

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: A43-00335
Date Received: 5/23/1989 6-5-8
Receipt No: 5007493
Received By: RAA

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, 1874

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	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	0.782		

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

A.F.A.

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

9. Non-irrigation uses:

NONE

A43-00335

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:
43-0333-0332-0334.

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

MICROFILMED

MAR 03 1993

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 Ottley Date: 5/23/89

Date: _____

State of Idaho)
County of Conia) SS.

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

of May 19 89

Seal

John Dal Corlen
Notary Public

Residing at Bon ID

My Commission Expires 6/3/94

25 30

36 31 1877
T1308

W-28

S-31

T-13

R-25

PD

42
T1309

40

40

40

24.0

2
39.2

40
T1310

30

1423
T1314

T1314

MICROFILM

MAR 03 1977

36 31 35.0

5
18

07/09/2001

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

RIGHT NUMBER: 43-335

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: 0.4 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: 04/30/1882

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	0.40 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 43-335 AND 43-59



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: kchrste@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: 43-335

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: 0.782 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: 04/30/1874

POINT OF DIVERSION: T13S R24E S36

SWNENE

Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
4-01 10-31

QUANTITY
0.78 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T13S R25E S31
T13S R25E S31

SWNE 38
SENE 38

T13S R25E S31
T13S R25E S31

SWNW 42
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 43-335 AND 43-59

Water Right Number - R43-00335

Prefix Translation: RESEARCH

Old (D) Number -

*** C - CURRENT OWNER ***
OTLEY

THIRZA L

1 - HC 61 BOX 1248
2 -
3 -

State- ID Zip- 83342

HUTCHISON

MITCHEL J

City- MALTA
Phone - 208-638-5590
1 - HC 61 BOX 1248
2 -
3 -

State- ID Zip- 83342

HUTCHISON

TOMMY R

City- MALTA
Phone - 208-000-0000
1 - HC 61 BOX 1248
2 -
3 -

State- ID Zip- 83342

Priority Date - +
04/30/1874

Region - +
17 SOUTHERN

Stage - +
D - DECREED

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	Water Use	Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	10/31		0.782	
+ - Total Div. Rate - +		+ - Total Div. Volume - +		+ - Total Consumptive Use - +		+ - KW Usage - +
		0.782				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 -

VERIFIED BY *KHC*

Court Report Filing	- 00/00/0000	Field Inspection Made	- 07/15/1994	Civil Case Number	-	39576
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	-	

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y		KRC 7-15-94	N				
POINT OF DIV	Y			Y				
SOURCE				Y				
PLACE OF USE	Y			Y				
DIV. AMOUNT CFS/VOLUME				N				
CONSUMPTIVE USE				-				
PURPOSES				N				
PERIOD OF USE	Y			Y				
BASIS OF CLAIM				N				
REMARKS	Y			Y				

"VERIFIED BY" CODES

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

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

This claim is part of a deced PP/24
 See the attached narrative. Additional
 information in 43-00330, the other
 pages of CLR retained.

Bar code
 updated
 5-25-05
 KRC

Kelly K. Christensen
 Sr Water Resource Agent

5-25-05

DECREED RIGHTS BY ORIGINAL SYSTEM

SYSTEM 1	SYSTEM 2	SYSTEM 3
PORTIONS CLAIMED BY HAWKER & HUTCHISON	PORTIONS CLAIMED BY GARDINER & HUTCHISON	CLAIMED BY GARDINER
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 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	1.001 cfs				Total	1.00 cfs
43-00059	0.0218 cfs	April 30 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	0.80 cfs					0.80 cfs
43-00060	0.065 cfs	April 30 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	0.30 cfs					0.30 cfs
43-00061	0.2626 cfs	April 30 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	1.2000 cfs					1.20 cfs

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.

