

850

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: A43-00371
Date Received: 6/01/1989
Receipt No: MAD 3812
Received By: BAS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RYAN HAWKER
Address: BOX 433
ELBA, ID 83326
208-638-5584

2. Date of Priority: APR 30, 1880

3. Source: GREEN CANYON CREEK Trib. to: CASSIA CREEK

4. Point of Diversion:

Township	Range	Section	1/4	of	1/4	of	1/4	Lot	County
14S	24E	12	NW		NE		NE		CASSIA

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.300		

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
14S	25E	6	NE		SE		IRR	40.0
			SE		SE		IRR	40.0
							Section Acres	80.0

A43-00371

Page 1

Date: 06/01/89

MICROFILMED
MAR 03 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
14S	25E	7	NE	NE		IRR	40.0
			SE	NE		IRR	40.0
						Section Acres	80.0
						Total Acres	160.0

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:
43-0475

14. Remarks:
SEE DECREE FOR FURTHER DESCRIPTION OF P. U.

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: 0

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 Ryan Hawker Date: X 6-1-89
_____ Date: _____

State of Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 1 day
of June 19 89 Bruce A. Schuld
Notary Public
Seal

Residing at BRUCE A. SCHULD, NOTARY PUBLIC
My Commission Expires RESIDING AT BOISE, IDAHO
MY COMMISSION EXPIRES APRIL 11, 1995

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

Date: 9-14-2001

File: 43-371 and others hawker chg in recom

Prepared by Kelly K Christensen

**CHANGE IN RECOMMENDATION FOR
43-371, 43-475, 43-10320, AND 43-10594**

Ryan Hawker met with Doug Jones and discussed my recommendations. Doug agreed to change the place of use in two different areas and after reviewing Ryan's argument with Doug I have changed the recommendations as follows.

Place of use between storage ponds

Ryan requested all of the area between the ponds and east to the fence that is north of a ditch coming off of the southern most reservoir. I recalled and it is shown in photos taken on 6-27-1994 that a portion of that ground was being used as an equipment storage area. A portion of that area has also been excavated to be used at some other location. (Photos in file 43-371) I have therefore excluded an approximation of that area. I do not recall seeing any irrigation in that area at the time of my exam but accept Ryan's assertion that it was irrigated.

Place of use in SE corner of property

I walked the area to the west of the claimed ground and recommended it as valid under the Green Canyon and Poison Hollow claims. I observed that ground from approximately 1/8th of a mile and did not observe any ground that appeared to be irrigated. I also conducted the field examination for the ground bordering this ground to the east. I entered the Anderson property at his southwest corner (the southeast corner for Hawker. I did not observe any vegetation on the Hawker property that would indicate that significant irrigation had occurred but I was not specifically checking the Hawker property at that time and did not seek out any ditches or evidence of irrigation on that property. Based upon the information that Ryan presented to Doug that there is a ditch that runs along the fenceline (to the north) I changed my recommendation to include the hill top acreage that is somewhat flat. There is a sharp draw that runs northward through roughly the middle of that 40 acre tract. Some of that area is visible in the background of one of the 6-27-94 photos taken to show the well. That ground is very steep and is heavily vegetated with short sagebrush. There is no indication that irrigation water reaches this ground.

Ryan asserted that this ground is only irrigated when high water is available and is to be included in 43-10594. I have added the recognized as irrigated acres to the recommendation for this right. The recommended priority date is one day after the decree or 10-19-1928. It is possible that this date is too early for the added acres but lacking contrary information I have accepted those acres with that priority date also.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 43-371 V1

WATER RIGHT NUMBER: 43-371 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RYAN HAWKER BOX 433 ELBA, ID 83326 (208)638-5584

Priority Date: 04/30/1880

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GREEN CREEK	DRY CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	1.300 CFS	
	<u>Total Diversion:</u>	1.300 CFS	

Location of Point(s) of Diversion

GREEN CREEK NW1/4SW1/4SE1/4 Sec. 11, Twp 14S, Rge 24E, B.M.

CASSIA County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	25E	6													33.0			40.0	73.0
14S	25E	7	32.0			24.0													56.0

Total Acres: 129

Conditions of Approval:

1. C18 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.

Remarks:

1. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 209 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-232A, 43-371, 43-475, 43-7107, 43-10594, AND 43-10320
2. Quantity WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS. 43-232A, 43-371, 43-475, 43-7107, 43-10594, AND 43-10320.
- 3.Explanatory SOURCE IS ALSO KNOWN AS GREEN CANYON CREEK

03/13/2001

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

RIGHT NUMBER: 43-371
NAME AND ADDRESS: RYAN HAWKER
BOX 433
ELBA, ID 83326

VERIFIED BY KKC

SOURCE: GREEN CREEK TRIBUTARY: DRY CREEK

QUANTITY: 1.3 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE
THAN .02 CFS PER ACRE. COMBINED RIGHT NOS. 43-232A, 43-371,
43-475, 43-7107, 43-10594, AND 43-10320.

