

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: A43-00097B
Date Received: 6/08/1989
Receipt No: 5007654
Received By: RAO

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KENYON T. TUTTLE 208-638-5529
Address: ELBA, ID 83326
AND/OR
Name: HEIDI H. TUTTLE 208-638-5529
Address: ELBA, ID 83326
2. Date of Priority: JUN 01, 1883
3. Source: GREEN CANYON CREEK Trib. to: CROSS CREEK
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
14S	24E	12	NW	NE	NW		CASSIA
5. Description of diverting works:
WEIR AND DITCH
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.050		
7. Total Quantity Appropriated is:
0.050 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 45.0 Acre Feet Per Annum.
9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	25E	32	SW	SE		IRR	9.0
			SE	SE		IRR	6.0
Section Acres							15.0
Total Acres							15.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A4300096A, A4300098B, A4300410B

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

Decree Plaintiff

vs

Decree Defendant

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: 2

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): X *Kernan Tuttle* Date: X 6-8-89
Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 8th day
of June 19 89

Helen Harrington
Notary Public

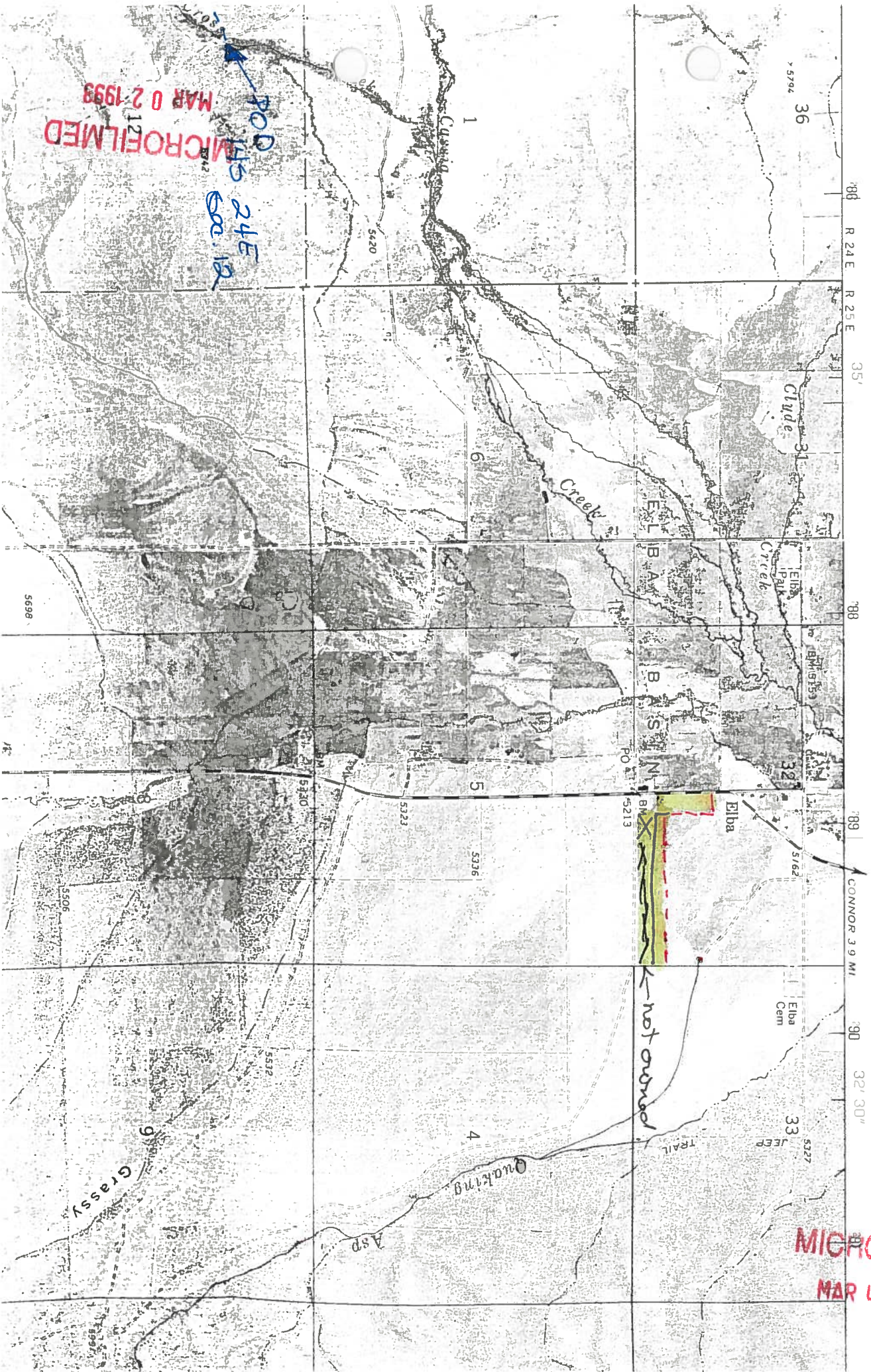
Seal

Helen Harrington, Notary Public
Residing at Residing at Boise, Idaho
My Commission Expires December 1, 1994
My Commission Expires _____

IRCTES

IOR

R24E R25E



MICROFILMED
MAR U 2 1993

194896

QUITCLAIM DEED

For Value Received

EULA FRANKS, a married woman as her sole and separate property do hereby convey, release, remise and forever quit claim unto

KENYON THEADORE TUTTLE and HEIDI HOLTMAN TUTTLE, husband and wife
HC 16, Box 1224 - Malta, Idaho 83342

the following described premises, to-wit:

TOWNSHIP 13 SOUTH, RANGE 25 EAST, BOISE MERIDIAN

Section 32: Part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

Commencing 36 $\frac{2}{3}$ rods North from the Southwest corner of the SE $\frac{1}{4}$ of said Section 32, for the place of beginning: Thence East 16 rods; Thence North 10 rods; Thence West 16 rods; Thence South 10 rods to the Place of Beginning.

AND

Commencing 46 $\frac{2}{3}$ rods North from the Southwest corner of the SE $\frac{1}{4}$ of said Section 32, for the place of beginning: Thence East 16 rods; Thence North 10 rods; Thence West 16 rods; Thence South 10 rods to the Place of Beginning.