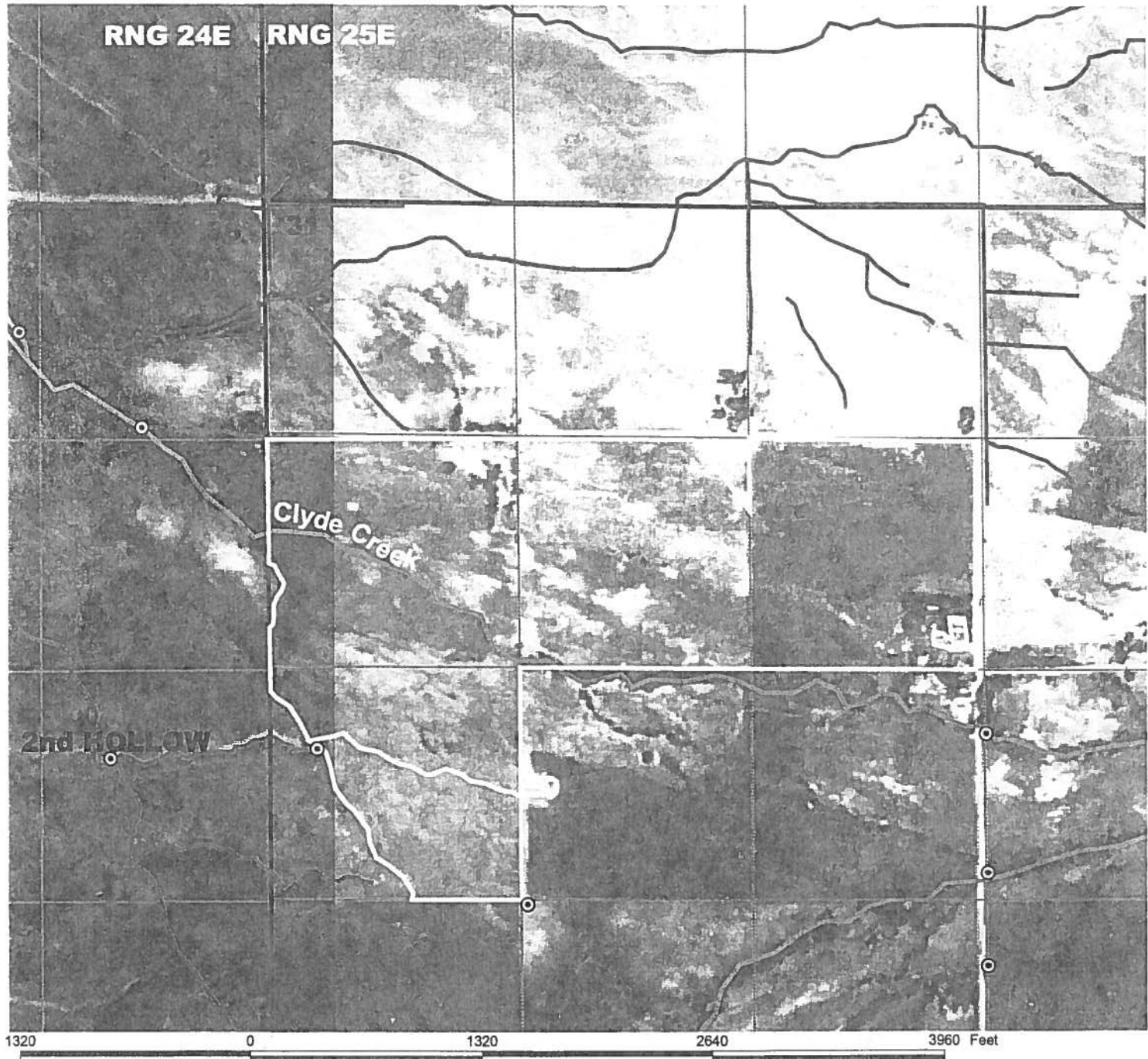
Hutchison's claims for system 2 are also claimed within a PPU but with rights from system 1. During the field verification interview Tommy indicated that he was in agreement with the 50% split agreement. As his claims filed were filed based upon the system 2 decreed rights but for the entire diversion 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

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

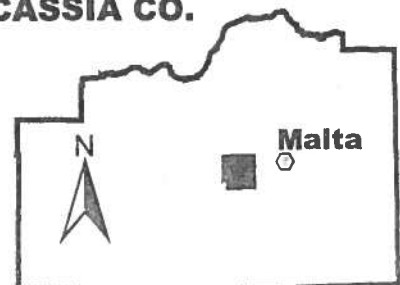


PLACE OF USE
TWP 13S RNG 25E, SEC 31
data entry on: May 25, 2000

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

KKC

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						
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			

B43-POU.SHP

SHAPE NOS.

240241

B43-POD.SHP

NOS. DESCRIPTION

187 Sec 36SW NENE

DBF TABLES UPDATED

B43-DBPOU.DBF 5-25-00B43-DBPOD.DBF 5-25-00JPEG LAYOUT 43-00230, 332 HutchisonRecommendation is forA43-00332 @ .50 cfs (50% of 43-00058 & 43-00332)A43-00333 @ .15 cfs (50% of 43-00060 & 43-00333)A43-00334 @ .60 cfs (50% of 43-00061 & 43-00334)A43-00335 @ .40 cfs (50% of 43-00059 & 43-00335)A43-00230 @ .70 cfsA43-00231 @ .70 cfs3.05 cfs150 ac @ .02 cfs/ac = 3.00 cfslimit

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 which split the water rights based upon priority 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 transfer of portions of each of the 3 rights. Each claim requires a CØ5. The decree does not identify P/Os & therefore I am assuming that the existing P/Os 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 recognized for disallowance for the same ground.

