

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: A43-00333  
Date Received: 5/23/1989 <sup>6-5.</sup>  
Receipt No: 5007493  
Received By: RA7

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: MITCHEL J. HUTCHISON 208-638-5590  
Address: HC. 61 BOX 1248  
MALTA, ID 83342  
AND/OR  
Name: TOMMY R. HUTCHISON 208-638-5590  
Address: HC. 61 BOX 1248  
MALTA, ID 83342  
AND/OR  
Name: THIRZA OTTLEY 208-638-5590  
Address: HC. 61 BOX 1248  
MALTA, ID 83342

2. Date of Priority: APR 30, 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      | 24E   | 36      | SE     | NE     | NE  |     | CASSIA |
|          |       |         | NE     | SE     | NE  |     | CASSIA |

5. Description of diverting works:  
WOODEN DIV. WORKS WITH DITCHES AND FLOOD IRR. AND SPRINKLER SYST.

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.235  |      |        |

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

8. Total consumptive use is 450.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
NONE

A43-00333

Page 1

05/23/89

MICROFILMED  
MAR 03 1993

10. Place of Use:

| Township | Range | Section | 1/4 | of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|-----|----|-----|-----|---------------|-------|
| 13S      | 25E   | 31      | SW  |    | NE  |     | IRR           | 40.0  |
|          |       |         | SW  |    | NW  |     | IRR           | 40.0  |
|          |       |         | SE  |    | NW  |     | IRR           | 40.0  |
|          |       |         | NW  |    | SW  |     | IRR           | 30.0  |
|          |       |         |     |    |     |     | Section Acres | 150.0 |
|          |       |         |     |    |     |     | Total Acres   | 150.0 |

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:  
43-0332-0335-0334.

14. Remarks:  
THERE IS ONE POINT OF DIVERSION WHICH IS ON THE 1/4-1/4 LINE.

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: \_\_\_\_\_

**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): Thirza Attley Date: 5/23/89  
\_\_\_\_\_ Date: \_\_\_\_\_

State of Idaho )  
County of Lewis ) SS.

Subscribed and sworn (or affirmed) before me this 23 day

of may 19 89

Joe Salas  
Notary Public

Seal

Residing at Bon ID

My Commission Expires 6/2/94

25 30

36 31 1877  
T1308

W-28  
S-31  
T-13  
R-25

PD

42  
T1309

40

40

24.0

40

2  
39.2

40  
T1310

40

1423  
T1314

T1314

RECEIVED  
MAR 03 1993

36 31 35.0

15  
18

07/09/2001

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

RIGHT NUMBER: 43-333

NAME AND ADDRESS: MITCHEL J HUTCHISON  
TOMMY R HUTCHISON  
THIRZA L OTTLEY  
HC 61 BOX 1248  
MALTA, ID 83342

SOURCE: CLYDE CREEK TRIBUTARY: CASSIA CREEK

QUANTITY: 0.15 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE  
OF 3.00 CFS. COMBINED RIGHTS 43-00230, 43-00231, 43-00332, 43-00333, 43-00334,  
43-00335 AND 43-10213

PRIORITY DATE: 04/30/1883

POINT OF DIVERSION: T13S R24E S36 SWNE 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          | 0.15 CFS        |

PLACE OF USE:

| <u>IRRIGATION Within CASSIA County</u> |      |    |               |      |    |
|----------------------------------------|------|----|---------------|------|----|
| T13S R25E S31                          | SWNE | 38 | T13S R25E S31 | SWNW | 42 |
| T13S R25E S31                          | SENE | 38 | T13S R25E S31 | NWSW | 32 |

150 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED  
TOTAL OF 150 ACRES IN A SINGLE IRRIGATION SEASON COMBINED RIGHT NOS. 43-00230,  
43-00231, 43-00332, 43-00333, 43-00334, 43-00335 AND 43-10213

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED  
TOTAL OF 76 ACRES IN A SINGLE IRRIGATION SEASON COMBINED RIGHT NOS. 43-00332,  
43-00333, 43-00334, AND 43-00335.