TOWNSHIP 13 SOUTH, RANGE 25 EAST, BOISE MERIDIAN

Section 32: Part of the S $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

Beginning at a point 15 rods East and 13 $\frac{1}{3}$ rods North of the Southwest corner of the SE $\frac{1}{4}$ of said Section 32: Thence East 145 rods; thence North 13 $\frac{1}{3}$ rods; thence West 144 rods; thence North 10 rods; thence West 16 rods; thence South 10 rods; thence East 15 rods; thence South 13 $\frac{1}{3}$ rods to the Place of Beginning.

ALL IN CASSIA COUNTY, STATE OF IDAHO.

TOGETHER WITH:

.05 s.f. of the waters of Cassia Creek with date of priority of June 1, 1883.

.22 s.f. of the waters of Cassia Creek with date of priority of April 30, 1884.

.1 s.f. of the waters of Cassia Creek with date of priority of April 30, 1886.

And any and all other water, water rights, or water ditches appurtenant to the above described real estate, or any part or parcel thereof.

together with their appurtenances.

Dated: April 15, 1988

Eula Franks
EULA FRANKS

Presented to and plotted by me
this 26 day of April 1988
Martell C. Holland
Assessor Cassia County

By *[Signature]*
Deputy

STATE OF IDAHO, COUNTY OF CASSIA

On this 21 day of April 1988 before me, a notary public in and for said State, personally appeared

EULA FRANKS,

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Residing at

Burley

Idaho. Comm. Expires 11-11-92

For Recording Only

CASSIA COUNTY ABSTRACT

FEE 300.00

RECORDED

CASSIA COUNTY, IDAHO

FRANK B. KEARNS

APR 21 11 17 AM '88

FILED 1988

RECORDED AT THE REQUEST OF
CASSIA COUNTY ABSTRACT

194896

MICROFILMED
MAR 02 1993

01/22/2001

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

RIGHT NUMBER: 43-97B
NAME AND ADDRESS: HEIDI H TUTTLE
KENYON T TUTTLE
ELBA, ID 83326

VERIFIED BY KKC

SOURCE: GREEN CREEK TRIBUTARY: DRY CREEK

QUANTITY: 0.05 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE
THAN .02 CFS PER ACRE. COMBINED RIGHTS: 43-97B, 43-98B, AND
43-410B.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION: T14S R24E S11 NWSWSE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04-01 10-31	0.05 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County
T13S R25E S32 SWSE 8.1

8.1 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 8.1 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS. 43-97B, 43-98B, AND 43-410B.