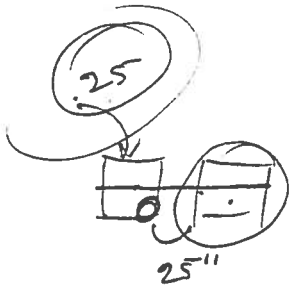
Claim A43-00232A is recognized as valid for the ground in Sec 6 (in full). 43-00230 & 43-00231 were not claimed in full or in part for the decreed P/Os in Sec 6.

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.

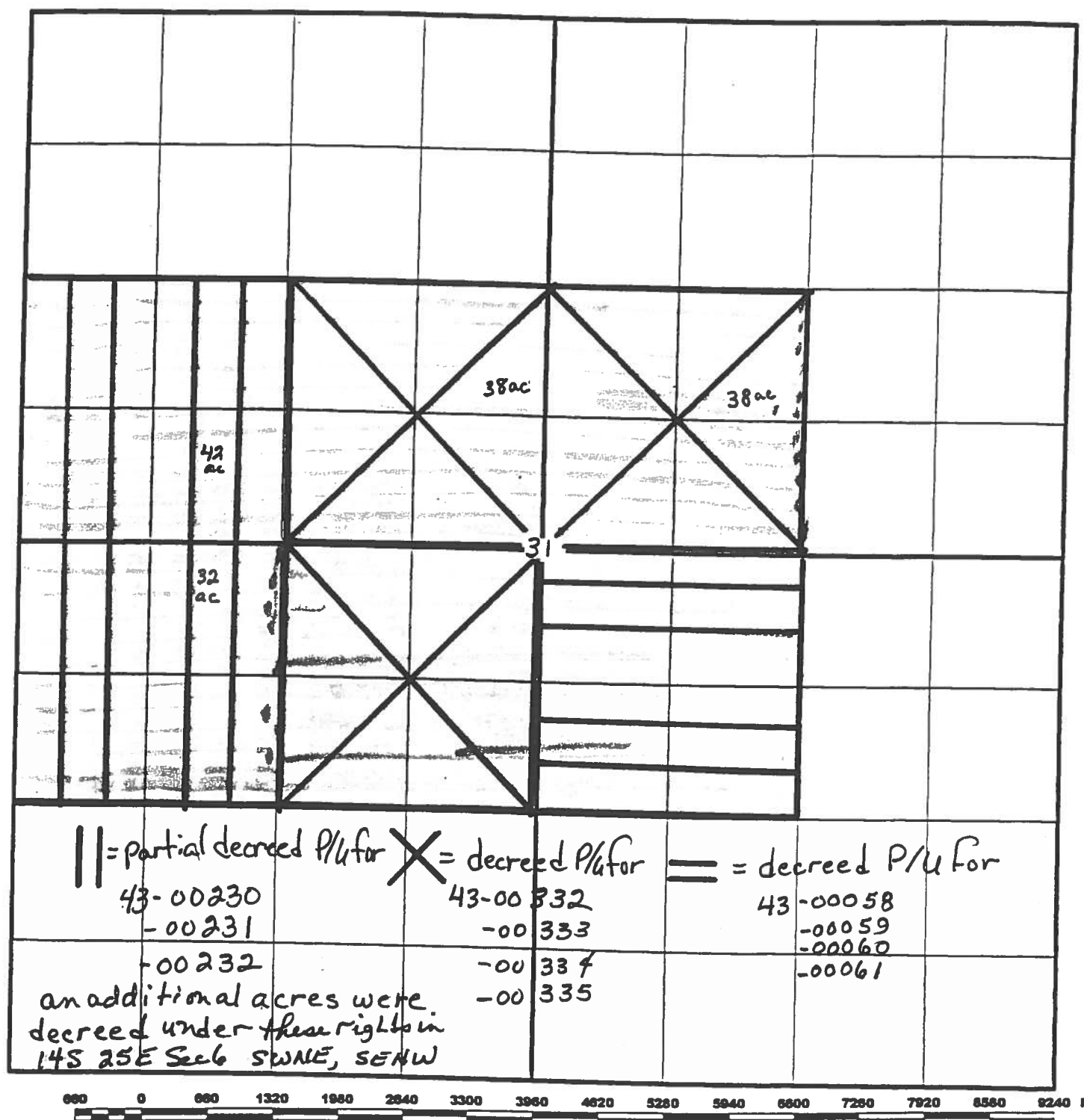
Calculations based upon a 50/50 split of All rights

DATE	~~332~~	GARDNER	OTTLEY
2 nd 58-74	.2196	.2196	
1 st 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 83	<u>.235</u>	.085 *	.15
	.300 CFS <u>15 in.</u>		
61 85	.2626	.2626	
334 85	<u>.9374</u>	.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 Otley
Both Parties accept this as fact.

IDAHO DEPARTMENT OF WATER RESOURCES



↓ = HUTCHISON CLAIMED P/U

= GARDNER CLAIMED P/U

> HAWKER CLAIMED P/U