

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: A43-00293A
Date Received: 5/31/1989
Receipt No: M003766
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RONALD HARPER
Address: HC 61, BOX 1156
MALTA, ID 83342
208-645-2283
2. Date of Priority: APR 30, 1880
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 | 26E | 11 | NW | | SE | | SE | | CASSIA |
5. Description of diverting works:
HEADGATE WITH MEASURING WEIR.
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 1.400 | | |
7. Total Quantity Appropriated is:
1.400 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
NONE.
10. Place of Use:
- | Township | Range | Section | 1/4 | of | 1/4 | Lot | Use | Acres |
|---------------|-------|---------|-----|----|-----|-----|-----|-------|
| 12S | 26E | 25 | NE | | SE | | IRR | 35.0 |
| | | | SE | | SE | | IRR | 35.0 |
| Section Acres | | | | | | | | 70.0 |

A43-00293A

Page 1

Date: 05/31/89

MICROFILMED
MAR 03 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	26E	36	NE	NW		IRR	40.0
			SE	NW		IRR	35.0
						Section Acres	75.0
						Total Acres	145.0

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:
43-02361, 43-00302, 43-00296A

14. Remarks:
COMBINING WITH OTHER WATER RIGHTS HAS PERMITTED THE PLACE OF USE OF THIS CLAIM TO BE EXPANDED TO IRRIGATE AN ADDITIONAL 75 ACRES IN THE NW 1/4 OF SEC. 36. SEE ATTACHED LETTER FROM BUD TRACY WITNESSING THAT THIS AREA HAS BEEN IRRIGATED FROM THIS SYSTEM SINCE THE FALL OF 1973.

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

ALBION-IDAHO LAND CO.
Decree Plaintiff

JOBE ADAMS ET AL
Decree Defendant

vs

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: _____

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 Ronald D. Haysen Date: X 5-31-89

Date: _____

State of Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 31st day
of May 19 89

Robert V. Thorstell
Notary Public

Seal

Residing at Twin Falls, Idaho
My Commission Expires _____

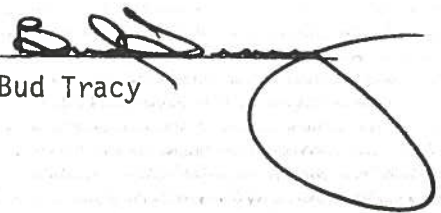
May 30, 1989

TO WHOM IT MAY CONCERN:

The purpose of this letter is to record my knowledge of Elwin K. Harper expanding his water right in the Fall of 1973 to the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 36, Township 12 South, Range 26 East.

Through conservative practices, he continued to irrigate said land until placing it in the CRP program.

Signed:


Bud Tracy

MICROFILMED

MAR 03 1993

سید

07/09/2001

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

RIGHT NUMBER: 43-293A

NAME AND ADDRESS: RONALD HARPER
2225 E 1300 S
MALTA, ID 83342

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 1.4 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER
ACRE. COMBINED RIGHT NOS. 43-293A, 43-296A, 43-302, 43-2361, 43-12994, AND
43-12995.

PRIORITY DATE: 04/30/1880

POINT OF DIVERSION: T13S R26E S14 NENENE 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	1.40 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>					
T12S R26E S25	NESE	35	T12S R26E S25	NWSE	39
T12S R26E S25	SWSE	32	T12S R26E S25	SESE	34
T12S R26E S36	NWNW	39	T12S R26E S36	SWNW	34

213 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 69 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 213 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-293A,
43-296A, 43-302, 43-2361, 43-12994, AND 43-12995.

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

RIGHT NO. 43-12994 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION 42-
1426, IDAHO CODE.



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

E-mail address: kchrister@idwr.state.id.us

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 9, 2001

RONALD HARPER
2225 E 1300 S
MALTA ID 83342

RE: RESPONSE TO NOTICE OF ERROR MEETING

Dear Ron

Enclosed is a copy of the modified preliminary recommendation for 43-293A. I changed the recommended diversion rate to 1.40 cfs, which represents 50% of the original decreed right.

As I recall, that was the only change that you requested during your 6-18-2001 office visit. If there was another issue that I neglected please let me know as soon as possible.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

enclosure

Water master records indicate that
43-293 is to be split 50-50.

Office visit on 6-18-01 Ron Harper.

43-293 decreed @ 2.80 CFS
50% = 1.40 CFS

05/03/2001

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

RIGHT NUMBER: 43-293A
NAME AND ADDRESS: RONALD HARPER
1300 S 2225 E
MALTA, ID 83342

SOURCE: CASSIA CREEK TRIBUTARY: RAFT RIVER

VERIFIED BY: KKC

QUANTITY: 1.09 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS. 43-293A, 43-296A, 43-302, 43-2361, 43-12994, AND 43-12995.

