

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: **A43-00298B**
Date Received: 5/24/1989
Receipt No: S007304
Received By: _____

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: ART WHITAKER 208-645-2292
Address: P.O. BOX 64
MALTA ID 83342

AND/OR
Name: LARENE WHITAKER 208-645-2292
Address: P.O. BOX 64
MALTA ID 83342

2. Date of Priority: APR 25, 1883

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	26E	12	SE	NW	SW		CASSIA

5. Description of diverting works:
CHECKDAM, HEADGATE, EARTHEN DITCH, POND TO BOOSTER 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	0.600		

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

8. Total consumptive use is 273.0 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	26E	12	SW	NE		IRR	40.0
			SE	NE		IRR	39.0
			SE	NW		IRR	12.0
						Section Acres	91.0
						Total Acres	91.0

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:
A43-02530B AND A43-00297 THRU 00299.

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

ALBION-IDAHO LAND CO.
Decree Plaintiff

JOBE ADAMS ET AL
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 _____ 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): _____ Date: _____
_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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: A43-00298 B
Date Received: 5/24/1989
Receipt No: 5007309
Received By: AD

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ART WHITAKER 208-645-2292
Address: P.O. BOX 64
MALTA, ID 83342
AND/OR
Name: LARENE WHITAKER 208-645-2292
Address: P.O. BOX 64
MALTA, ID 83342

2. Date of Priority: APR 25, 1883

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	12	SE	NW	SW		CASSIA

5. Description of diverting works:
CHECKDAM, HEADGATE, EARTHEN DITCH, POND TO BOOSTER 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	0.600		

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

8. Total consumptive use is 273.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A43-00298 B

Page 1

Date: 05/24/89

MICROFILMED
MAR 03 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	26E	12	SW	NE		IRR	40.0
			SE	NE		IRR	39.0
			SE	NW		IRR	12.0
						Section Acres	91.0
						Total Acres	91.0

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:
A43-02530B AND A43-00297 THRU 00299.

14. Remarks:

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: See Map A43-00297

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): Art W. Hatcher Date: 5/24/89

Date: _____

State of Idaho)
County of Twin Falls) ss.

Subscribed and sworn (or affirmed) before me this 24th day
of May 19 89 Art W. Hatcher
Notary Public

Seal

Residing at Kimberly, Id.
My Commission Expires 6/30/94



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

05-Dec-1991

LARENE WHITAKER
ART WHITAKER
PO BOX 64
MALTA ID 83342

RE: Snake River Basin Adjudication (SRBA)
Cassia County - #A43-00297, A43-00298, A43-00299
Identification Number Change

Dear Mr. and Mrs. Whitaker:

The Identification Numbers of your Notice of Claim to a Water Right have been changed from A43-00297 to A43-00297A, A43-00298 to A43-00298B, and A43-00299 to A43-00299B. The suffix "A" or "B" has been added to the number in order to distinguish your claim from other claims that may claim a portion of the same original water right. This change does not affect your claim in any other way.

Enclosed is a computer-generated copy of your claims with the new Identification Numbers. Refer to these record numbers in any future inquiries or correspondence.

Sincerely,


Jeanie Robertson
Records Clerk

/jr
Enclosures:
Claim A43-00297A, A43-00298B, A43-00299B

MICROFILMED

MAR 03 1993

**Idaho Dept of Water Resources
Claims review notes and narrative**

Date: 7-20-2001

File:

Prepared by Kelly K Christensen

DALAN SPENCER FILED A NOTICE OF ERROR FOR HIS CLAIMS (43-12969 THRU 43-12975). I CHANGED THE PLACE OF USE BOUNDARY FOR ARTS CLAIMS IN THE SWNW OF SEC 12 BASED UPON THE PLAT MAP SUBMITTED BY DALAN. THIS CHANGE DID NOT CHANGE THE ACRE RECOMMENDATION FOR ART.