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

THIS RIGHT IS A COMBINATION OF PORTIONS OF RIGHTS 43-333 AND 43-60



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: [kchriste@idwr.state.id.us](mailto:kchriste@idwr.state.id.us)

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

July 9, 2001

TOMMY HUTCHISON  
1944 S 1125 E  
ELBA ID 83324

RE: NOTICE OF ERROR RESPONSE. LATE STOCKWATER CLAIM FILING

Dear Tommy

I have enclosed Preliminary recommendations for 43-332, 43-333, 43-334, and 43-335. I corrected the diversion rates for all four rights and the priority date for 43-335. Please review the changes to make sure that you agree with them. I have enclosed a copy of my notes from the 7-15-1994 meeting where we reviewed the combined rights and appropriate split rates.

Also enclosed is a copy of the preliminary recommendation for 43-13022, the stockwater right. This recommendation reflects the transfer for the diversion of an instream stockwater use.

I believe that I have completed all of the necessary changes that we discussed but if you note something that I have missed please contact me as soon as possible.

Sincerely

Kelly K Christensen  
Sr Water Resource Agent

enclosures

02/01/2001

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

RIGHT NUMBER: 43-333

NAME AND ADDRESS: MITCHEL J HUTCHISON  
TOMMY R HUTCHISON  
THIRZA L OTTLEY  
HC 61 BOX 1248  
MALTA, ID 83342

VERIFIED BY KKC

SOURCE: CLYDE CREEK

TRIBUTARY: CASSIA CREEK

QUANTITY: 0.235 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 3.00 CFS. COMBINED RIGHTS 43-00230,  
43-00231, 43-00332, 43-00333, 43-00334, 43-00335 AND 43-10213

PRIORITY DATE: 04/30/1883

POINT OF DIVERSION: T13S R24E S36

SWNE

Within CASSIA County

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE  
IRRIGATION

PERIOD OF USE  
4-01 10-31

QUANTITY  
0.24 CFS

*.15 CFS  
in response to a N.O.E. call  
from Tommy Hutchison  
I noted that the div rate  
recom had not been  
corrected  
KKC*

PLACE OF USE:

IRRIGATION Within CASSIA County

|               |      |    |               |      |    |
|---------------|------|----|---------------|------|----|
| T13S R25E S31 | SWNE | 38 | T13S R25E S31 | SWNW | 42 |
| T13S R25E S31 | SENE | 38 | T13S R25E S31 | NWSW | 32 |

150 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED  
TOTAL OF 150 ACRES IN A SINGLE IRRIGATION SEASON COMBINED RIGHT NOS. 43-00230,  
43-00231, 43-00332, 43-00333, 43-00334, 43-00335 AND 43-10213

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED  
TOTAL OF 76 ACRES IN A SINGLE IRRIGATION SEASON COMBINED RIGHT NOS. 43-00332,  
43-00333, 43-00334, AND 43-00335.

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

THIS RIGHT IS A COMBINATION OF PORTIONS OF RIGHTS 43-333 AND 43-60

Water Right Number - R43-00333

Prefix Translation: RESEARCH

Old (D) Number -

\*\*\* C - CURRENT OWNER \*\*\*  
HUTCHISON TOMMY R  
1 - HC 61 BOX 1248  
2 -  
3 -  
City- MALTA  
Phone - 208-000-0000  
1 - HC 61 BOX 1248  
2 -  
3 -  
City- MALTA  
Phone - 208-638-5590  
1 - HC 61 BOX 1248  
2 -  
3 -  
City- MALTA  
Phone - 208-000-0000  
State- ID Zip- 83342

VERIFIED BY 

OTTLEY THIRZA L  
State- ID Zip- 83342

HUTCHISON MITCHEL J  
State- ID Zip- 83342

Priority Date - + 04/30/1883 17 SOUTHERN D - DECREED Stage - + Status - +

Source - + CLYDE CREEK Tributary - + CASSIA CREEK

Twn Rng Sec Tract Lot Rflg County Point of Diversion - +

13S 24E 36 SW NE NE (31) CASSIA

Code Description Period From Period To Water Use Diversion Rate Diversion Volume  
01 - IRRIGATION 04/01 10/31 0.235

