

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 43-303

WATER RIGHT NUMBER: 43-303

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WALTER JEAN LOVINGFOSS HC 61 BOX 1020 MALTA, ID 83342 (208)645-2421
Current Owner	DELIA L LOVINGFOSS HC 61 BOX 1020 MALTA, ID 83342 (208)645-2421

Priority Date: 04/01/1880

Basis: Decreed

Status: **See Remarks**

<u>Source</u>	<u>Tributary</u>
CASSIA CREEK	RAFT RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.060 CFS	
	<u>Total Diversion:</u>	0.060 CFS	

Location of Point(s) of Diversion

CASSIA CREEK	L2 (SW1/4SW1/4NW1/4)	Sec. 31, Twp 12S, Rge 27E, B.M.
CASSIA County		

Place of UseIRRIGATION Within CASSIA County

T12S R27E S31	SWNE	33.0	T12S R27E S31	NENW	41.0
T12S R27E S31 Lot 1	NWNW	47.0	T12S R27E S31 Lot 2	SWNW	49.0
T12S R27E S31	SENE	40.0	T12S R27E S31	NWSE	39.0
Total Acres: 249					

Conditions of Approval:Remarks:

1. General **SEE NO. 43-13318.**

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 43-303

Dates and Other Information:

Claim Received Date: 8/19/2002
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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Memorandum

To: Candace McHugh
CC: Files 43-303, 43-304, 43-10363, 43-13318
From: Jeanie Robertson
Date: 5/30/2003
Re: Recommendations

I visited the Lovingfoss property yesterday and GPS'd the points where Raft River (two locations) and Cassia Creek water enter the property. The area is very braided and the channels are not well defined. They enter the ditch (or what may be considered the Raft River channel) and can flow either west, which eventually leaves the Lovingfoss property and serves other users as Raft River water, or east to a pond where it can be co-mingled and pumped on the Lovingfoss place. Water only *very occasionally* makes it to the property and the upstream users of Cassia Creek water in this area divert at a point well above this property. According to Watermaster records and conversations, this property has not been delivered Cassia Creek water in over 30 years and neither Mr. Lovingfoss, nor his predecessors, is a dues paying member of the Cassia Creek Water Users. The rights as decreed have probably been forfeited for non-use and it seems that any water in this ditch or channel may be considered return flows or wastewater from upstream users that then makes it back into the channel.

43-13318
43-303 was decreed in the Jobe Adams Decree to this property as 0.06 cfs with a 4/1/1880 priority date and 43-304 was decreed as 0.4 cfs with a 4/1/1881 priority date. Since the rights on Cassia Creek have already been determined and allowing these rights would likely cause injury to others, I propose disallowing these two rights and recommending them as one beneficial use right for 0.46 cfs from Cassia Creek with a priority date of 10/19/1928, one day after the decree was signed. This will prevent injury yet allow water to be used if and when it makes to the Lovingfoss property.

As far as 43-10363, which claims 1.4 cfs of Raft River water with a 4/1/1882 priority date, there was no 1882 Raft River water decreed to this property. Mr. Lovingfoss obtained copies of the deeds clear back to when the place was homesteaded. In 1968 the 70 inches of 1882 Raft River water first appeared on the deeds through a quitclaim deed from Wilbur and Bernice Schaner to Floyd and Laura Bonge. I propose recommending this right as a beneficial use right from Raft River with a priority date of ~~4/5/1968~~, when the quitclaim was recorded.

(10/19/1928)
- essentially high water claims

Water Right Report 43-303

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRANK G SCHODDE
	, ID

Status: Active

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	0.060 CFS	
	<u>Total Diversion:</u>	0.060 CFS	

Place of Use
IRRIGATION

[illegible]

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 43-303

Dates and Other Information:

Licensed Date:
Decreed Date: 10/18/1928
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number: 43C
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False