

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: A43-00152
Date Received: 3/22/1989
Receipt No: 500 6637 AD
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: A. D. NYE 208-645-2591
Address: H.C. 72 BOX 2000
MALTA, ID 83342

AND/OR

Name: ANN NYE 208-645-2591
Address: H.C. 72 BOX 2000
MALTA, ID 83342

2. Date of Priority: APR 01, 1905

3. Source: CASSIA CREEK Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	27E	18	SW	NW	SW	3	CASSIA

5. Description of diverting works:
CHECKDAM IN CREEK TO EARTHEN DITCHES & PUMP TO SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		

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

8. Total consumptive use is 525.0 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	27E	18	SW	NW	2	IRR	48.0
			NE	SW		IRR	40.0
			NW	SW	3	IRR	47.0
			NW	SE		IRR	40.0
						Section Acres	175.0
						Total Acres	175.0

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:
A43-02535, A43-00149 THRU A43-00152.

14. Remarks:
CASSIA CREEK IS SPLIT INTO THE STREAMS WITHIN THE NENWSE S. 21
T13S, R26E. THIS WATER IS DIVERTED FROM THE SOUTHERN STREAM OR
WHAT IS ALSO KNOWN AS THE MIDDLE STREAM.

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

ALBION-IDAHO LAND CO.
Decree Plaintiff

vs

JOBE ADAMS ET AL
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 wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: See Map A43-00149

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): A. D. Nye Date: 3/22/89
_____ Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 22nd day
of March 19 89

 [Signature]
Notary Public

Seal

Residing at Kimberly, ID
My Commission Expires 6/30/92

05/29/2001

NOTICE OF ERROR
REPLY

RECEIVED
JUN 18 2001
Department of Water Resources
Southern Region

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: June 15, 2001

Water right number: 43-152

A D NYE
HC 72 BOX 2000
MALTA ID 83342
Telephone Number: (208)645-2591

ANN NYE
HC 72 BOX 2000
MALTA ID 83342
Telephone Number: (208)645-2591

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:

6/8/01

SIGNATURE:

A. D. Nye

Please print your name:

A. D. Nye

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033

05/11/2001

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

RIGHT NUMBER: 43-152

NAME AND ADDRESS: A D NYE
ANN NYE
HC 72 BOX 2000
MALTA, ID 83342

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 0.8 CFS

THIS RIGHT WHEN COMBINED WITH RIGHT NO. 43-149, 43-150, 43-151A & 43-2535 SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.

PRIORITY DATE: 04/01/1905

POINT OF DIVERSION: T13S R27E S18 LOT 3 SWNSW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	0.80 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>			
T13S R27E S18	LOT 2	SWNW	48
T13S R27E S18	LOT 3	NWSW	47

T13S R27E S18	NESW	38
T13S R27E S18	NWSE	39

172 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 - Decreed

THE FOLLOWING RIGHTS ARE DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 43-149, 43-150, 43-151A & 43-152.

CLAIM NUMBER 43-152 DATE _____

TRANSFER NUMBER _____

AGENT _____

CLAIMED ACRE TOTAL _____

GIS ACRE TOTAL _____

See 149 b

				NE				NW				SW				SE			
	TWP	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			

B43-POU.SHP

118035 - Coincident Shapes : -149, -150, -151A, -152, -253S

SHAPE NOS.

B43-POD.SHP

396417 Coincident w/ 149 150, 151A.

NOS. DESCRIPTION

F06 Explanatory Remark
 Remarks - *Same POD*
Quantity remark
 E28 limited to 1"/acre

C18 -

DBF TABLES UPDATED

B43-DBPOU.DBF

B43-DBPOD.DBF

JPEG LAYOUT

Idaho Dept of Water Resources

Date: 3-21-2001

File: 43-149, 43-150, 43-151A, 43-152, 43-2535
43-221, 43-251A, 43-144A, 43-10064

Prepared by Scott King

Claims review notes and narrative

Claimants: A. D. Nye, Ann Nye

43-149, 43-150, 43-151A, 43-152, 43-2535

SYSTEM ANALYSIS

Water rights 43-149, 43-150, 43-151 & 43-152 for Cassia Creek water are included in the Jobe Adams decree. Right 43-2535 is a license for ground water. The four decreed Cassia Creek rights all claim irrigation of the same acres in four quarter-quarter sections (175 acres total). The decree lists the same quarter-quarters but did not list a specific number of acres (typical for this decree). The ground water license (43-2535) provides 130 acres within the same quarter-quarters.

GIS analysis indicates a total of 172 irrigable acres in this tract with subtractions for roads, a ranch, and for Raft River.

The claimed point of diversion for surface water is identifiable on the imagery and appears to match the identified point in the file map. The ground water well is located near the surface water diversion and matches the licensed point.