Total Div. Rate - + 0.235 Total Div. Volume - + Total Consumptive Use - + KW Usage - +  
0.0

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use | Code       | Description | County |
|-----|-----|-----|-------|-----|-------|--------------|------------|-------------|--------|
| 13S | 25E | 31  | SW NE |     | 38.0  | 01           | IRRIGATION | (31) CASSIA |        |
| 13S | 25E | 31  | SW NW |     | 42.0  | 01           | IRRIGATION | (31) CASSIA |        |
| 13S | 25E | 31  | SE NW |     | 38.0  | 01           | IRRIGATION | (31) CASSIA |        |
| 13S | 25E | 31  | NW SW |     | 32.0  | 01           | IRRIGATION | (31) CASSIA |        |

Total Acres: 150.0

- - - Diversion Means - WOODEN DIV. WORKS WITH DITCHES AND FLOOD IRR. AND SPRINKLER SYST.  
- - - Non-Irrigation Use -

|                      |              |                       |              |                         |       |
|----------------------|--------------|-----------------------|--------------|-------------------------|-------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 07/15/1994 | Civil Case Number       | -     |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -     |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 05/25/2000 | Old Judicial District   | -     |
| Claim Received Date  | - 06/05/1989 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P   |
|                      |              | Receipt Number        | - S007493    | Water District          | - 43C |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S   |
|                      |              | Name Connector        | - AND/OR     | Presumption Flag        | -     |
|                      |              |                       |              | Notice of Error Flag    | -     |

| MR ELEMENT                | FIELD EXAM<br>Y/N | CORRESPONDENCE<br>SENT/RECEIVED<br>BY WHOM/DATE | FIELD EXAM<br>BY WHOM/DATE | CHANGE<br>CLAIM<br>Y/N | VERIFIED BY<br>CODE | COMPLETED<br>REVIEW<br>WHOM/DATE | COMPLETED<br>DATA ENTRY<br>WHOM/DATE | VERIFIED<br>DATE<br>WHOM/DATE |
|---------------------------|-------------------|-------------------------------------------------|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE             |                   |                                                 | 7-15-94<br>KKC             | N                      |                     | KKC<br>5-24-00                   | KKC<br>5-25-00                       |                               |
| POINT OF DIV              | Y                 |                                                 |                            | Y                      |                     |                                  |                                      |                               |
| SOURCE                    |                   |                                                 |                            | Y                      |                     |                                  |                                      |                               |
| PLACE OF USE              | Y                 |                                                 |                            | Y                      |                     |                                  |                                      |                               |
| DIV. AMOUNT<br>CFS/VOLUME |                   |                                                 |                            | N                      |                     |                                  |                                      |                               |
| CONSUMPTIVE USE           | -                 |                                                 |                            | -                      |                     |                                  |                                      |                               |
| PURPOSES                  |                   |                                                 |                            | N                      |                     |                                  |                                      |                               |
| PERIOD OF USE             | Y                 |                                                 |                            | Y                      |                     |                                  |                                      |                               |
| BASIS OF CLAIM            |                   |                                                 |                            | N                      |                     |                                  |                                      |                               |
| REMARKS                   | Y                 |                                                 |                            | Y                      |                     |                                  |                                      |                               |

this claim is part of a Decreed PPI  
See Attached narratives. No other  
pages of CWR Attached. There is  
additional Documentation in 43-00333

"VERIFIED BY" CODES  
 APO MAP/ORTHO-PQ = 1  
 ASCS MAP = 2  
 WATERMASTER RECORDS = 3  
 NAPP PHOTOS = 4  
 FIELD EXAM = 5  
 OTHER (SEE REMARKS) = 6