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 - Decreed

THE COMBINED FLOW RATE FOR THE RIGHTS LISTED BELOW INCLUDES
0.21 CFS FOR CONVEYANCE LOSS BETWEEN THE POINT OF DIVERSION
AND THE FIELD HEADGATE. COMBINED RIGHTS: 43-97B, 43-98B, AND
43-410B.
SOURCE IS ALSO KNOWN AS GREEN CANYON CREEK.

Idaho Dept of Water Resources
Claims review notes and narrative

Date: 1-18-2001

File: 43-00096 gardiner vs tuttle split

Prepared by Kelly K Christensen

43-00096 43-00097, 43-00089, and 43-00410
SPLIT ANALYSIS

The above rights were claimed under two different ownership's as follows;

Source = Quaking Asp Spring

Gardiner		Tuttle		CLAIMED RATE	DECREED	PRIORITY
				TOTAL	RATE	DATE
A43-00096B	1.600 cfs	A43-00096A	0.30 cfs	1.900 CFS	ALL	Apr 30, 1882

Source = Green Canyon Creek

Gardiner	Claim Rate	Tuttle	Claim Rate	Combined claimed rates	Decreed rate by right	Priority date
A43-00097A	0.089 cfs	A43-00097B	0.05 cfs	0.139 CFS	0.10 CFS	June 1, 1883
A43-00098A	0.390 cfs	A43-00098B	0.22 cfs	0.610 CFS	0.44 CFS	Apr 30, 1884
A43-00410A	0.179 cfs	A43-00410B	0.10 cfs	0.279 CFS	0.20 CFS	Apr 30, 1886