PRIORITY DATE: 04/30/1880

POINT OF DIVERSION: T13S R26E S14 NENENE Within CASSIA County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
03-15 11-15

QUANTITY
1.09 CFS

*Rate revisited.
Chg'd to 1.40 CFS
Per claimant NOE.
KKC
7-9-01*

PLACE OF USE:

IRRIGATION Within CASSIA County

T12S R26E S25	NESE	35	T12S R26E S25	NWSE	39
T12S R26E S25	SWSE	32	T12S R26E S25	SESE	34
T12S R26E S36	NWNW	39	T12S R26E S36	SWNW	34

213 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 69 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 213 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-293A, 43-296A, 43-302, 43-2361, 43-12994, AND 43-12995.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

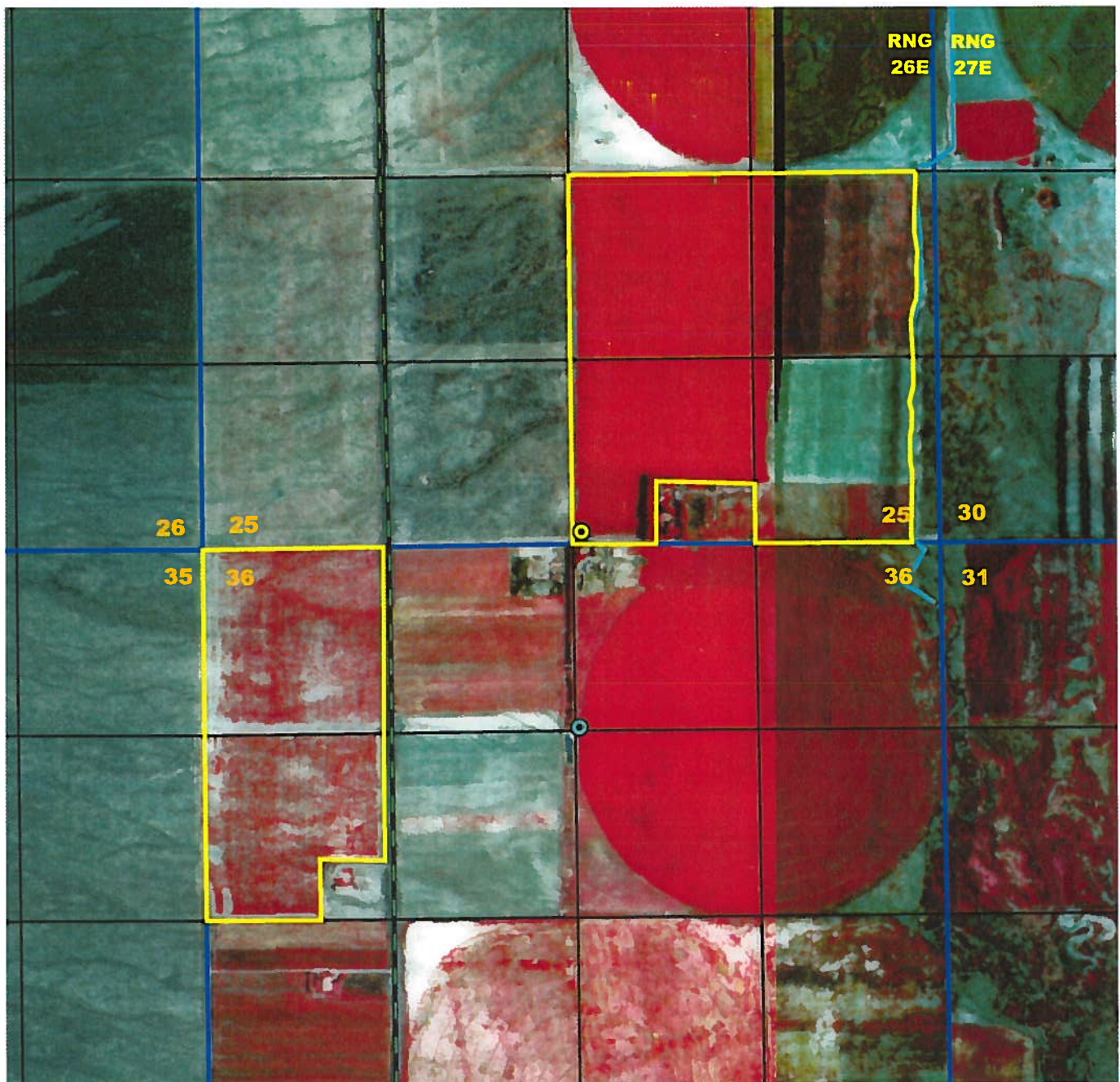
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

RIGHT NO. 43-12994 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION 42-1426, IDAHO CODE.

