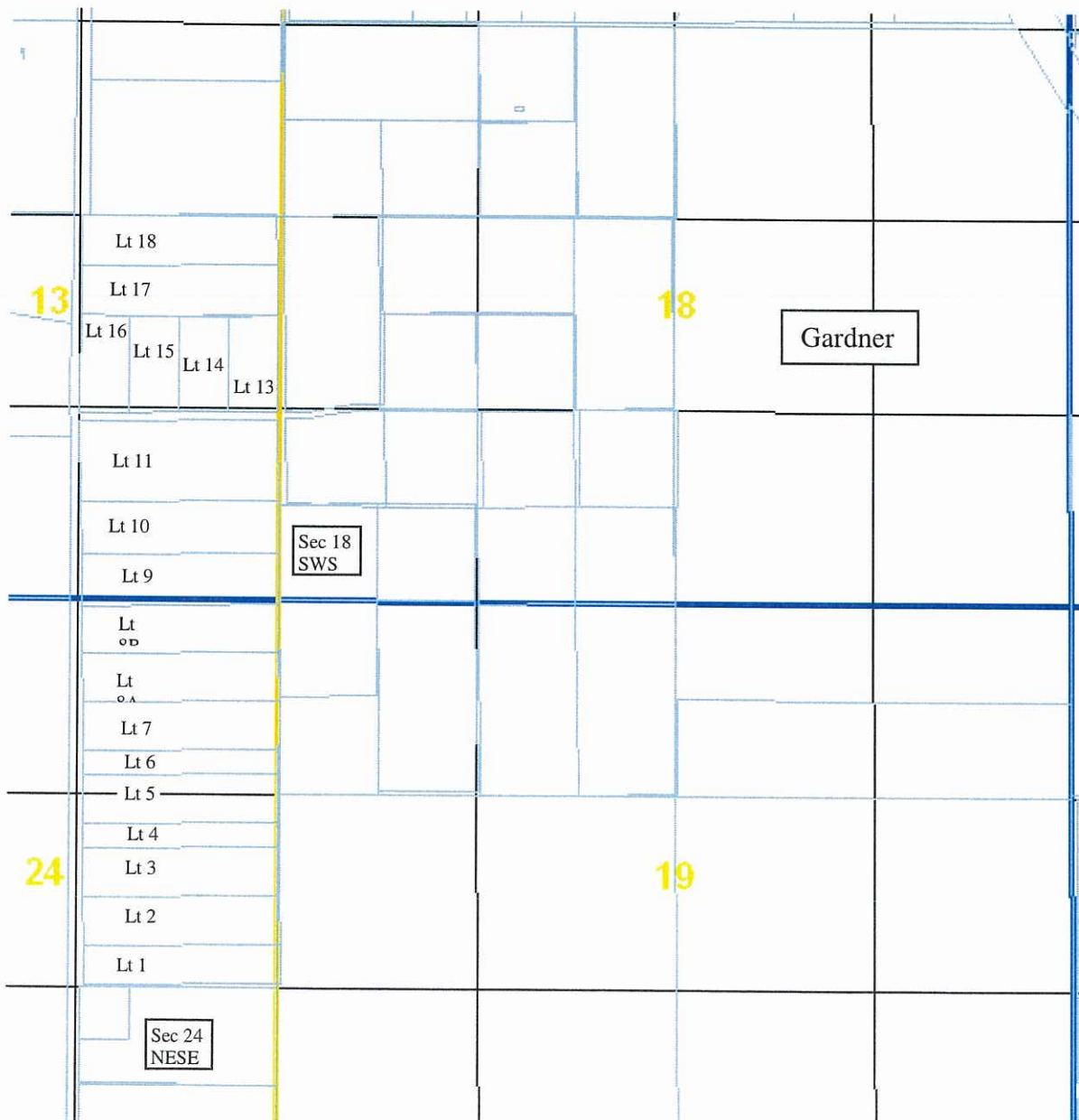


Table 1
37-353 PROPOSED CALCULATIONS

POU changes were made to Lt 2 and Lt 7 based upon objections and additional research.
POU objection to 37-21146 seeks additional acreage. Recommendation should reflect the transfer acre limits.
The Lt 9 claim 37-353G is being recognized as valid and the T-3678 information is being used in evaluating the total proposed rate.

No other adjustments to the POU are considered as of 6-16-2009.

* Proportional rate meets or exceeds claimed rate. Proposed proportional rate capped at claimed rate.

		Rec Acres	Adjust ed POU acres	Claim rate	Director report rec rate	1st iteration Prop allocation	1st iteration modified per claim	2nd iteration	Proposed Diversion rate distribution
37-353J Olsen Livestock	Lt 2	7.2	10	0.400	0.320	0.407	* 0.4		* 0.400
37-353L Goicoechea	Lt 3	8.4	8.4	0.360	0.280	0.342	0.34	0.038	* 0.360
37-353B Briggs/ Arrington	Lt 4, 5, & 6	0.4	0.4	0.400	0.4	0.016	0.02	0.002	0.040
37-353K Fisher	Lt 7	6.3	7.9	0.360	0.280	0.321	0.32	0.036	* 0.360
37-353F Oosting/ Ziker	Lt 8A	6.8	6.8	0.200	0.160	* 0.277	* 0.2		* 0.200
37-353 Grigsby	Lt 8B	6.9	6.9	0.400	0.400	0.281	0.28	0.031	0.310
37-353E Van Der Meulen	Lt 17	7.3	7.3	0.400	0.400	0.297	0.3	0.033	0.330
37-353D Gardner		280	90	3.6	3.600	3.660	* 3.6		* 3.600
	totals	323.3	137.7	6.120	5.840	5.6	5.46	0.140	5.600
	Div rate	5.6	Base Values						
Tot Lts less Lts 2, 8A & Gardner (acres)			30.9						
Diff 1st iteration modified vs Div rate			0.14						

Table 2
37-353 PROPOSED RECOMMENDATIONS

37-353 decreed to 160 acres at 6.40 cfs. The duty of water is 6.40 / 160 = 0.04 cfs/acre								
			Claim rate	Claimant	Proposed Rec rate	Transfer rate	Transfer No.	
37	353		0.4	GRIGSBY, JUDITH P	0.31			
37	353	B	0.4	ARRINGTON, DAN ; BRIGGS, NOEL	0.04			
37	353	D	3.6	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E	3.6			
37	353	E	0.4	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D	0.33			
37	353	F	0.2	OOSTING, JAMES M	0.2			
37	353	G	0.2	BARRY, BARBARA A	0.2	0.2	T-3678	
37	353	H	0.2	BENSON, BARBARA	0.2	0.2	T-3679	
37	353	J	0.4	OLSEN LIVESTOCK CONSULTING	0.4			
37	353	K	0.36	FISHER, DANETTE L ; FISHER, MARK D	0.36			
37	353	L	0.36	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM	0.36			
37	20348		0.2	TURCO, JERRY				disallowed
37	21146		0.11	GOWER, BETTE ; GOWER, MARK	0.11	} 0.4		
37	22042		0.04	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	0.04		T-2948	
37	22043		0.25	SUPER, JAMES R ; SUPER, JANET A	0.25			
		TOTAL	7.12		6.40			