PRIORITY DATE: 04/30/1880

POINT OF DIVERSION: T14S R24E S11 NWSWSE 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	1.30 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>			
T14S R25E S6	NESE	33	T14S R25E S6 SESE 40
T14S R25E S7	NENE	29	T14S R25E S7 SENE 24

126 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 201 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED
RIGHT NOS. 43-232A, 43-371, 43-475, 43-7107, 43-10594, AND 43-10320

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

SOURCE IS ALSO KNOWN AS GREEN CANYON CREEK

Idaho Dept of Water Resources
Claims review notes and narrative

Date: 9-19-2000

File: 43-232A Hawker system analysis all claims

Prepared by Kelly K Christensen

43-232A	Cassia Creek	43-4101	Springs*
43-252	Cassia Creek*	43-7107	Ground water
43-336	Cottonwood Creek*	43-10320	Waste water
43-371	Green Creek	43-10594	Poison Hollow
43-475	Antelope Springs		

- *Claims disallowed.

43-252 was determined to be appurtenant to different ground owned by someone else. Claim recommended as disallowed, no lawful appropriation shown.

43-336 no irrigation found. Recommended as disallowed forfeited/abandoned.

43-4101 was loosely based upon a permit (43-07064) that the former owner relinquished in 1984. The 6-27-1994 field exam found ponds but no use. Based upon information relating to 43-07064, the use was never developed by the time the permit was relinquished. I found no use and even if a use were developed after the permit was relinquished, the use would then be in violation of the mandatory permit statutes. Recommend disallow, no beneficial use found.

43-475 and 43-10594 analysis

Both rights are diverted from the same point of diversion. Antelope Springs is a seep area located on or near the natural drainage identified as Poison Hollow. There is only one point of diversion in this drainage and therefore the source for all rights from this ditch is being recommended with the same source. Ryan indicated that he was using water from the spring location and water coming down the Poison Hollow channel west (upstream) of the point of diversion. As both sources are co-mingled upstream from the point of diversion I am not differentiating between the two sources. I am recommending the decreed source as Poison Hollow even though Antelope Springs normally provides a majority of the water flowing in the Poison Hollow channel. Raymond Anderson also has a claim based upon this source. It is 43-00054. The decree identified the source as Antelope Springs although the allocation database only lists the source as springs. I did not find evidence of any spring development.

The found place of use under the decreed place of use was 126 acres.

43-475	0.50 cfs
43-10594	2.00 cfs (claimed rate)
total	2.50 cfs $(2.50\text{cfs} / 126 \text{ acres} = 0.0198 \approx 0.02 \text{ cfs/acre})$

The beneficial use claim 43-10594 brings the rate per acre to 1 inch per acre. Under normal circumstances the diversion works now carry all of the channel flow. I am recognizing both rights at their claimed rates. The drainage will normally supply the full claimed rates during spring runoff or a summer storm. As the spring runoff and the diversion system was capable of carrying the water at the time of the decree I am recognizing a priority date of 11-19-1928 or one day after the Jobe Adams decree.

43-371 analysis

The Green Canyon delivery system is a shared system that goes from the point of diversion southeast and crosses the Antelope Springs ditch near the section line between sec 13 and 18 along the Rng 24E – Rng 25E. The ditch then parallels the Poison Hollow ditch to the section line between Sec 7 and 18. At this point the ditch splits into three separate ditches to supply water to other users. Ryan diverts his portion of the Green Creek water into the Poison Hollow ditch which carries water to the recommended place of use. The place of use for this right is identical with the place of use as recommended under 43-475 and 43-10594.

43-10320 analysis

This right claims wastewater coming from ground irrigated south and west of his property. The majority of the water would come from Halford's property (43-281 et.al.) and Stan Lloyd's property (43-192 et.al.). The water comes off their property and flows into the Ottley ditch. The ditch then carries the water east to the Hawker property. The Ottley ditch comes out the Barker ditch and runs south of that ditch.

The claim contains an affidavit submitted by Lewis M Ottley indicating that the ditch and pond system was developed in 1925.

I questioned Stan Lloyd and he stated that the ditch system was built with equipment used to build the Elba-Almo road in the 1950s.

I discussed this ditch system with Paul Ward and he stated that he could remember swimming in the pond when he was in high school. He could not remember the year that the pond was built but thought that it was between 1953 and 1955.

I called Lynn Pettingill and discussed the system with him. He could not remember just when the ditch and pond was developed but stated that it had to be after 1949.