Idaho Department of Water Resources

**RECOMMENDED PLACE OF USE FOR
43-293A, 43-296A, 43-302, 43-2361, 43-12994, AND 43-12995**



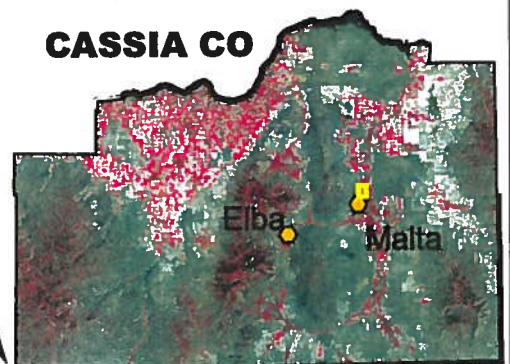
660 0 660 1320 1980 Feet

PLACE OF USE
TWP 12S, RNG 26E, SEC 25 & 36
Data entry on May 3, 2001

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

-  **RECOMMENDED POINT OF DIVERSION**
-  **RECOMMENDED PLACE OF USE**
-  **SECTION LINES**
-  **QUARTER/QUARTER LINES**

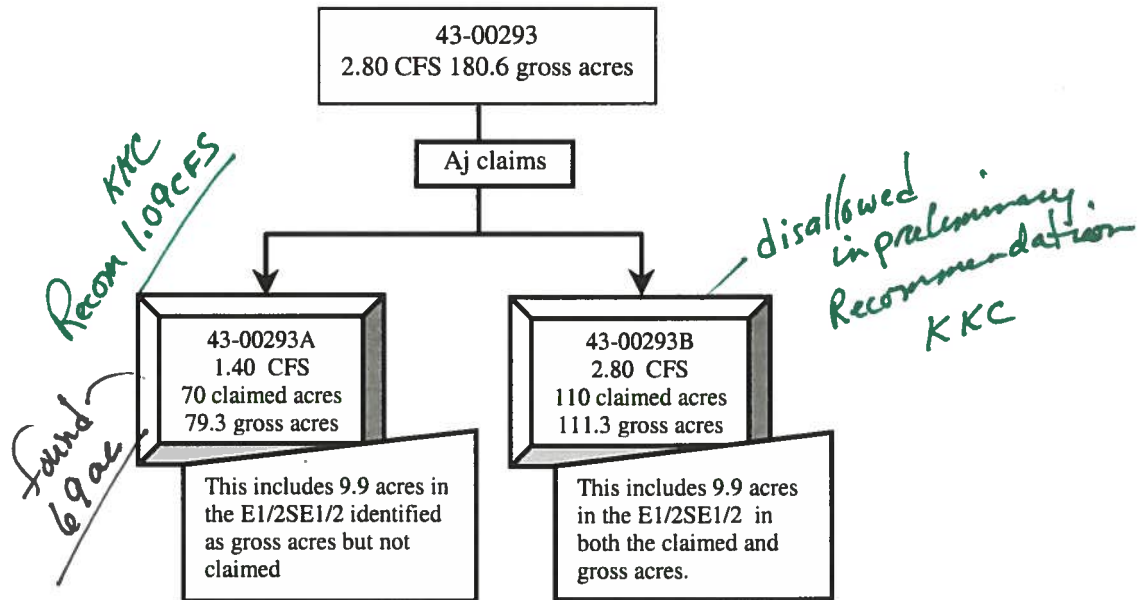
CASSIA CO



SPLIT ANALYSIS FOR 43-00293

*Prepared
5-18-99
K KC*

43-00293	SHAW, HARRY	C	04/30/1880	D/	CASSIA CREEK	IRR	WR
A43-00293	RENUMBERED CLAIM	C	04/30/1880	/Z	CASSIA CREEK	IRR	AJ
	SPLIT RIGHT	C			RENUMBERED CLAIM		
A43-00293A	HARPER, RONALD	C	04/30/1880	D/	CASSIA CREEK	IRR	AJ
A43-00293B	TRACY, LAVERE	C	04/30/1880	D/	CASSIA CREEK	IRR	AJ
	TRACY, FONTELLA	C					
R43-00293A	HARPER, RONALD	C	04/30/1880	D/	CASSIA CREEK	IRR	AJ
R43-00293B	TRACY, LAVERE	C	04/30/1880	D/	CASSIA CREEK	IRR	AJ
	TRACY, FONTELLA	C					



SPLIT ANALYSIS FOR 43-293

	decree		ron	tracy	total
decree rate =	2.8	claimed rate =	1.4	2.8	4.2
acres =	180	claimed acres =	70	110	180
		based upon 180 base	1.089	1.711	2.800

Recom

1.09 CFS

*KKC
5-3-01*

SPLIT ANALYSIS FOR 43-296

	decree		ron	doug	tracy	total
decree rate =	2.8	claimed rate =	1.11	0.88	0	1.99
acres =	380	claimed acres =	145	115	110	370
		based upon 380 base	1.068	0.847	0.811	2.726
		based upon 370 base	1.097	0.870	0.832	2.800

TRACY

43-2392 GW claimed as licensed

43-293B Cassia Cr. claimed entire div rate
right also claimed by Ron Harper

43-296 no claims against right.

Ron Harper

43-2361 GW claim includes efp acres
second claim needed.