05/11/2001

**NOTICE OF ERROR
REPLY**

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: 43-298B

ART WHITAKER
PO BOX 64
MALTA ID 83342
Telephone Number: (208)645-2292

LARENE WHITAKER
PO BOX 64
MALTA ID 83342
Telephone Number: (208)645-2292

RECEIVED
JUN 20 2001
Department of Water Resource
Southern Region

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: June 15, 01 SIGNATURE: Art D. Whitaker
Please print your name: ART D. WHITAKER

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

10/18/2000

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

RIGHT NUMBER: 43-298B

NAME AND ADDRESS: ART WHITAKER
LARENE WHITAKER
PO BOX 64
MALTA, ID 83342

SOURCE: CASSIA CREEK TRIBUTARY: Raft River

VERIFIED BY

KKC
10-18-00

QUANTITY: 0.49 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS. 43-297A, 43-298B, 43-299B, 43-2530, AND 43-10263.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.72 CFS. COMBINED RIGHT NOS: 43-297A, 43-298B, AND 43-299B

PRIORITY DATE: 04/25/1883

POINT OF DIVERSION: T13S R26E S12 NWSWSW Within CASSIA County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
03-15 11-15

QUANTITY
0.49 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T13S R26E S12	SENE	38	T13S R26E S12	SWNE	38
T13S R26E S12	SENE	10			
86 ACRES TOTAL					

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 86 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-297A, 43-298B, 43-299B, 43-2530B, AND 43-10263

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

CLAIM NUMBER 43-2530 } GW DATE 10-17-00 TRANSFER NUMBER _____
43-10263 AGENT KKC CLAIMED ACRE TOTAL _____

43-297A } Surface GIS ACRE TOTAL _____
43-298B } Water Chims

	TWP	RNG	SEC	NE				NW				SW				SE			
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
43-2530	13S	26E	12			37	34				9								
43-10236			12			3	5				3								
Surface Chims			12			40	39				12								
GIS						38.3	38.2				10.2								
RECOM			12			38	38				10								
43-10236						1	4				1	(6 ac within PPU)							
CLAIM																			
GIS																			
RECOM																			

B43-POU.SHP 43-2530 per transfer 2627 the P/U is as claimed 80 Ac; Found 86 Ac
 SHAPE NOS. Recom 80 Ac within PPU of 86 Ac.) transfer recognizes
standard in season

43-10263 is an exp claim in a crit GW area (42-1416B) & Com
 B43-POD.SHP 6 Acres more than licensed. Recommend this right
 NOS. DESCRIPTION for 6 Ac within the 86 PPU. condition as an exp right
Sec 12 SESENE according to 42-1416B.
(P/D is very close to the 10 acre tract line)
Site tag A0004891

Sec 12 NW SWSW. P/D location as of 1987. this is the recom P/D
abandoned in 1998
Cassia Creek P/D in use since
Sec 14 NENENE 1998
 the P/U for the surface water rights match the
 SITE tag A0007924
 DBF TABLES UPDATED GW right P/U.

B43-DBPOU.DBF _____
 B43-DBPOD.DBF _____
 JPEG LAYOUT _____

Jayant & Photos in field notes in 43-297A

**43-297A, 43-298B, & 43-299B CASSIA CREEK RIGHTS
43-2530B & 43-10236 GROUNDWATER RIGHTS**

The decreed place of use is owned by three separate individuals and claimed by each one. The split between Beyler (43-298A, 43-299A, and a portion of 43-10794 {split into 43-11263 and 43-11264})

Beyler has claimed 22/120ths of the decreed rights

Whitaker has claimed the entire decreed rate for each right on his portion of the decreed place of use

Loock has claimed 0.10 cfs of 43-00297

I am recommending Beyler's claims for 20 acres and 22/120ths of the decreed rates.

I am recommending Whitaker claims for 86 acres and 98/120ths of the decreed rates of 43-298 and 43-299 rates. I am recommending Whitaker's claim 43-279A at 98/120ths less Loock's share of that right.