Based upon the information currently available I am recommending this right with a 4-1-1955 priority date.

P/D analysis

The water collects through a reach of the Ottely ditch that is also being used by Boden (43-146B et.al) and/or Ward (43-146A et.al). This same wastewater would be available for their use also. It is not my understanding that the Ottley ditch was built to strictly capture wastewater only especially since it ties into the Barker Ditch and carries other decreed water to irrigate Boden and Ward decreed ground. I am recognizing that Hawker takes control of the water at the point where the ditch enters his property, not along the reach of the ditch as claimed. The recommended point of diversion is TWP 14S, RNG 25E, SEC 7 SWNE.

P/U analysis

The claimed place of use consists of two separate parcels, one in the N½ of sec 6 and the other in the E½SE¼ of sec 6 and E½NE¼ of sec 7. I am not recommending the ground in the N½ of sec 6. For that ground to receive the waste water that collects in the Ottley ditch, that water would have to be diverted from the Ottley ditch to the Barker ditch and then to the N½ ground. There is no ditch between the two ditches. 43-7107 was licensed for irrigation on both parcels from a well but that water is delivered to the N½ ground through a pipeline system. That system has a 1977 priority date and would not have been available to deliver wastewater to the N½ at the recommended priority date.

Quantity analysis

There is no specific channel that is diverted and under normal circumstances there is decreed water in the ditch making a measurement of wastewater independently impossible. The ditch has the capacity to deliver in excess of one inch per acre. Although there is normally only a small amount of wastewater available, I am recommending this right at one inch per acre for the ground irrigated from the ditch.

Ditch system
at the SW corner of the SE 1/4
145 25E Sec 7

Field notes
6-27-94
K KC

RYAN
HAWKER

of Sec 7

Sec 7

Sec 18

OKMERS DEN (Ponded
FLUKE)

12" ALUMY
MASON LANE

Pic Location
637

FORCE
TOWER

Pic #8

ANTSP/PH. P. 1/2

Green Cr Ditch

N

CLAIM # A43-00371
DATE PHOTO TAKEN; 6-27-94
PICTURE # 1

This photo shows the split in the Antelope Springs/Poison Hollow ditch in the SESE of sec 7. You are looking north, down Hawker's ditch. The ditch continues to the right (east) to Anderson's P/U (claims 00053 & 00054). The lane along the western side of Hawker's property is just to the left of this photo range. The lane fence is just visible.

FENCE



CLAIM # A43-00371
DATE PHOTO TAKEN; 6-27-94
PICTURE # 2

This photo was taken at the southwest corner of the P/U and shows the same ditch pictured in picture # 1. You are looking north in this photo. Picture # 3 location is visible in this photo; basically where the near ground breaks.

PICTURE # 3 LOCATION

BUCKET ON FENCE



PICTURE # 3

This photo shows the beginning of the pipeline and that the ditch continues alongside the pipeline. You are still looking north. The same lane mentioned in picture # 1 is just to the left of the fence shown.



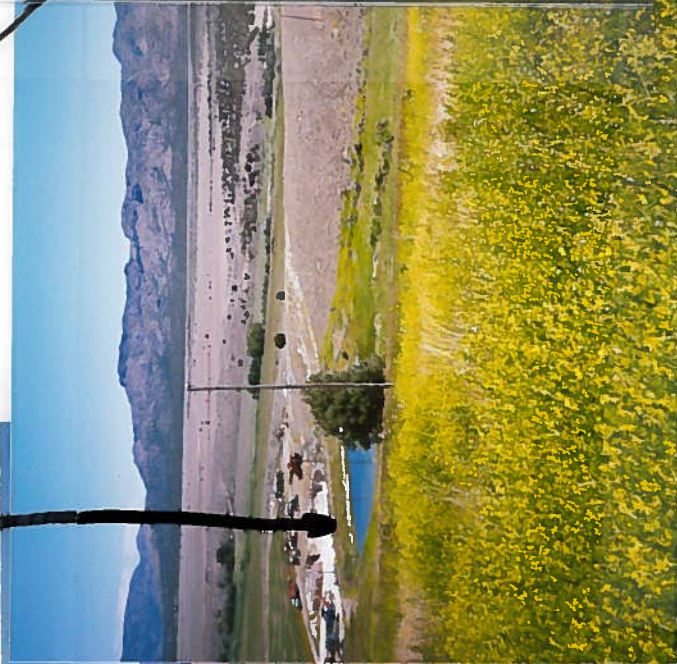
CLAIM # A43-00371, 00475, etc.
DATE PHOTOS TAKEN; 6-27-94
PICTURE SET # 4

This photo set was taken from a point west of the Hawker farmstead. You are looking north on the left to east on the right. This covers the P/U that lays in the E1/2 NE1/4 of sec 7 and the E1/2 SE1/4 of sec 6. The road on the left is the western boundary of the P/U.