Barcelo  
Linda Lee  
5-25-00

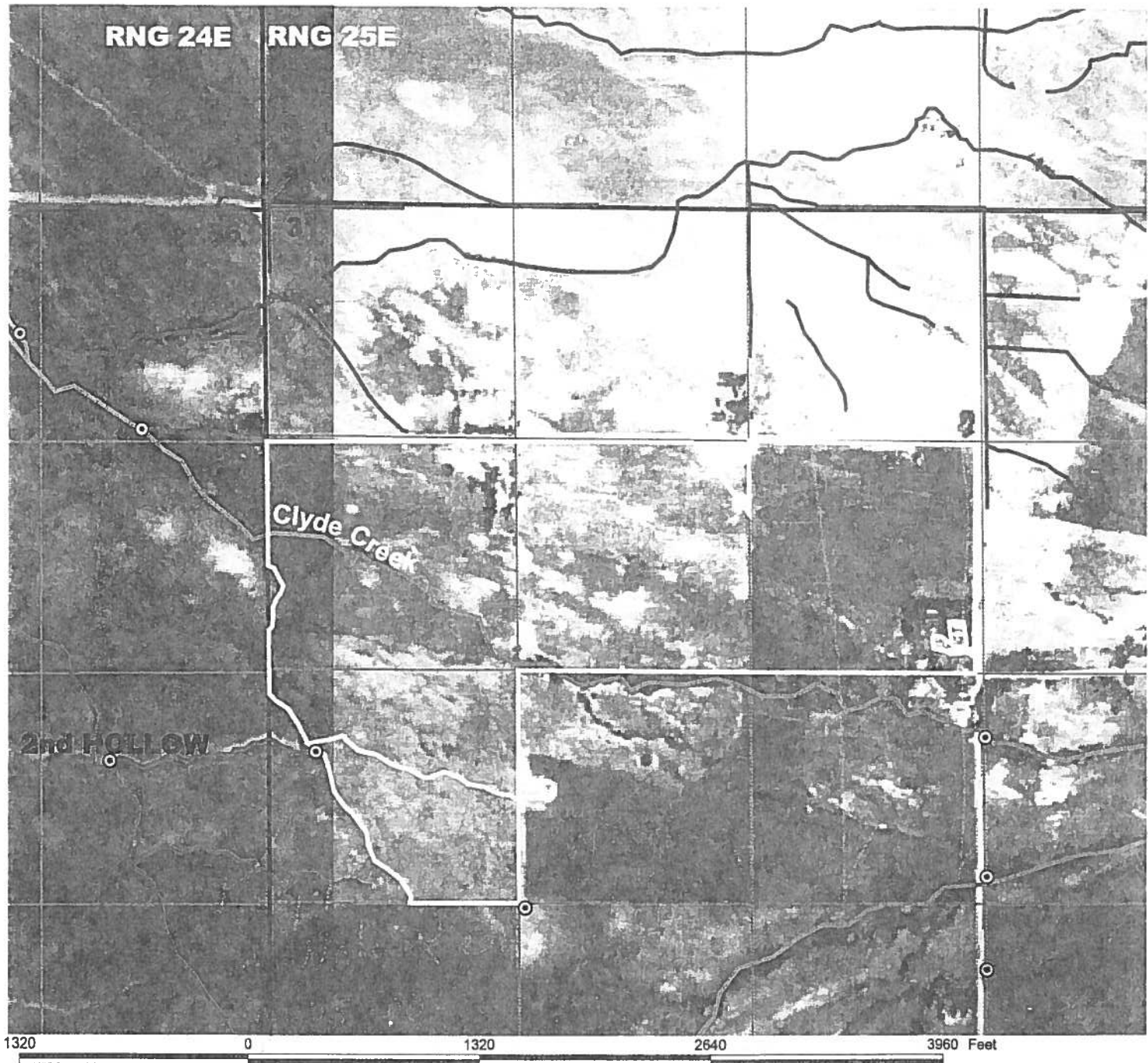
THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION INDICATED ARE ALL CODES WHICH APPLY.