I am recommending the Loock claim for 4.6 acres and 0.10 cfs (this is less than the legal limit of 1.5 inches per acre for parcels less than 5 acres.

Whitaker Analysis Surface water Rights

The claimed place of use is entirely within the decreed place of use. There is some indication that a portion of the decreed place of use was not always irrigated. However, as of 1987 the place of use was fully farmed and irrigated. Currently there is a small feedlot located in the southeast corner of the recommended place of use. It does not appear on the 1987 NAPP photography and is only an acre or so in size. I am not excluding this ground from my recommendation.

I am recognizing the diversion rates for each claim as follows;

43-297A	1.20 cfs * (98/120) = 0.98 cfs.	.98 cfs – 0.10 cfs (Loock portion) = .88 cfs
43-298B	0.60 cfs * (98/120) = 0.49 cfs	
43-299B	1.40 cfs * (98/120) = <u>1.14 cfs</u>	
	total	2.51 cfs

The three rights are limited to 1 inch per acre when used together on the 86 acres which is;
 $86 \text{ acres} * 0.02 \text{ cfs/acre} = 1.72 \text{ cfs}$

Whitaker Analysis Ground Water Rights

There are two claims from one well for the irrigation of the same ground. Transfer 2627 for 43-02530B was approved in 1981 to add a point of diversion and split off a portion of the licensed place of use based upon the sale of a portion of that ground. The license covered all but 6 of the currently irrigated acres. As irrigation of the additional 6 acres occurred after the establishment of the critical groundwater management area those 6 acres are being recommended under 43-10236 as an expansion in a critical groundwater area (42-1416B).

43-2530B is limited to the transferred acre total of 80 acres within the PP/U at the licensed rate of 1.60 cfs.

By Kelly K Christensen Date: October 17, 2000 File: 43-297 beyler whitaker loock analysis.doc

43-10236 is also limited to the same diversion rate of **1.60 cfs** and is limited to **6 acres** within the PP/U.

When the two rights are combined, they are limited to a total diversion volume of;
 $80 \text{ acres} * 4 \text{ afa} = 320 \text{ afa}$.

Beyler Analysis Surface water Rights

The surface water rights are diverted in Sec 14 NENENE and delivered through the Harper ditch. This ditch is shared with other users. The ditch enters the property in the southwest corner and splits with one ditch going north and the other one going east. There is no farmstead on the property.

The original decreed rights have been split through property sales and the proportionate split for Beyler was calculated on a 22/120 ratio based upon ownership of his respective portion of the decreed place of use. The claimed place of use is entirely within the decreed place of use. Based upon the currently available information, it appears that all or nearly the entire place of use is irrigated. The claim was for 22 acres, however I found 20 acres after excluding the highway right of way, the well site, and a small portion of ground around Cassia Creek.

I am recommending the Cassia Creek rights as follows;

43-11264	1.20 cfs * (22/120) =	0.22 cfs
43-298A	0.60 cfs * (22/120) =	0.11 cfs
43-299A	1.40 cfs * (22/120) =	0.256 cfs
	total	0.586 cfs

The three rights are limited to 1 inch per acre when used together on the **20 acres** which is;
 $20 \text{ acres} * 0.02 \text{ cfs/acre} = \mathbf{0.40 \text{ cfs}}$

Beyler Analysis Ground Water Right

Beyler filed 43-4162 as a beneficial use right. The evidence of priority supports a 'dug' well in 1926 which was eventually replaced by the current 'drilled' well in 1957. This water has been used to supplement the surface water on that ground. Grant Beyler stated that the 22 acres was owned by the Church for a long period of time and that he had leased the property and farmed the ground. He indicated that the groundwater was used on the 20 acres only. It did not go to the ground now owned by Loock and claimed under 43-10370. He did state that surface water did enter the property in the southwest corner and flow either north or east from that point and that Loock did receive surface water at times from the ditch going east.