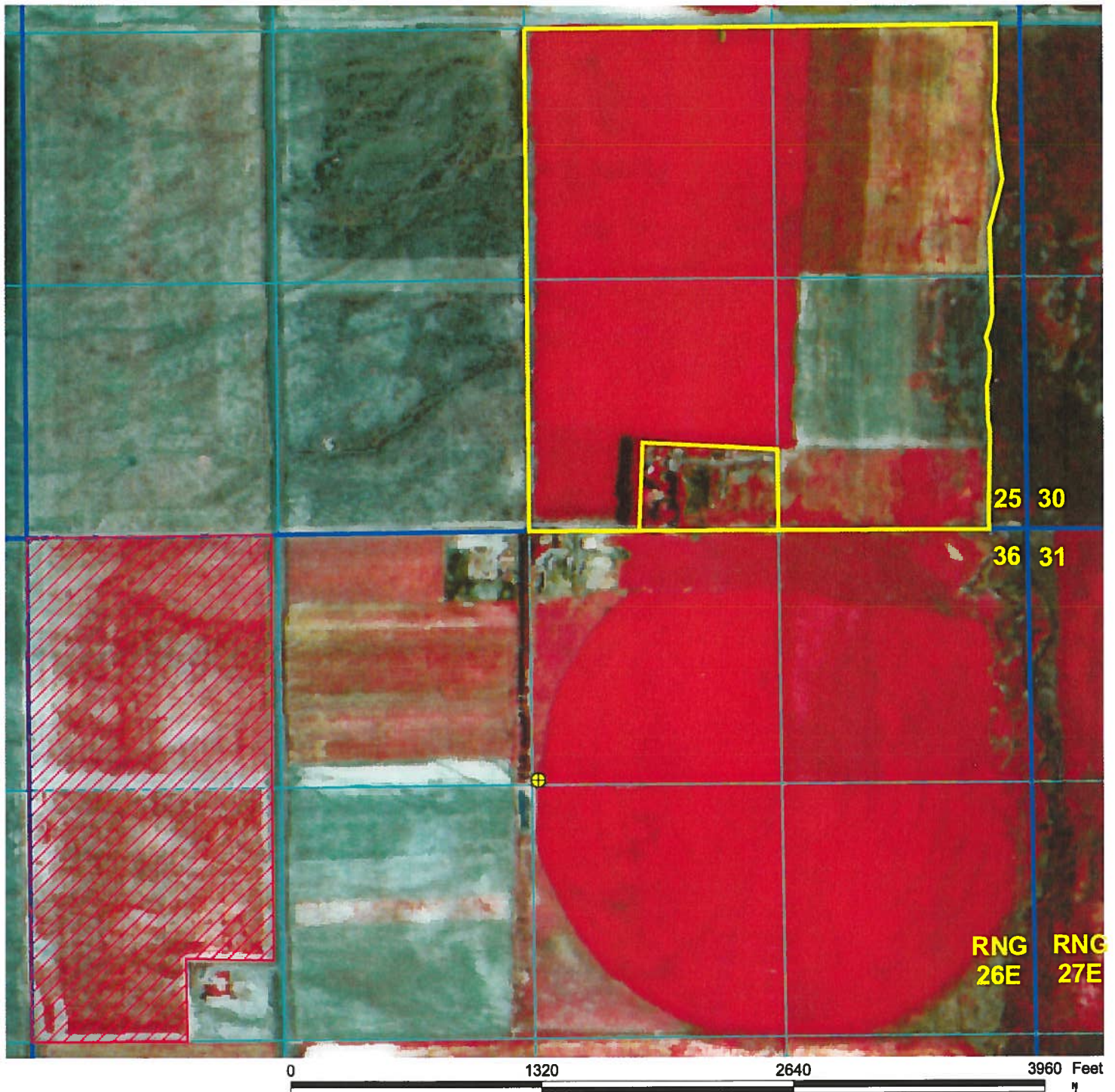
43-293A Cassia Cr. 1.40 CFS competing against
Tracy.

43-296A Cassia Cr. 1.11 CFS claimed part of right
remaining portion not claimed

43-302 Cassia Cr. it appears that the claim
identifies the wrong legal for the P/U.
Entire right claimed.

IDAHO DEPARTMENT OF WATER RESOURCES

**CLAIMED P/U FOR
43-00293A, 43-00296A, 43-00302, & 43-02361**



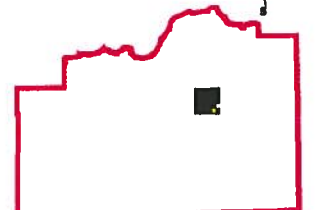
**TWP 12S; RNG 26E
FIELD EXAM DATE AGENT**

JPEG LAYOUT CREATED _____

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

- LICENSED AND/OR DECREED P/U
- ENLARGEMENT P/U
- SECTION LINES
- QUARTER QUARTER LINES

CASSIA Co.





State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

May 18, 1999

DOUGLAS R HARPER
HC 61 BOX 1156
MALTA ID 83342

RE: SNAKE RIVER BASIN ADJUDICATION CLAIMS: A43-02361, A43-00293A,
A43-00296A, & A43-00302

Dear Mr Harper

This letter is basically a copy of a letter I recently sent to Douglas Harper but tailored to your circumstances.