KKC

Kelly K. Christman  
Sr Water Resource Agt  
5-25-00

IDAHO DEPARTMENT OF WATER RESOURCES

**RECOMMENDED PLACE OF USE  
FOR 43-00230, 43-00231, 43-00332,  
43-00333, 43-00334, AND 43-00335**

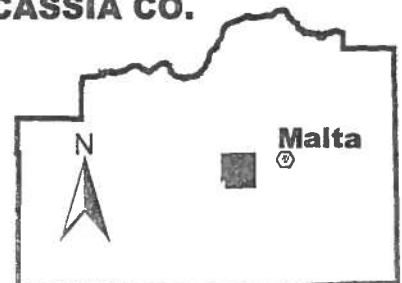


**PLACE OF USE**  
**TWP 13S RNG 25E, SEC 31**  
data entry on: May 25, 2000

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

- ⊙ POINT OF DIVERSION
- PLACE OF USE
- SECTION LINES
- QUARTER/QUARTER LINES

**CASSIA CO.**



CLAIM NUMBER

43-00230 -00334

DATE

5-19-00

TRANSFER NUMBER

-00231 -00335

AGENT

KAC

CLAIMED ACRE TOTAL

15

-00333 -00332

GIS ACRE TOTAL

150

|       | TWP | RNG | SEC | NE |    |      |    | NW |    |    |      | SW |    |      |    | SE |    |    |    |
|-------|-----|-----|-----|----|----|------|----|----|----|----|------|----|----|------|----|----|----|----|----|
|       |     |     |     | NE | NW | SW   | SE | NE | NW | SW | SE   | NE | NW | SW   | SE | NE | NW | SW | SE |
| CLAIM | 13S | 25E | 31  |    |    | 40   |    |    |    | 40 | 40   |    |    | 30   |    |    |    |    |    |
| GIS   |     |     | 31  |    |    | 38.1 |    |    |    | 42 | 38.2 |    |    | 31.9 |    |    |    |    |    |
| RECOM |     |     | 31  |    |    | 38   |    |    |    | 42 | 38   |    |    | 32   |    |    |    |    | 1  |
| CLAIM |     |     |     |    |    |      |    |    |    |    |      |    |    |      |    |    |    |    |    |
| GIS   |     |     |     |    |    |      |    |    |    |    |      |    |    |      |    |    |    |    |    |
| RECOM |     |     |     |    |    |      |    |    |    |    |      |    |    |      |    |    |    |    |    |
| CLAIM |     |     |     |    |    |      |    |    |    |    |      |    |    |      |    |    |    |    |    |
| GIS   |     |     |     |    |    |      |    |    |    |    |      |    |    |      |    |    |    |    |    |
| RECOM |     |     |     |    |    |      |    |    |    |    |      |    |    |      |    |    |    |    |    |

B43-POU.SHP

Recommendation is for

SHAPE NOS.

240

A43-00332 @ .50 cfs (50% of 43-00058 &amp; 43-00332) (Common

241

A43-00333 @ .15 cfs (50% of 43-00060 &amp; 43-00333) } priority

A43-00334 @ .60 cfs (50% of 43-00061 &amp; 43-00334) } dates

B43-POD.SHP

A43-00335 @ .40 cfs (50% of 43-00059 &amp; 43-00335) for the

NOS. DESCRIPTION

187

Sec 36

A43-00230 @ .70 cfs

comb. rig

SW NENE

3.05 cfs

150 ac @ .02 cfs/ac = 3.00 cfs

limit

DBF TABLES UPDATED

B43-DBPOU.DBF 5-25-00

B43-DBPOD.DBF 5-25-00

JPEG LAYOUT 43-00230, 332 Hutchison

## FIELD EXAM ATTACHMENT

orig in  
A43-232ADATE: 7-14-94PAGE: 1/AGENT: KKCFILES: A43-00232A00232BATTACHMENT SUBJECT: Historical Use

Three Rights (43-00230, 43-00231, & 43-00232) were decreed to two separate parcels under one ownership. The system stayed under one ownership until sometime around 1975. The then owner (Lew Otley) split the parcel with one of his children receiving All of the Ground in Sec 31 (as identified in the decreed rights) & another the ground in Sec 6. At that time an agreement (verbal) was reached with which split the water rights based upon proximity dates. The Ground in Sec 31 received 43-00230 & 00231 and the ground in Sec 6 received the 43-00232 right. Apparently water has been delivered in this manner since that date.

The current use is identified as an unrecorded tran of portions of each of the 3 rights. Each claim requires a CØ5. The decree does not identify P/O's & therefore I am assuming that the existing P/O's are as decreed. No evidence to the contrary was found.