Warranty deed 194896 dated April 15, 1988 and recorded April 21, 1988 Franks to Tuttle, conveys a portion of the decreed place of use and an additional 2 lots outside of the decreed place of use along with the following water rights.

0.05 s.f. of waters of Cassia Creek with date of priority of June 1, 1883

0.22 s.f. of waters of Cassia Creek with date of priority of April 30, 1884

0.05 s.f. of waters of Cassia Creek with date of priority of April 30, 1886

And any and all other water, water rights, or water ditches appurtenant to the above described real estate, or any part or parcel thereof.

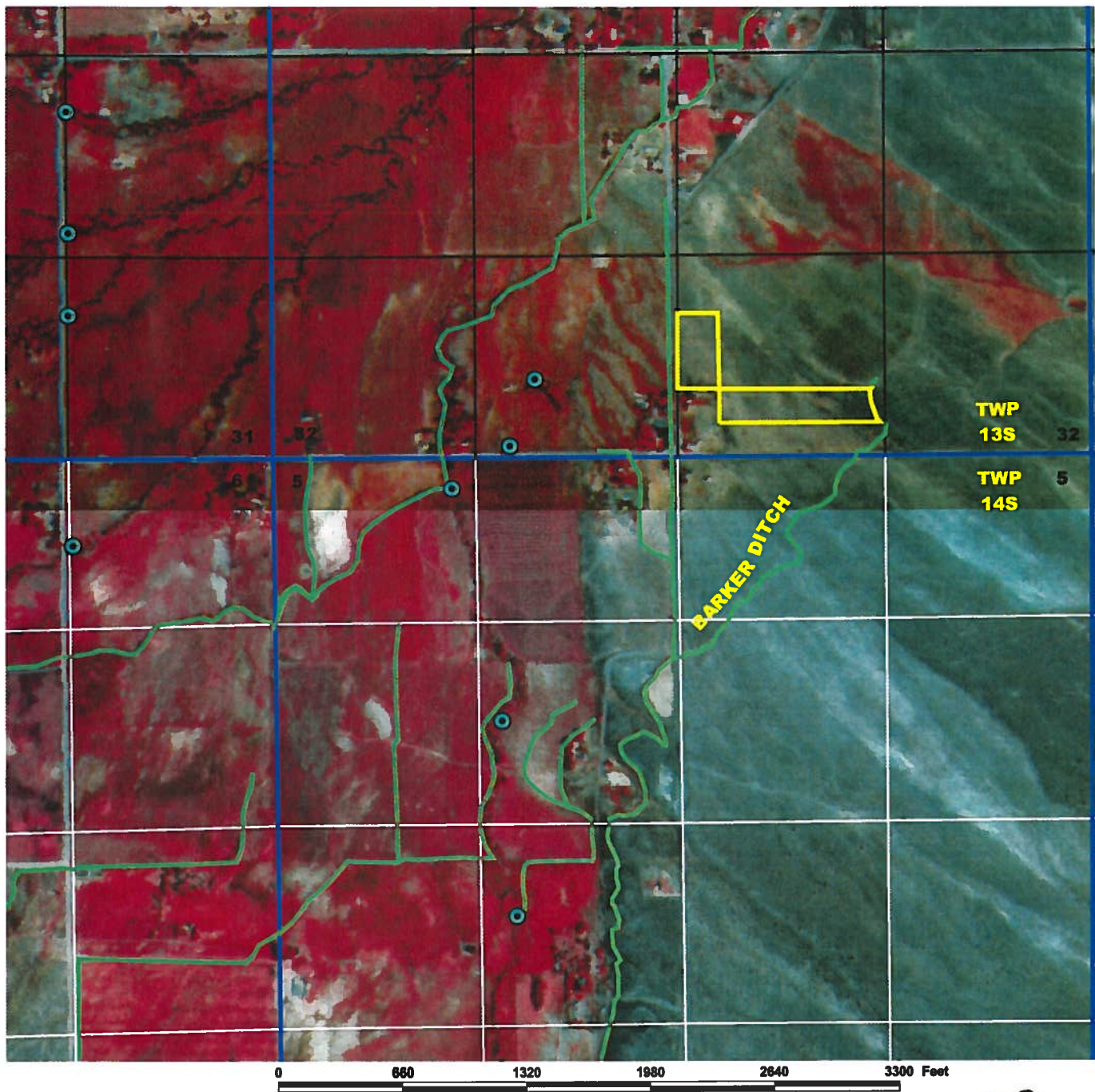
I am recommending these rights based upon the information provided in the warranty deed for the basis for the splits. The warranty deed splits are 50% for the Green Canyon Creek rights. The Quaking Asp Spring right was not identified in the warranty deed and I found that there was no use on the Tuttle property for Quaking Asp Spring water, therefore, I am recommending that right entirely to Gardiner.