POND AT THE
END OF THE
OTTLEY DITCH

EASTERN BOUNDARY
OF SEC 6

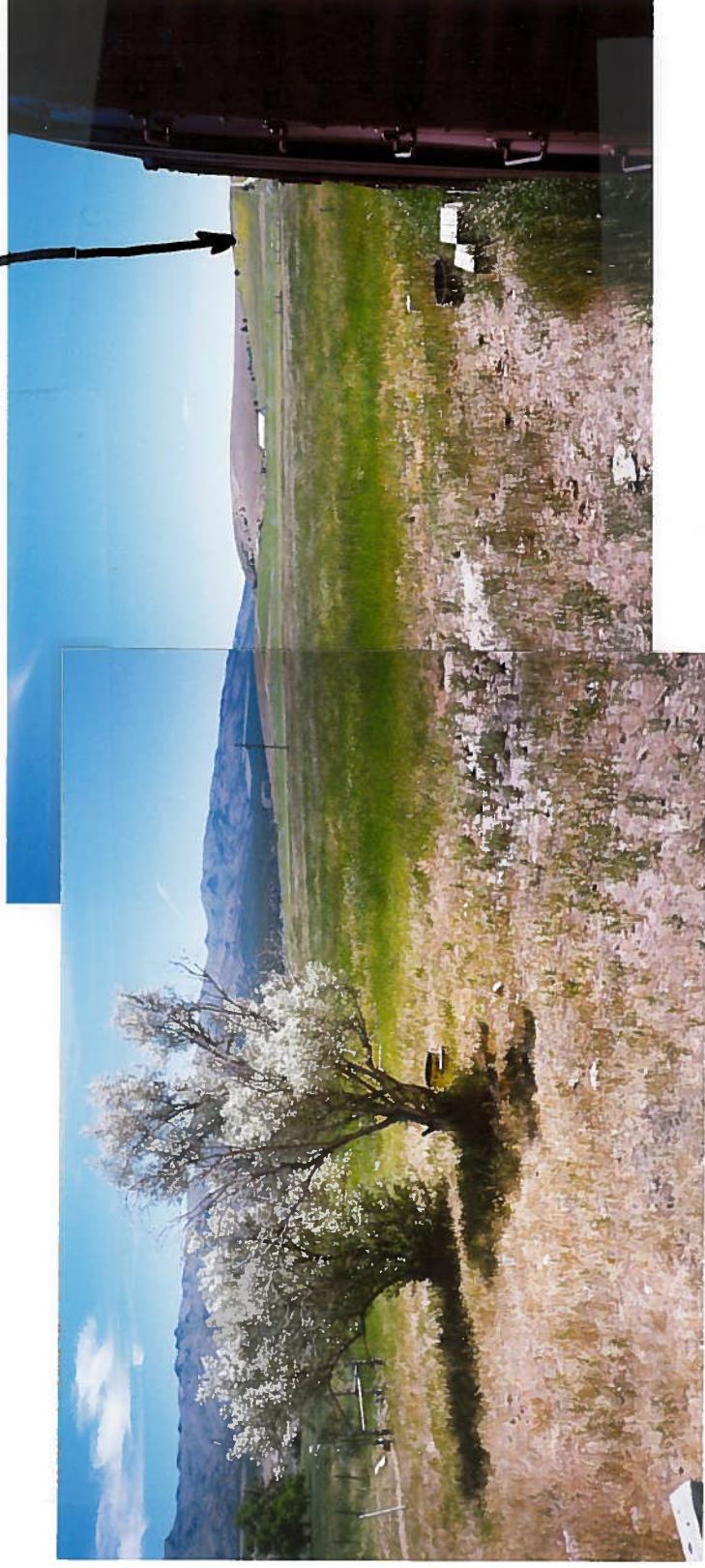
EASTERN BOUNDARY OF
THE IRRIGATED P/U IN SEC 7



CLAIM # A43-00371, 00475, etc.
DATE PHOTOS TAKEN; 6-27-94
PICTURE SET # 5

This photo set was taken from the northwest corner of the P/U in the SE1/4 of sec 6. You are looking east southeast on the left to south on the right. This shows irrigation to the north end of the property. A railroad box car is within the right side of this photo set.

PICTURE SET # 4
LOCATION



CLAIM # A43-00371, 00475, etc.
DATE PHOTOS TAKEN; 7-15-94
PICTURE SET # 6

This photo set is looking north east at the well used to irrigate most of the P/U. The well is located approximately 100 yards east of the home.

