

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: **A43-00476**
Date Received: 6/15/1989
Receipt No: S008271
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: LARRY KINCADE 208-645-2346
Address: HC 61 BOX 1240
MALTA ID 83342

AND/OR

Name: DARLENE KINCADE 208-645-2346
Address: HC 61 BOX 1240
MALTA ID 83342

*Spelled
tunnell in Sears & Berryman
decease.*

2. Date of Priority: APR 30, 1872

3. Source: TUNNEL SPRING Trib. to: CASSIA CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	26E	19	NW	SW	NW		CASSIA
			NE	NE	SW		CASSIA

5. Description of diverting works:
WEIR, HEADGATE, DITCH...SEE ATTACHED

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.240		
STOCKWATER	01/01	12/31	0.090		

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

8. Total consumptive use is 36.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/275 BEEF STOCK, 8 HORSES, 25 SHEEP

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
13S	26E	19	NE		SW		IRR	18.0
			NW		SW		IRR	20.0
			SW		SW		IRR	10.0
			SE		SW		IRR	20.0
			NE		SE		IRR	18.0
			NW		SE		IRR	19.0
			SW		SE		IRR	30.0
			SE		SE		IRR	35.0
							Section Acres	170.0
		20	SE		SW		IRR	35.0
							Section Acres	35.0
							Total Acres	205.0

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:

A43-00068, 00070B, 00071B, 00073B, 00074B

14. Remarks:

WATER ALSO USED FOR STOCK IN SECTIONS 19 & 20.

A43-07139...SPRING RUNOFF ALSO USED ON ADDITIONAL 37 ACRES IN SW QTR, SEC 19.

8-12-98: DATA ENTRY CORRECTED FROM RANGE 25E TO 26E PER ORIG CLAIM - VH

10/1/98 TF; OWNERSHIP CHANGED HELLWINKEL TO KINCADE PER 1409(6) AND QUITCLAIM DEED REC'D 9/10/97.

COPIED FROM ORIGINAL CLAIM>>> ALL WATER RIGHTS IRRIGATE A TOTAL OF 205 ACRES, AS ABOVE, PER THE JOBE ADAMS DECREE. THIS INCLUDES PERMITS 43-00068, 43-00070B, 43-00476, 43-00073B, 43-00074B. THE 205 ACRES ABOVE DESCRIBED DOES NOT INCLUDE THE RIGHTS UNDER PERMIT 43-00071B ON CHOKECHERRY CREEK FOR .26 CFS IRRIGATING AN ADDITIONAL 75 ACRES. ONLY 13 ACRES IN THIS PERMIT 43-07139 ARE INCLUDED IN THE ABOVE CUMULATIVE TOTAL. ENTERED BY KKC 10-19-99.

15. Basis of Claim: DECREED

Case Number:

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: See attached
 Adjudication Claim No(s).: See attached
2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
 - AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
 - OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant David Hellwinkel
HC 61 Box 1240, Malita, Id. 83342
4. New Owner/Claimant(s) Larry and Darlene Kincaid
 Name Connector (Check one): [] and, [] or, ☒ and/or
 New Mailing Address HC 61 Box 1240
 City, State and ZIP Code Malita, Id. 83342
 New Telephone Number (208) 645-2346
5. Date you acquired the property 2-28-94
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres you irrigate _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner or Claimant(s) Larry Kincaid
 (Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

229555

QUITCLAIM DEED

FOR VALUE RECEIVED, DAVID J. HELLWINKEL aka DAVID HELLWINKEL, a divorced man, of Box 104 Wellington, Nevada, 89444, hereinafter called the "Grantor" hereby remises, releases and forever quitclaims unto Larry Kincade and Darlene Kincade, husband and wife, of HC 61, Box 1240, Malta, Idaho 83342, hereinafter called the "Grantee", all interest now held or hereafter acquired by Grantor in the premises, in Cassia County, Idaho, described as follows, to wit:

See Exhibit "A" attached hereto and incorporated herein by reference as thought set forth at length.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto said Grantee, and the Grantee's heirs and assigns forever, including all rents and profits. It is Grantor's intention that Grantee have such property as her sole and separate property and that it no longer be held as or deemed to be the community property of the parties.