Gardiner	Recommended Rate	Tuttle	Recommended Rate
A43-00097A	0.05 cfs	A43-00097B	0.05 cfs
A43-00098A	0.22 cfs	A43-00098B	0.22 cfs
A43-00410A	0.10 cfs	A43-00410B	0.10 cfs

TUTTLE SYSTEM NOTES:

The found acres under the Tuttle system are 8.1 acres. At one inch per acre, this is 0.162 cfs. The combined decreed rate identified in the warranty deed (and the basis for the recommended diversion rates) is 0.37 cfs. This rate exceeds the inch per acre rate by 0.21 cfs. The delivery system consists of the Green Creek ditch that delivers water into the Barker ditch that then carries the water to the place of use. The combined length of the two ditch systems utilized in the delivery of this water is $\approx$ 5.1 miles long. The 0.21-cfs exceeding one-inch per acre is being recognized for conveyance losses.

RECOMMENDED PLACE OF USE FOR 43-97B, 43-98B AND 43-410B



PLACE OF USE
TWP 13S, RNG 25E, SEC 32
Data entry on January 22, 2001

POINT OF DIVERSION LOCATION
IS OFF THE MAP

● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

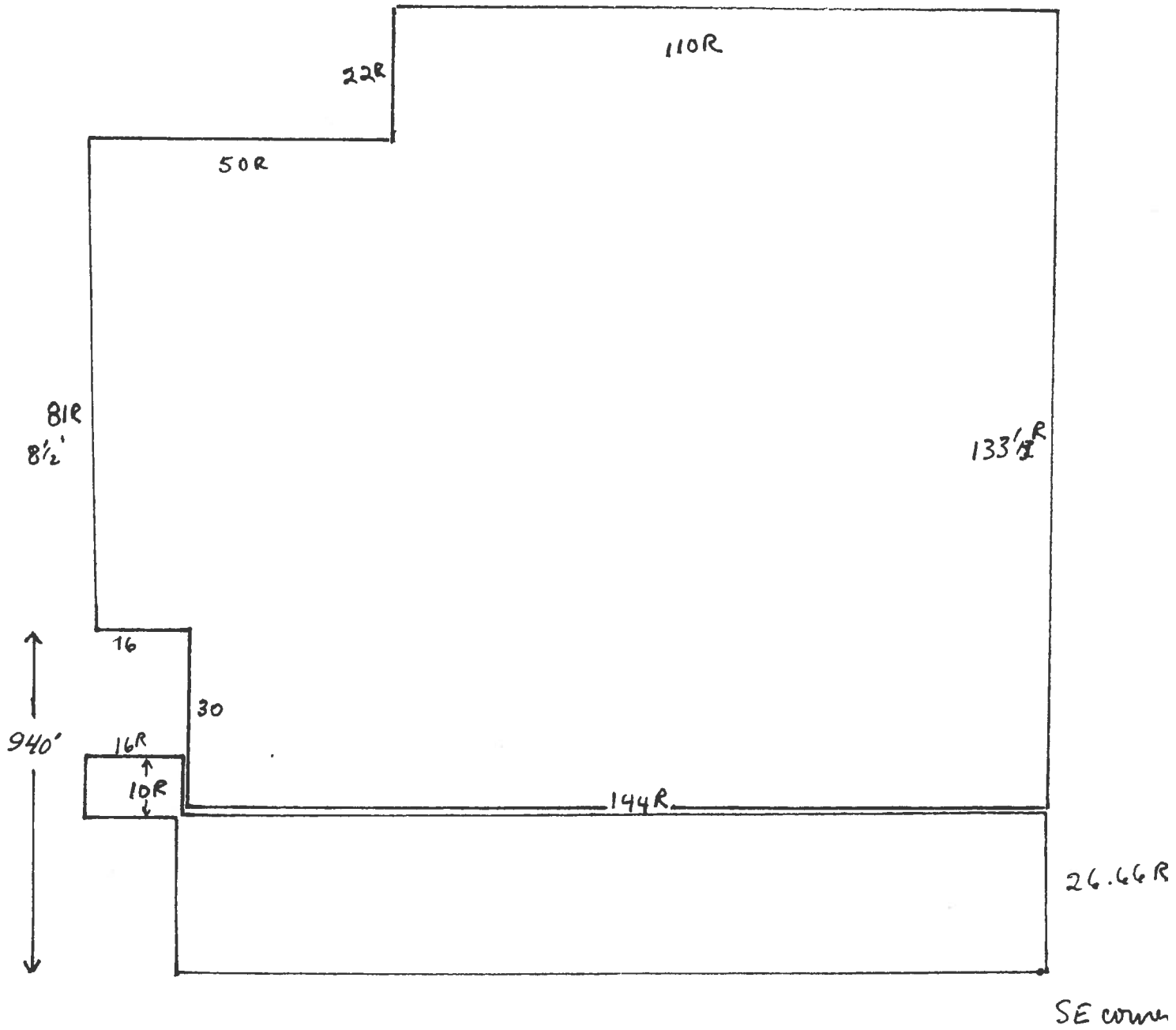
QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