Mr Beyler submitted data to Scot King (Sr. Dept Agt.) and he analyzed the information and determined that the well has the capacity to deliver in excess of 1 inch to the acre. Therefore I am recommending this right for the irrigation of the same 20 acres described above and for a diversion rate of 0.40 cfs ($20 \text{ acres} * 0.02 \text{ cfs/acre}$).

Loock Analysis Surface Water Right

Loock claimed 43-297B for the irrigation of 5 acres. The 5 acres were irrigated in 1987 per the NAPP photography. After visiting with Art Whitaker, I am recognizing this right as valid for 4.6 acres and at the claimed rate of 0.10 cfs as an unrecorded transfer. Art had indicated that it was his intent at the time of the original sale that the property would be 'dry'. However the buyer and his predecessors irrigated the property with Cassia Creek water. Art decided that he would not contest Loock's filing for this water so long as it was delivered according to the 1894 priority date.

By Kelly K Christensen Date: October 17, 2000 File: 43-297 beyler whitaker loock analysis.doc

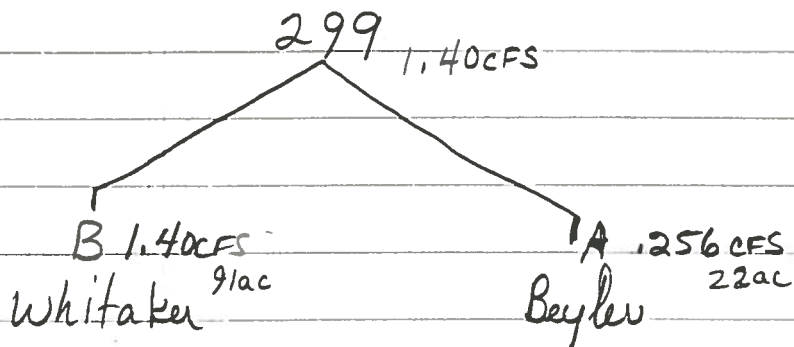
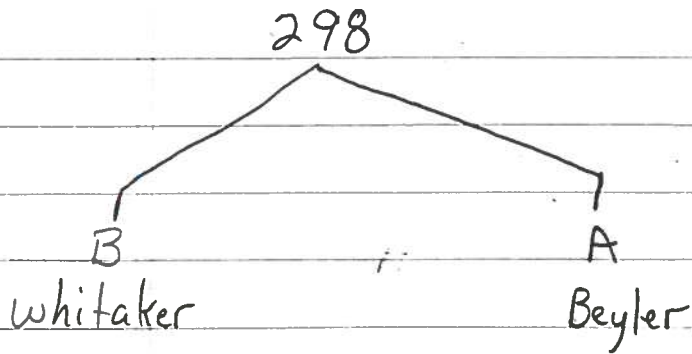
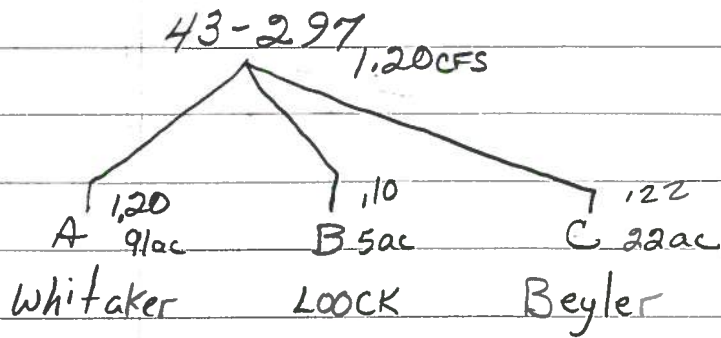
The point of diversion recommended is a 'dug hole' next to Cassia Creek. The water level in the hole is directly related to the flows in Cassia Creek and is therefore recognized as the point of diversion for this right. The exact date that this was constructed but based upon currently available information it was in existence prior to 1987.