The department is scheduled to submit its director's report for basin 43 to the Snake River Basin Adjudication court late this fall. Accordingly, the department has scheduled this summer for field verification of adjudication claims in order to prepare the director's report. With this letter I am attempting to explain some of the changes to Idaho code and court procedures that directly affect your water rights. I understand that much of this may be difficult to follow and I expect to meet personally with you in Malta sometime this spring to go through this in depth. If you wish to call, you can reach me at the above listed number.

At claims taking in 1989, you filed the above claims in accordance to court and department directions. Since that time, through legal challenges and a change in Idaho code, the method of identifying enlargements to licensed and decreed rights have changed. The enlargements for groundwater and decreed surface water rights are treated differently and I am, therefore, addressing them separately.

As I have not visited your property or reviewed your claims with you, I have not formed a recommendation for your rights at this time. I did, however, review the evidence relating to the enlargement and, barring contrary information, find that it is sufficient to establish the priority date for the enlargement claims. This is based upon the assumption that the groundwater and surface water systems both were applied to the new acreage at the same time. The evidence submitted indicates that the enlargement for the E½NW¼ of sec 36 occurred in 1973.

The filing fee for each new claim is \$50.00. As you claimed all acres and paid the variable fees for those acres at the time of the original filing, there is no additional acreage fee due. Also,

although the original time for claims taking has past, no late fee is due as your original filings were timely. I have enclosed several irrigation claim forms for your use.

I have also attached copies of the Idaho code sections 42-1416B and 42-1426 mentioned in the following paragraphs.

**ENLARGEMENT OF 43-02361
(groundwater)**

The mandatory permit statute for groundwater rights was enacted on March 25, 1963 and the Raft River Critical groundwater area closed July 23, 1963. This right was licensed for 150 acres and is now claimed on 225 acres. All enlargements from a groundwater source within a critical groundwater management area will receive a June 30, 1985 priority date (see 42-1416B) and as the ground was developed prior to 1985, a claim needs to be filed for that enlargement. The claim would be for the difference between the licensed 150 acres and the total irrigated place of use. No additional diversion rate can be recommended.

**ENLARGEMENT OF 43-00293A, 43-00296A, & 43-00302
(decreed surface water rights)**

The decreed rights place of use is basically the same as for the licensed P/U. As Idaho code establishes different regulations for surface water, the enlargement of the decreed rights requires a second claim even though it is for the same ground. Because the ground was first irrigated after the mandatory permit date for surface water which is May 20, 1971, a beneficial use claim is not applicable for these acres. Enlargement acres as described in 42-1426 (attached) would have a 1973 priority date but with no additional diversion rate. The place of use would be the same as claimed under the groundwater source.

I realize that all of this can be confusing as I am not able to discuss all details within this letter, but hopefully, this will be sufficient for you to understand the basics of your choices.

Sincerely

Kelly K Christensen
Senior Water Resource Agent
Enclosures

HARPER
Page 3
5/18/1999

TITLE 42
IRRIGATION AND DRAINAGE -- WATER
RIGHTS AND RECLAMATION
CHAPTER 14

ADJUDICATION OF WATER RIGHTS

42-1416B. CLAIM FOR EXPANDED USE IN CRITICAL GROUND WATER AREA -- DETERMINATION OF WATER AVAILABILITY.

- (1) Within any critical ground water area designated pursuant to section 42-233a, Idaho Code, a claim to the expanded use of a ground water right, which use was expanded in violation of the mandatory permit requirements, may be decreed in a general water rights adjudication if the expansion occurred after the designation of the critical ground water area, before the commencement of the adjudication, and before the date of enactment of this section. The priority date for the right decreed shall be June 30, 1985.
- (2) Water shall be deemed unavailable to fill the rights for expanded use, even if decreed in the adjudication, unless the director finds that a management program exists which will, within a time period acceptable to the director, limit the average annual water withdrawals from the aquifer designated in the critical ground water area to no more than the average annual recharge to the aquifer.
- (3) Within two (2) years after a decree determining the water rights within a critical ground water area becomes final, but not sooner than four (4) years from the date of enactment of this section, the director of the department of water resources shall make a finding as to whether an adequate management program exists to bring withdrawals into balance with recharge.
- (4) If the director finds that an adequate management program to bring withdrawals into balance with recharge does not exist, the director shall order all holders of rights to expanded use of ground water within the area to cease or reduce withdrawal of water until such time as the director determines that withdrawals have been brought into balance with recharge and sufficient ground water is available to resume or increase withdrawals. The director's order shall be issued before September 1 and shall be effective beginning with the following growing season.
- (5) For purposes of this section, the following definitions shall apply:
 - (a) "Expanded use" means an increase in the number of acres irrigated, or other additional use, under a valid ground water right without any increase in the rate of diversion or volume of water diverted.
 - (b) "Management program" means a program to recharge the aquifer, limit withdrawals from the aquifer or provide surface water supplies for all, or a portion, of the land irrigated with water withdrawn from the aquifer, including any actions designed to bring withdrawals into balance with the average annual recharge to the aquifer.
 - (c) "Recharge" refers to all processes, natural or artificial, which add water to the aquifer.
 - (d) "Withdrawal" refers to all processes, natural or artificial, which take water from the aquifer.
- (6) The hearing and judicial review provisions of section 42-1701A, Idaho Code, shall apply to any findings and orders issued by the director pursuant to this section.
- (7) Nothing contained in this section shall be construed to limit the authority of the director of the department of water resources to administer and enforce any other ground water laws of the state.