CASSIA CO



DECREED P/2 43-00096, 00097, 00098, 00410



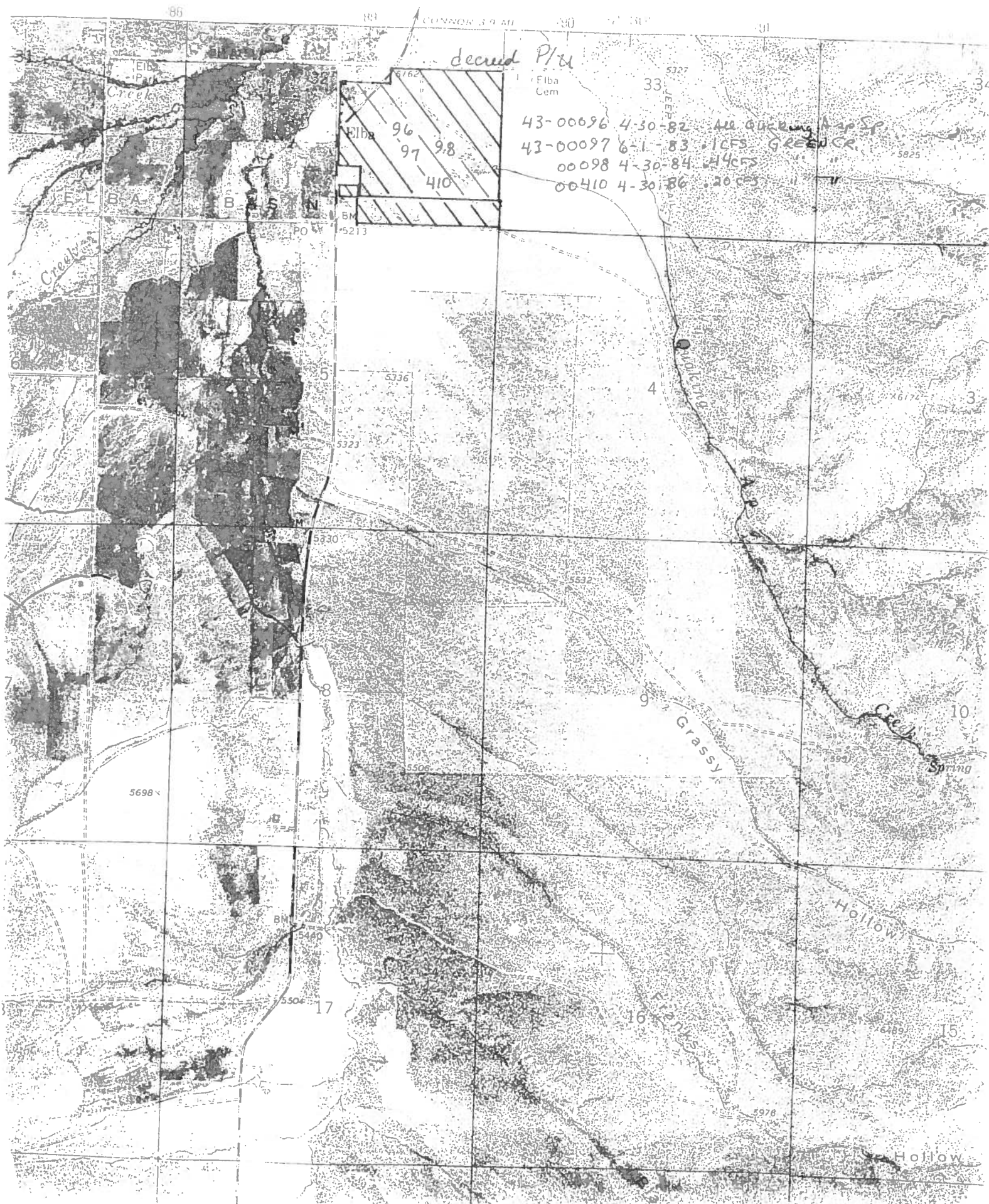
43-00096B	1.60 CFS	(GARDNER)
43-00096A	<u>.30 CFS</u>	Tuttle
tot	1.90 CFS	

A43-00097A	0.089 CFS	G.
00097B	<u>.05 CFS</u>	T.
tot	0.139 CFS	.10 CFS dec.

A43-00098A	0.39 CFS	G.
-00098B	<u>0.22 CFS</u>	T.
tot	0.61 CFS	.44 CFS dec.