Claims A43-00230 & 00231 are recognized as valid for the ground in Sec 31. A43-00232B is reason for disallowance for the same ground.

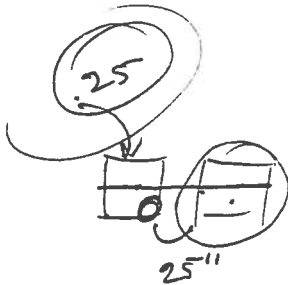
Claim A43-00232A is recognized as valid for the ground in Sec 6 (in full). 43-00230; & 43-00231 were not claimed in full or in part for the decreed P/O in Sec 6.

Info based upon conversations during a 6-27-94 field Exam for Ryan Hawker see Attached notes.

with Tommy Hut chison

7-15-94  
KKC

332, 333, 334, 335 split in 1949



the agreement was to split water on a 50/50 share  
for the ground covered by 332, 333, 334, 335 AND  
58, 59, 60, 61.

Calculations based upon a 50/50 split of All rights

| DATE      |                             | GARDNER | OTTLEY |
|-----------|-----------------------------|---------|--------|
| 2-58-74   | .2196                       | .2196   |        |
| 11-332-74 | <u>.7814</u>                | .2809 * | .500   |
|           | 1,0010 CFS <u>50.05 in.</u> |         |        |
| 59 82     | .0218                       | .0218   |        |
| 335 82    | <u>.782</u>                 | .3782 * | .40    |
|           | .800 CFS <u>40 in.</u>      |         |        |
| 60 83     | .065                        | .065    |        |
| 333 33    | <u>.235</u>                 | .085 *  | .15    |
|           | .300 CFS <u>15 in.</u>      |         |        |
| 61 85     | .2626                       | .2626   |        |
| 334 85    | .9374                       | .3374 * | .60    |
|           | 1.2000 CFS <u>60 in.</u>    |         |        |

claims 230, 231, 232

Historical split left 232 on portion now owned by Hawker and the other two rights stay with Orsley both parties accept this as fact.

**DECREED RIGHTS BY ORIGINAL SYSTEM**

| <b>SYSTEM 1</b>                                               | <b>SYSTEM 2</b>                                                 | <b>SYSTEM 3</b>                |
|---------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------|
| <b>PORTIONS<br/>CLAIMED BY<br/>HAWKER &amp;<br/>HUTCHISON</b> | <b>PORTIONS<br/>CLAIMED BY<br/>GARDINER &amp;<br/>HUTCHISON</b> | <b>CLAIMED BY<br/>GARDINER</b> |
| 43-00230                                                      | 43-00332                                                        | 43-00058                       |
| 43-00231                                                      | 43-00333                                                        | 43-00059                       |
| 43-00232                                                      | 43-00334                                                        | 43-00060                       |
|                                                               | 43-00335                                                        | 43-00061                       |

**ANALYSIS FROM FIELD VERIFICATION MEETINGS WITH ALL THREE CLAIMANTS**

**SYSTEM 1**

According to both claimants, predecessors reached an agreement to split the use of SYSTEM 1 with 43-00232 being appurtenant to the ground currently claimed by Hawker and 43-00230 and 43-00231 being appurtenant to the ground currently claimed by Hutchison. Delivery since that date has been based upon that agreement.

**RECOMMENDATION ANALYSIS FOR SYSTEM 1**

**DECREED RIGHT 43-00232**

Based upon §42-1426 and that the changes have been made with the knowledge of other users I accept the changes as an unrecorded transfer that unstacked the decreed rights, with 43-00232 being appurtenant to the property now owned and claimed by Ryan Hawker under A43-00232A. As the use represents all of the decreed right I am recommending that right to be renumbered as A43-00232 and recommended as described in the CVR. Claim A43-00232B is being recommended for disallowal based upon remark code P01 {NO LAWFUL APPROPRIATION SHOWN}.

**DECREED RIGHTS 43-00230 AND 43-00231**

Based upon §42-1426 and that the changes have been made with the knowledge of other users I accept the changes as an unrecorded transfer that unstacked the decreed rights, with these rights being appurtenant to the property now owned and claimed by Tommy Hutchison. I recognize those rights as valid as described in the CVR.