TITLE 42
IRRIGATION AND DRAINAGE -- WATER
RIGHTS AND RECLAMATION
CHAPTER 14

ADJUDICATION OF WATER RIGHTS

42-1426. ENLARGEMENTS -- WAIVER OF MANDATORY PERMIT REQUIREMENTS.

- (1) Legislative findings regarding enlargements:
 - (a) The legislature finds that prior to the commencement of the Snake River basin adjudication and subsequent to the mandatory permit system provided in sections 42-201 and 42-229, Idaho Code, persons entitled to the use of water or owning any land to which water has been made appurtenant by decree, license or constitutional appropriation have, through

water conservation and other means, enlarged the use of said water without increasing the rate of diversion and without complying with the mandatory permit system adopted by the legislature. Enlargements have been done with the knowledge of other water users, and water has been distributed based upon the right as enlarged. Junior water users made appropriations based upon a water system that reflected these enlarged uses. Thus, the legislature further finds and declares that it is in the public interest to waive the mandatory permit requirements for these enlargements in use prior to the commencement of a general adjudication, so long as such enlargements in use did not increase the rate of diversion of the original water right or exceed the rate of diversion for irrigation provided in section 42-202, Idaho Code, after the enlargement of use, and the enlargement of use did not reduce the quantity of water available to other water rights existing on the date of the enlargement in use.

- (b) The legislature further finds that it is in the public interest to waive certain statutory provisions for the appropriation of water that has been diverted and applied to beneficial use to insure the economic and agricultural base in the state of Idaho as it existed on the date of the commencement of the Snake River basin adjudication and to maintain historic water use patterns existing on that date.
- (2) The mandatory permit requirements of sections 42-201 and/or 42-229, Idaho Code, are waived, and a new water right may be decreed for the enlarged use of the original water right based upon the diversion and application to beneficial use, with a priority date as of the date of completion of the enlargement of use for any enlargement occurring on or before November 19, 1987; provided however, that the rate of diversion of the original water right and the separate water right for the enlarged use, combined, shall not exceed the rate of diversion authorized for the original water right; and further provided, that the enlargement in use did not injure water rights existing on the date of the enlargement of use. An enlargement may be decreed if conditions directly related to the injury can be imposed on the original water right and the new water right that mitigate any injury to a water right existing on the date of enactment of this act. If injury to a water right later in time cannot be mitigated, then the new right for the enlarged use shall be advanced to a date one (1) day later than the priority date for the junior water right injured by the enlargement. It is further provided that any such enlargement of use allowed in a general adjudication shall not constitute an abandonment or forfeiture of the original water right to the extent of current use.
- 3) The director shall publish a notice of enlargement of water right for all water rights recommended under this section. The notice shall contain a summary of the notice of claim and shall be published in the same manner as notices for applications to appropriate water in section 42-203A, Idaho Code. Any person who has filed an application for a water right prior to the enactment of this act or who has been issued a permit for a water right prior to enactment of this act but who has not filed a claim in an adjudication shall have one hundred twenty (120) days from the date of last publication of the notice of enlargement of a water right under this section to file a petition with the department of water resources to assert any claimed injury from the enlargement. No appeal of the determination of the department shall be allowed. If the applicant or permittee is dissatisfied with the determination of the department on any claim of injury, the sole remedy is to intervene in the general adjudication and assert their claim of injury in an objection to the water right

ANALYSIS OF DECREED RIGHT 43-00293

DECREE SUMMARY

PRIORITY DATE	- 04-30-1880	
DECREED RATE	- 2.80 CFS	IMPLIED ACRES
DECREED P/U	- E $\frac{1}{2}$ SE $\frac{1}{4}$, SEC 25;	80
	LOTS 3 & 4 SEC 30	<u>100</u>
		TOTAL 180 ACRES

ADJUDICATION SPLIT SUMMARY

(no discrepancy with claimed priority dates)

A43-00293A

CLAIMED RATE	- 1.40CFS	CLAIMED ON 145 ACRES
(WITHIN THE DECREED P/U)	THE CLAIM LISTS	70 ACRES
	(E $\frac{1}{2}$ SE $\frac{1}{4}$, SEC 25)	

A43-00293B

CLAIMED RATE	- 2.80CFS	CLAIMED ON 110 ACRES
(WITHIN THE DECREED P/U)	THE CLAIM LISTS	110 ACRES
	(LOTS 3 & 4 SEC 30)	

SUMMARY

DECREED IMPLIED ACRES	-----	180
TOTAL CLAIMED ACRES	-----	255
TOTAL CLAIMED ACRES WITHIN THE DECREED P/U		- 180

PROPORTIONAL SPLIT BASED UPON DECREED IMPLIED ACRES PER CLAIM,

A43-00293A 70/180 * 2.80 CFS = 1.09 CFS
A43-00293B 110/180 * 2.80 CFS = 1.71 CFS

Question: As of 10-6-94 I do not know if the decree was identifying the entire 80 acres within section 25 or just referring to the 10 acres within section 25 that Tracy owns. If the decree was referring only to the 10 acres owned by Tracy, then the entire right would be for Tracy and Harper's claim would be recommended for disallowal.