All of the above rights, except for 43-151, were claimed only by Nye. 43-151B is claimed by Hutchison as 0.8 cfs for 45 acres. Part A is claimed by Nye at 1.6 cfs for 175 acres. As decreed, 43-151 provides 1.6 cfs for irrigation of four quarter-quarters (maximum possible of 177 acres in this tract, 172 irrigable). Although we were unable to find department records of this split, a statement by the watermaster indicates a long history of delivering this right with a 50/50 split (0.8 cfs delivered to each party). Therefore, 43-151B is recommended for 0.8 cfs, 44 acres. 43-151A is recommended for 0.8 cfs and 128 acres (172 irrigable less 44 for part B).

Three rights are recommended at a total 172 acres (43-149, 43-150 & 43-152); the remaining rights provide a specified number of acres within the 172-acre permissible place of use.

RECOMMENDATION SUMMARY

43-149	172 acres at	1.20 cfs, Cassia Creek, priority 4/30/1880
43-150	172 acres at	0.40 cfs, Cassia Creek, priority 4/30/1881
43-151A	128 acres within a 172 acre PPU at	0.80 cfs, Cassia Creek, priority 4/01/1894
43-152	172 acres at	0.80 cfs, Cassia Creek, priority 4/01/1905
43-2535	130 acres within a <u>172 acre PPU at</u>	<u>2.04 cfs</u> , Ground water, priority 8/31/1961
	Total	5.24 cfs

ONE INCH PER ACRE LIMITATION
FOR THE FOUND PLACE OF USE
 $172 \text{ ac} \times 0.02 \text{ cfs} = 3.44 \text{ cfs}$.

43-144A, 43-221, 43-251A & 43-10064

SYSTEM ANALYSIS

Water rights 43-144, 43-221 & 43-251 are included in the Jobe Adams decree, providing Cassia Creek water for irrigation. 43-10064 is a combination of statutory claims 43-4048 and 43-4049 for ground water for irrigation.

Nye claimed half of 43-144 as 43-144A, 0.9 cfs and 80 acres, 3/31/1886 priority. Allowances for Cassia Creek and a road remove 1 acre from this POU, for a recommended 79 acres total. The POD is identifiable in the imagery. 43-144B is claimed by Hall.

43-221 was claimed in full, 3.2 cfs for 154 acres in 4 quarter-quarter tracts, 10/1/1905 priority. The Jobe Adams decree provided 3.2 cfs for 4 quarter-quarter tracts (160 acres max). Five acres are out and claimed in 43-10064; allowances for Cassia Creek and roads reduce the recommended acres to 153. Flow is recommended at 3.06 cfs (0.02 cfs per acre). The late priority indicates high water that is regulated early. The decreed POU overlaps in one quarter-quarter with 43-251, but Nye's claim for 43-251 does not overlap. Two PODs are recommended as claimed; one coincident with 43-144A, the other coincident with 43-251A.

43-251 is only partially claimed by Nye as part A. The Jobe Adams decree provided 0.8 cfs for irrigation of 3 quarter-quarter tracts, April 1, 1894 priority. Nye claimed irrigation of 77 acres in 2 quarter-quarter tracts, and 0.533 cfs (two-thirds of the flow). Allowances for roads reduced the recommendation to 76 acres. Diversion rate is recommended at 0.53 cfs. The point of diversion is also used by 43-221. The remaining portion of 43-251 is unclaimed.

None of the above recommended places of use overlap with each other.

43-10064 claims 5.7 cfs for irrigation of 311 acres, ground water with a priority of March 15, 1939. Two points of diversion are claimed. The place of use completely overlaps all of the above recommended rights for Cassia Creek water. 43-10064 is a combination of statutory claims 43-4048 and 43-4049, originally filed with the department in August 1972. No other ground water rights were found to be appurtenant to this property. Evidence of priority is an agreement to purchase power dated 5/25/1955. Although this agreement only appears to list one of the two wells, the recommended priority date is advanced to 5/25/1955 based on the agreement. Imagery from 1962 supports irrigation of this tract. Allowances for roads, Cassia Creek, etc., reduced the recommended acres to 308. Theoretical calculations of historic diversion rates exceed the claimed diversion rate so that the claimed flow of 5.7 cfs is recommended.

All of the above rights are conditions so that when combined shall provide no more than 0.02 cfs per acre.

RECOMMENDATION SUMMARY

43-144A	79 acres at	0.90 cfs, Cassia Creek, priority 3/31/1886
43-221	153 acres at	3.06 cfs, Cassia Creek, priority 10/1/1905
43-251A	76 acres at	0.53 cfs, Cassia Creek, priority 4/01/1894
43-10064	308 acres at	5.70 cfs, Ground water, priority 5/25/1955
Total		10.19 cfs

ONE INCH PER ACRE LIMITATION
FOR THE FOUND PLACE OF USE
 $308 \text{ ac} \times 0.02 \text{ cfs} = 6.16 \text{ cfs}$.