**SYSTEM 2 & 3**

Two combined rights systems were decreed to adjoining parcels and were decreed independent of the other system. One system consisted of rights 43-00058 through 43-00061 and the other system consisted of rights 43-00332 through 43-00335. Although not sequential, each individual right under the first system has a corresponding right in the second system with a matching priority date. (see table below)

According to claimants, historically the two systems were under one ownership for some time and operated as one delivery system. When the property was split, the intent was for

the ground now claimed by Gardiner to receive fifty percent of each right based upon priority date and the property claimed by Hutchison receiving the other fifty percent.

### **SPLIT ANALYSIS BASED UPON THE 50% SHARE AGREEMENT**

| Decreed Right | Decreed Rate      | Priority Date    | Claimant  | Claim Number | Claimed Rate | Recommend Rate  |
|---------------|-------------------|------------------|-----------|--------------|--------------|-----------------|
| 43-00058      | 0.2196 cfs        | April 30<br>1874 | Gardiner  | A43-11135    | 0.61 cfs     | 0.50 cfs        |
| 43-00332      | 0.7814 cfs        |                  | Hutchison | A43-00332    | 0.781 cfs    | 0.50 cfs        |
| Total         | <b>1.001 cfs</b>  |                  |           |              | Total        | <b>1.00 cfs</b> |
|               |                   |                  |           |              |              |                 |
| 43-00059      | 0.0218 cfs        | April 30<br>1882 | Gardiner  | A43-11136    | 0.413 cfs    | 0.40 cfs        |
| 43-00335      | 0.782 cfs         |                  | Hutchison | A43-00335    | 0.782 cfs    | 0.40 cfs        |
| Total         | <b>0.80 cfs</b>   |                  |           |              |              | <b>0.80 cfs</b> |
|               |                   |                  |           |              |              |                 |
| 43-00060      | 0.065 cfs         | April 30<br>1883 | Gardiner  | A43-11137    | 0.183 cfs    | 0.15 cfs        |
| 43-00333      | 0.235 cfs         |                  | Hutchison | A43-00333    | 0.235 cfs    | 0.15 cfs        |
| Total         | <b>0.30 cfs</b>   |                  |           |              |              | <b>0.30 cfs</b> |
|               |                   |                  |           |              |              |                 |
| 43-00061      | 0.2626 cfs        | April 30<br>1855 | Gardiner  | A43-11138    | 0.73 cfs     | 0.60 cfs        |
| 43-00334      | 0.9374 cfs        |                  | Hutchison | A43-00334    | 0.9374 cfs   | 0.60 cfs        |
| Total         | <b>1.2000 cfs</b> |                  |           |              |              | <b>1.20 cfs</b> |

### **RECOMMENDATION ANALYSIS FOR SYSTEM 2**

The original decreed place of use has been split through a sale of that portion of the place of use in sec 31 NESW AND NWSE to Gardiner. The accepted agreement of that sale was that the water rights appurtenant to the 160 acres covered by system 2 and system 3 would be split fifty-fifty