prep date: October 6, 1994

ANALYSIS OF DECREED RIGHT 43-00296

DECREE SUMMARY

PRIORITY DATE	- 04-01-1894	
DECREED RATE	- 2.80 CFS	IMPLIED ACRES
DECREED P/U	- TNS-12S, RNG 26E; SE $\frac{1}{4}$,	SEC 25 160
	E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$	SEC 36 120
	TNS-12S, RNG 27E; W $\frac{1}{2}$ SW $\frac{1}{4}$,	SEC 30 <u>100</u>
		TOTAL 380 ACRES

ADJUDICATION SPLIT SUMMARY

(no discrepancy with claimed priority dates)

A43-002696A

CLAIMED RATE - 1.11CFS CLAIMED ON 220 ACRES
(WITHIN THE DECREED P/U) THE CLAIM LISTS 145 ACRES
(SE $\frac{1}{4}$, SEC 25)

A43-00296B

CLAIMED RATE - 0.88CFS CLAIMED ON 230 ACRES
(WITHIN THE DECREED P/U) THE CLAIM LISTS 115 ACRES
(E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SEC 36)

DECREED P/U NOT CLAIMED

(WITHIN THE DECREED P/U) 110 ACRES
(TNW-12S, RNG 26E; E $\frac{1}{2}$ SE $\frac{1}{4}$, SEC 25)
(TNS-12S, RNG 27E; W $\frac{1}{2}$ SW $\frac{1}{4}$, SEC 30)

SUMMARY

DECREED IMPLIED ACRES	-----	380
TOTAL CLAIMED ACRES WITHIN THE DECREED P/U		
CLAIMED AS A PORTION OF 43-00296	-----	260
INCLUDING GROUND CLAIMED BY TRACY	-----	<u>110</u>
TOTAL POTENTIAL ACRES	-----	370

PROPORTIONAL SPLIT BASED UPON DECREED IMPLIED ACRES PER CLAIM

A43-00296A	150/380 * 2.80 CFS = 1.11 CFS*
A43-00296B	120/380 * 2.80 CFS = 0.88 CFS
NOT CLAIMED	110/380 * 2.80 CFS = <u>0.81 CFS</u>
TOTAL ---	380 ACRES 2.80 CFS

PROPORTIONAL SPLIT BASED UPON CLAIMED IRRIGATED ACRES WITHIN THE DECREED PLACE OF USE

A43-00296A	145/370 * 2.80 CFS = 1.10 CFS*
A43-00296B	115/370 * 2.80 CFS = 0.87 CFS
NOT CLAIMED	110/370 * 2.80 CFS = <u>0.83 CFS</u>
TOTAL ---	370 ACRES 2.80 CFS

*BASED UPON 10 ACRES BEING OWNED BY TRACY IN THE E $\frac{1}{2}$ SE $\frac{1}{4}$ OF SEC 25

General overview 1995

Ron & Doug Harper & Tracy claims.

Overlapping rights cover Sec 30 & 25 for Tracy
Sec 25 & 36 for Ron and Sec 36 & 6 for Doug.

Ron has one claim 293 A that appears to have been data entered incorrectly shown as in the E $\frac{1}{2}$ NW $\frac{1}{4}$ should be in W $\frac{1}{2}$ NW $\frac{1}{4}$ of sec 36 That would eliminate overlap problems in sec 36.