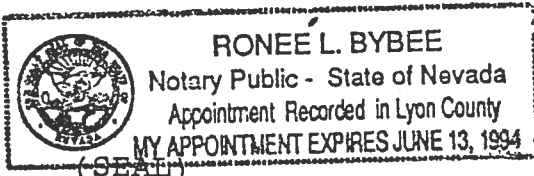
DATED this 28th day of ^{February}~~January~~, 1994.

David J. Hellwinkel
David J. Hellwinkel

Nevada
STATE OF ~~IDAHO~~)
Lyon) ss.
County of Cassia)

On this 28th day of ^{February}~~January~~, 1994, before me the undersigned a Notary Public in and for said State, personally appeared David J. Hellwinkel, known to me to be the person whose name is subscribed to the above and foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Ronee L. Bybee
Notary Public for Idaho Nevada
Residing at Burley, Idaho Smith, Nevada
Commission Expires:

June 13, 1994

TOWNSHIP 13 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 26: N½, N½SE½, and Lots 1 and 2

Section 27: N½NE½, SE½NE½, and Lots 3 and 4

ALSO, a tract of land in Sections 26 and 27, Township 13 South, Range 24 East, Boise Meridian, designated as H. E. Survey #207, and described as follows:

Beginning at corner No. 1 from which the South quarter corner of Section 34, Township 13 South, Range 24 East, Boise Meridian, bears South 5°10' West 92.61 chains;
Running thence North 75°20' West 9.78 chains to corner No. 2;
Thence North 0°24' West 31.0 chains to corner No. 3;
Thence South 68°06' East 44.46 chains to corner No. 4;
Thence North 87°22' East 38.54 chains to corner No. 5;
Thence South 1°45' East 8.01 chains to corner No. 6;
Thence South 78°48' West 50.20 chains to corner No. 7;
Thence South 88°15' West 20.85 chains to corner No. 1, the Point of Beginning.

EXCEPTING THEREFROM the following described property:

Beginning at corner No. 4 of H. E. Entry Survey #207 in Sections 26 and 27, Township 13 South, Range 24 East, Boise Meridian;
Thence North 68°06' West toward corner No. 3 a distance of 23.80 feet;
Thence North 52°02' West a distance of 328.80 feet;
Thence North 58°00' West 139.90 feet to point A, the point of Beginning;
Thence North 55°55' East 164.58 feet to Point B;
Thence North 5°57' East 251.51 feet to Point C;
Thence North 83°26' West 254.26 feet to Point D;
Thence North 83°26' West 219.05 feet to Point E;
Thence South 9°54' East 300.50 feet to Point F;
Thence South 68°35' East 275.15 feet to Point A, the Point of Beginning, together with a roadway 10 feet on each side of a line beginning at Point A, thence Eastward 60 rods, thence Southeasterly to Forest Service road.

PARCEL NO. 2:

TOWNSHIP 13 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 24: SW½SW½

Section 25: W½NW½, NE½NW½

TOWNSHIP 13 SOUTH, RANGE 26 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 19: S½

Section 20: W½SW½

EXCEPTING THEREFROM that portion deeded to the State of Idaho for highway purposes, being a portion of the N½SW½ and N½SE½ of said Section 19, and a portion of the NW½SW½ of said Section 20, Township 13 South, Range 26 East, Boise Meridian.

207202

QUITCLAIM DEED

FOR VALUE RECEIVED, JULIE HELLWINKEL, does hereby release, remise, grant, bargain, sell, convey and forever quitclaim unto DAVID HELLWINKEL, whose present address is HC61 Box 1240, Malta, Idaho, 83342, the following described premises, located in Cassia County, State of Idaho, to-wit:

SEE EXHIBIT "D-1"

together with appurtenances.

DATED this 17th day of April, 1990.

Julie Hellwinkel
Julie Hellwinkel

STATE OF IDAHO)
) ss.
County of Minidoka)

On the 17th day of April, 1990, before me the undersigned Notary Public in and for said State, personally appeared Julie Hellwinkel, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL.)