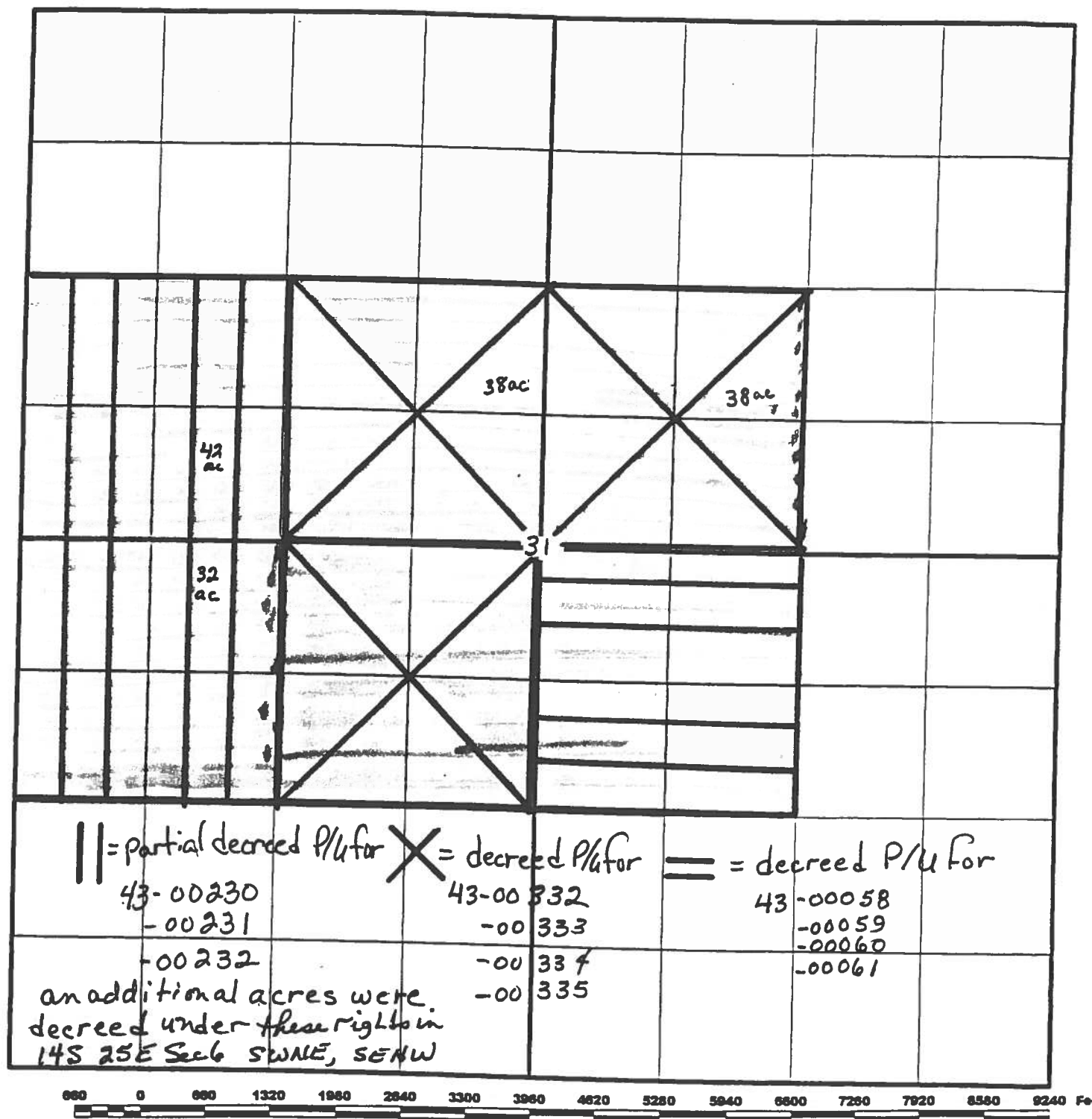
Gardiner's claims for system 2 are claimed within a permissible place of use (PPU) with the rights under system 3. Based upon §42-1426 and that the changes have been made with the knowledge of other users I accept the split as valid as agreed upon between the users and the use within the PPU as an unrecorded transfer.

Hutchison's claims for system 2 are also claimed within a PPU but with rights from system 1. During the field verification interview Tommy indicated that he was in agreement with the 50% split agreement. As his claims filed were filed based upon the system 2 decreed rights but for the entire diversion rates, I am recognizing that those claims represent the combined 50% from the matching decreed rights from system 2 and 3. Those claims are renumbered to better identify that they represent combined rights. Based upon §42-1426 and that the changes have been made with the knowledge of other users I accept the split as valid as agreed upon between the users and the use within the PPU as an unrecorded transfer.

### **RECOMMENDATION ANALYSIS FOR SYSTEM 3**

System 3 was claimed by Gardiner and Hutchison and was verified as valid during the field verification visit. Based upon §42-1426 and that the changes have been made with the knowledge of other users I accept the use within the PPU as an unrecorded transfer. See also the analysis for system 2.

# IDAHO DEPARTMENT OF WATER RESOURCES



|| = HUTCHISON-claimed P/U

= GARDNER-claimed P/U

= HAWKER CLAIMED P/U