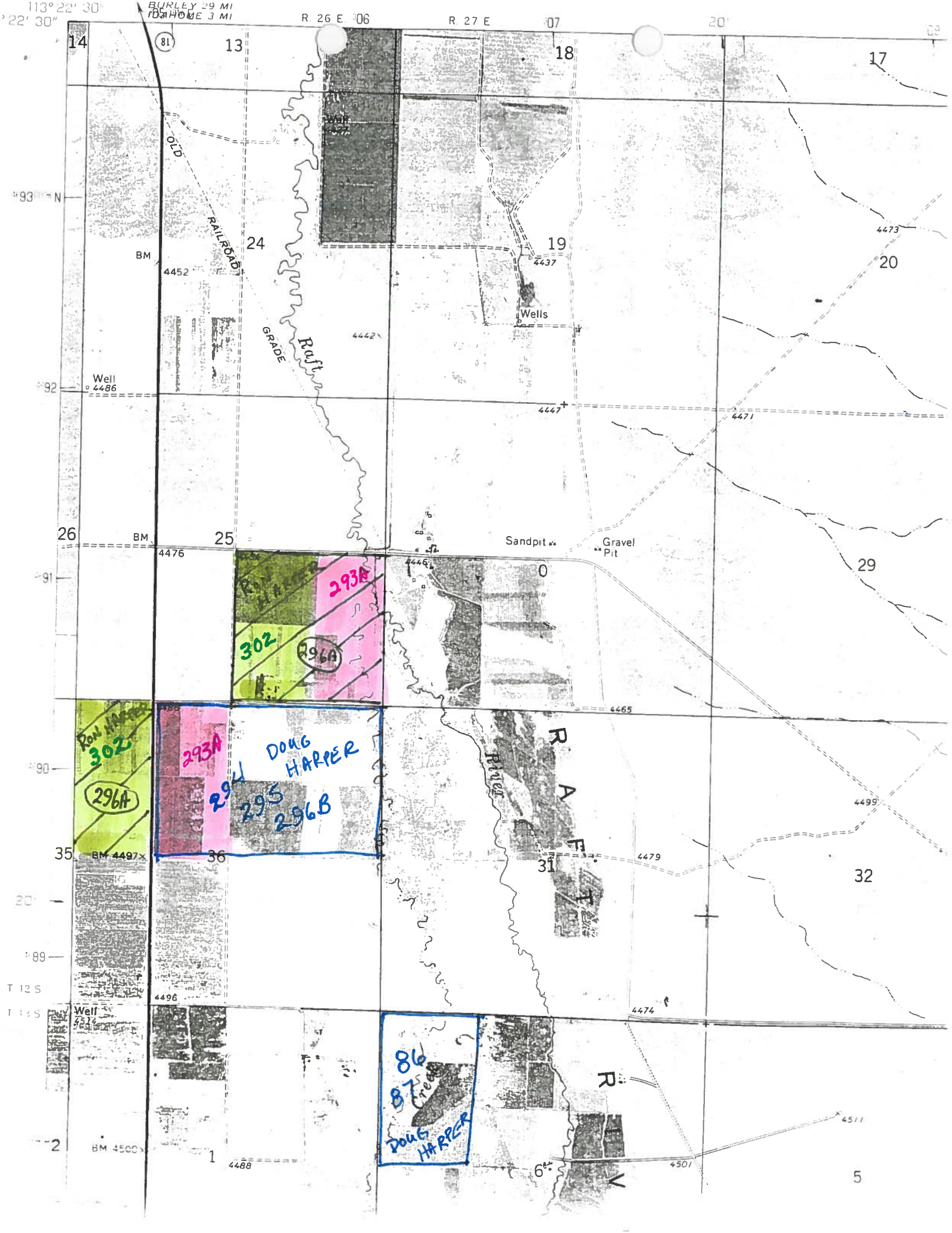
Less obvious problems exist between Ron & Tracy the decree ⁽²⁹³⁾ lists the E $\frac{1}{2}$ SE $\frac{1}{4}$ of sec 25 as part of the P/U Tracy owns approx 165' into that section (both 40 Acre tracts giving 5 Acre ea)
Tracy has claimed all that right & Ron has claimed a portion of that right. the Tracy Property also has a portion of 296 appurtenant to that gnd but it is not claimed.

Both Ron & Doug have expansion claims included within a licensed right 452361 for Ron and 432388 for Doug.

[illegible]

RIGHT NO				NE				NW				SW				SE				
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
293A			25													35			35	70
296A																35	40	35	35	147
302																	40	35		75
2361																35	40	40	35	15
293B			25													5			5	10

[illegible]



Analysis by Owner of overlapping rights
claims overlapping - Douglas Harper, Ronald Harper, Laven Tracy
DOUGLAS HARPER.

Claimed as expansions on additional ground
both license and decreed rights

Base acres are 110 as licensed under 2388
implication is that the decree acre total is the same
(10 Acres excluded seem to be a farmstead &/or the
stream channel.) There is a discrepancy in
the claimed acres per 40 Acre tract in the NE $\frac{1}{4}$ of Sec 36

Farmstead exists in the NW NE & the stream channel
runs along the east side of the E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec 36.

There is a 75 Acre overlap with Ron Harper's 293A
claim (Prob. a data entry error on 293A) E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec 36

Claims in Sec 6 (86, 87, 88) agree with decree
no obvious prob. exist.

Ron Harper.

Claims also include expansion acres.

Major overlap question regarding 293. question = did
the decree cover all of the E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec 25 or just the
10 Acres now owned by Tracy?

Again, overlap with Douglas Harper in E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec 36.
Prob data entry error on 293A.

Claimed rate for 293A does not agree with obvious
proportional split analysis.

KKC
10-11-94

Pg 2/2

Analysis by Owner of overlapping rights (cont)
claims overlapping Douglas Harper, Ronald Harper, Laverne Tracy

LAVERNE TRACY

Has claimed all of 293 but Ronald Harper has also claimed a portion of that right. No obvious answer (see Ron H. review on prev pg).

296 was decreed to the ground claimed by Tracy. Tracy's portion is not claimed at this time (is it possible that the total delivered rate is actually part 293 & part 296 but just claimed as 293 only?)

293 split review (2.8 CFS)

Harper claim	Tracy Balance
1.40 CFS	1.40 CFS
Prop. based upon Total irrawaddy within dec. P/U	
1.09 CFS	1.71 CFS

Balance of 296 not claimed = 0.83 CFS.

KKC
10-11-94

[illegible]