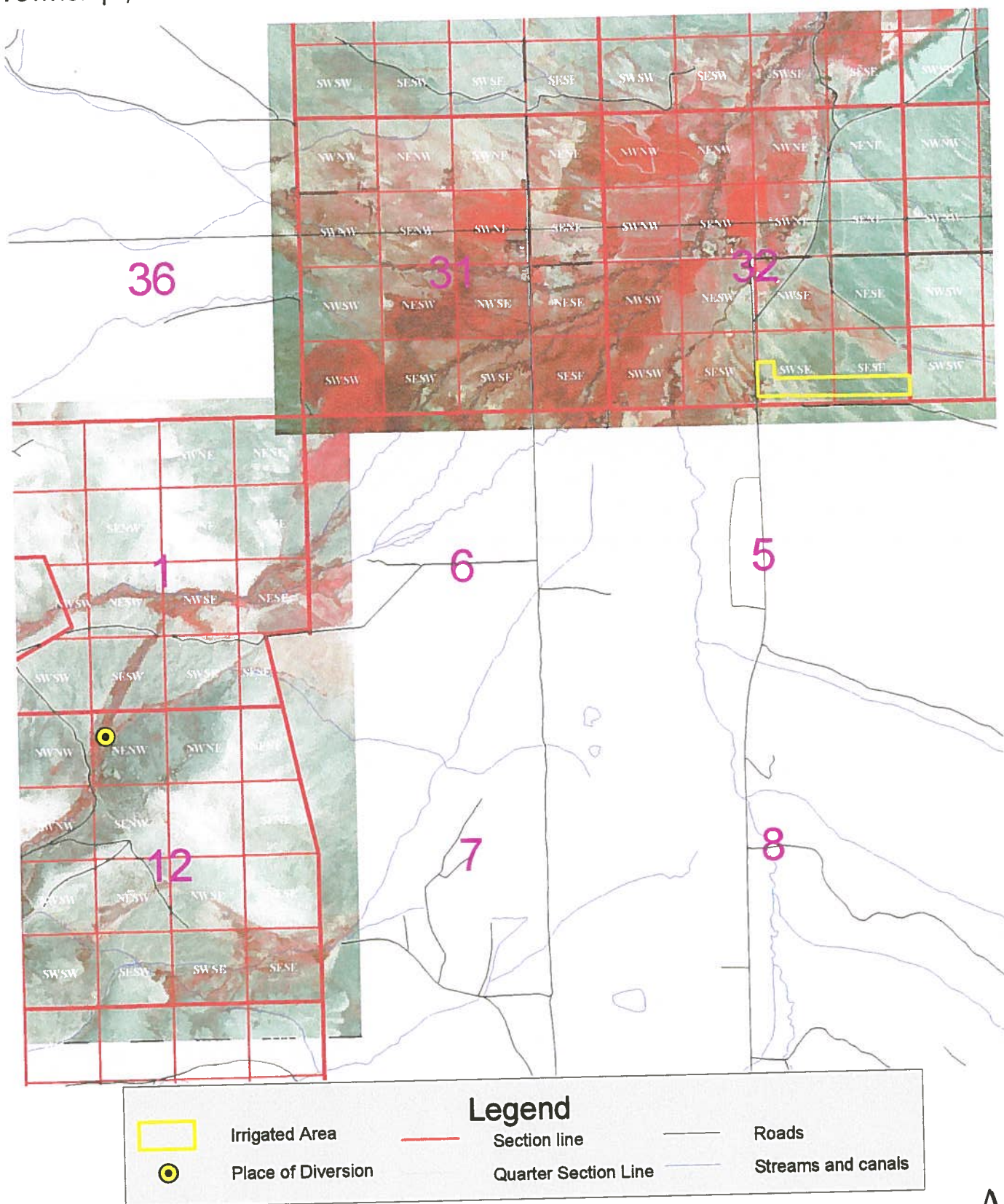
A43-00410A	0.179 CFS	G.
000410B	<u>.10 CFS</u>	T.
tot	0.279 CFS	.20 CFS dec.

decree vs claims
Rights overclaimed.



Water Right Claim Number A43-00097B

Township , 13S25E



1000 0 1000 2000 3000 4000 Feet



Log for claim A43-00097B

Spatial Dynamics LRR

1/31/00

T	R	SEC	QQ	Acres Claimed	Acres Found	COMMENT
13	25	32	SWSE	9	12	
13	25	32	SESE	6	10	
Totals:				15	22	

84 - L

85

86

R 21 L

R 25 E

35'

88

89

35

First Hollow
6045

36

5792

31

Clude Creek

JEM 9139

32

5762

CLAIM
T. R. S. Q/Q
INIT

P/D DD-30
PHOTO in the field
DT. & ID. 1976

ELBA

B. S. N.

PO 5213

BM

6388

2

1

6

5

5336

Spring

Spring

Creek

Cassid

5420

2

BM

5330

5323

5381

6342

12

7

8

5506

5698

Spring

JEPP

TRAIL

5887

BM

5440

R E S T

Hollow

Spring

TRAIL

5887

BM

5440

E58

E53

R25

T 403 E229

C
12
2.6
B

65
K

B.2

109
T/3/7

967
T1425

55.1

WEL

63.0

WEL

4 T 1423

E193

59.6

WEL

A

14.1

8

{ Kenyon Tuttle
645-2623
Lovina Tuttle.
638-5544

Phone call to
determine basis of % split
on Green Canyon rights.
Phone disconnected
7-25-94 (KKC)

CLAIM # A43-00097B, 00098B, & 00410B
DATE PHOTOS TAKEN; 7-22-94
PICTURE SET # 1

This photo set shows the P/U where the main ditch leaves the property in the northeast corner of the irrigated ground.

SOUTH BOUNDARY
OF THE P/U

GREEN CANYON
DITCH

ELBA CHURCH

P/D FOR THE
BARKER DITCH



MAIN DITCH

NORTHERN BOUNDARY FENCE