Loock Analysis Ground Water Right

The point of diversion recommended above was the claimed point of diversion for the groundwater right 43-10370. I visited with Grant Beyler and he stated that the well water was never used on the 5 acres under the claim. This contrasts with the affidavit submitted by Grant. The other elements of the history indicate that the well water was not used on the 5 acres. Therefore, I am recommending the claim for disallowal; No Beneficial Use Found.

By Kelly K Christensen
Date: October 17, 2000
File: 43-297 beyler whitaker loock analysis.doc

Loock/Beyler/Whitaker
split

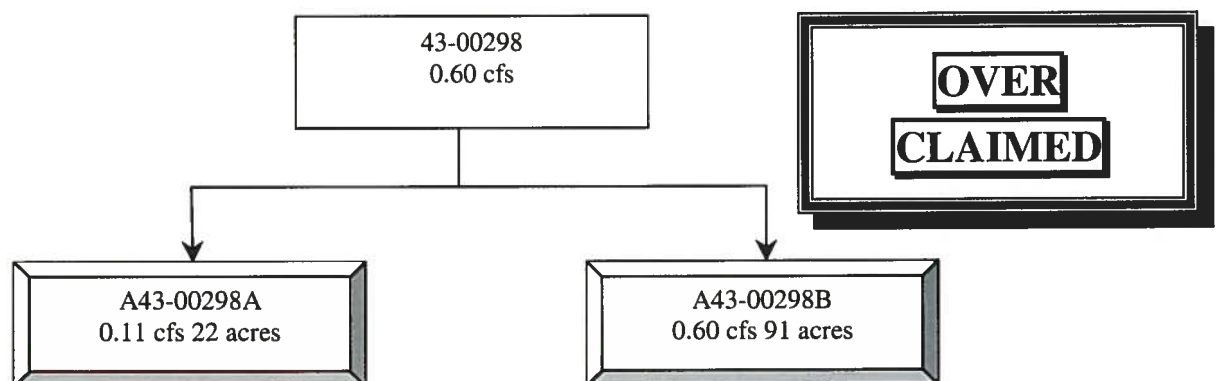


SPLIT ANALYSIS FOR 43-00298
 GENERATED Thursday, March 25, 1999
 Kelly K Christensen

SD-0611-2 Basin: 43 Starting Water Right: 00298

S E L	Water Right No.	Name Last, First	O W N	Priority Date	STG/ STS	Source	Use Desc	S Y S
—	43-00298	SHAW, CHARLES	C	04/25/1883	D/	CASSIA CREEK	IRR	WR
—	A43-00298	SPLIT RIGHT RENUMBERED CLAIM	C	04/25/1883	/Z	CASSIA CREEK SPLIT RIGHT RENUMBERED CLAIM	IRR	AJ
—	A43-00298A	BEYLER, GRANT N BEYLER, CLARA W	C	04/25/1883	D/	CASSIA CREEK	IRR	AJ
—	A43-00298B	WHITAKER, ART WHITAKER, LARENE	C	04/25/1883	D/	CASSIA CREEK	IRR	AJ
—	R43-00298A	BEYLER, GRANT N BEYLER, CLARA W	C	04/25/1883	D/	CASSIA CREEK	IRR	AJ
—	R43-00298B	WHITAKER, LARENE WHITAKER, ART	C	04/25/1883	D/	CASSIA CREEK	IRR	AJ

END OF DATA...FOR REPORTS - PRESS GOLD1 OR GOLD 6 IF NOT ALREADY ACTIVATED -
 OR MENU OPTION AND/OR PRESS ENTER TO CONTINUE (G8=Cancel)
 (Enter=Continue) (G1=Print Screen Query) (G7=This Query) (Menu)
 Natural 2.1/7U OUR LIB=PRODLIBS Last key was ENTR



Log for claim A43-00298B

Spatial Dynamics LRR

1/31/00

T	R	SEC	QQ	Acres Claimed	Acres Found	COMMENT
13	26	12	SWNE	40	40	
13	26	12	SENE	39	40	
13	26	12	SENW	12	12	
Totals:				91	92	

Wednesday, February 02, 2000