W. Mark Bradley
Notary Public;
Residing at Malta, ID
My Commission Expires: 6/12/92

QUITCLAIM DEED

EXHIBIT "B-1"

Page 1 of 2

LEGAL DESCRIPTION

PARCEL NO. 1:

TOWNSHIP 13 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 26: N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and Lots 1 and 2

Section 27: N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and Lots 3 and 4

ALSO, a tract of land in Sections 26 and 27,
Township 13 South, Range 24 East of the Boise
Meridian, designated at H. E. Survey No. 207, and
described as follows:

Beginning at corner No. 1 from which the South
quarter corner of said Section 34, bears South
5°10' West 92.61 chains;
Running thence North 75°20' West 9.78 chains to
corner No. 2;
Thence North 0°24' West 31.0 chains to corner
No. 3;
Thence South 68°06' East 44.46 chains to corner
No. 4;
Thence North 87°22' East 38.54 chains to corner
No. 5;
Thence South 1°45' East 8.01 chains to corner
No. 6;
Thence South 78°48' West 50.20 chains to corner
No. 7;
Thence South 88°15' West 20.85 chains to corner
No. 1, the Point of Beginning.

EXCEPTING THEREFROM the following described
property:

Beginning at corner No. 4 of H.E. Entry Survey
No. 207 in Sections 26 and 27, Township 13 South,
Range 24 East of the Boise Meridian; thence North
68°06' West toward corner No. 3 a distance of
23.80 feet; thence North 52°02' West a distance
of 328.80 feet; thence North 58°00' West 139.90
feet to a Point A, the Point of Beginning;
Thence North 55°55' East 164.58 feet to Point B;
Thence North 5°57' East 251.51 feet to Point C;
Thence North 83°26' West 254.26 feet to Point D;
Thence North 83°26' West 219.05 feet to Point E;
Thence South 9°54' East 300.50 feet to Point F;
Thence South 68°35' East 275.15 feet to Point A,
the Point of Beginning, together with a roadway
10 feet on each side of a line beginning at
Point A, thence Eastward 60 rods, thence
Southeasterly to Forest Service road.

-Continued-

Range 24 East of the Boise Meridian, thence North
 68°06' West toward corner No. 3 a distance of
 23.80 feet; thence North 52°02' West a distance
 of 328.80 feet; thence North 58°00' West 139.90
 feet to a Point A, the Point of Beginning;
 Thence North 55°55' East 164.58 feet to Point B;
 Thence North 5°57' East 251.51 feet to Point C;
 Thence North 83°26' West 254.26 feet to Point D;
 Thence North 83°26' West 219.05 feet to Point E;
 Thence South 9°54' East 300.50 feet to Point F;
 Thence South 68°35' East 275.15 feet to Point A,
 the Point of Beginning, together with a roadway
 10 feet on each side of a line beginning at
 Point A, thence Eastward 60 rods, thence
 Southeasterly to Forest Service road.

-Continued-

EXHIBIT "B-1"

Page 2 of 2

PARCEL NO. 2:

TOWNSHIP 13 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
 CASSIA COUNTY, IDAHO

Section 24: SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 25: NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$

TOWNSHIP 13 SOUTH, RANGE 26 EAST OF THE BOISE MERIDIAN,
 CASSIA COUNTY, IDAHO

Section 19: S $\frac{1}{4}$

Section 20: W $\frac{1}{4}$ SW $\frac{1}{4}$

EXCEPTING THEREFROM that portion deeded to the State of Idaho for
 highway purposes, being a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said
 Section 19, and a portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 20,
 Township 13 South, Range 26 East of the Boise Meridian.

207202
 2/15
 John A. Shadley
 APR 21 11 00 AM '77
 CASSIA COUNTY, IDAHO
 REC-200
 15:00 Bureau
 Box 487
 Burley, ID

USDA-FHA
 Form FHA 460-1
 (Rev. 2-2-72)

207202

Portion 1 (Chattel)
 Portion 2 (Real Estate)

PARTIAL RELEASE

KNOW ALL MEN BY THESE PRESENTS, That the United States of America, as owner and holder of the following description

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A43-00068 ET AL

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Frank Hitchcock

September 10, 1997 1:49pm

NAME:

KINCADE, LARRY AND DARLENE

RE:

OWNERSHIP CHANGE RECD
A43-00068 ET AL IN THE
NAME OF ORIG CLAIMANT
HELLLWINKEL.

RECIEVED MANILA ENVELOPE TODAY FROM KINCADE AND TELEPHONED TO
ACKNOWLEDGE RECEIPT OF THE 1409 ETC.

NO ANSWER AT 11:55 AM SO LEFT A MESSAGE ON THE RECORDER SAYING THAT
WE WERE SWAMPED HERE AT THE OFFICE AND IT WOULD BE SOME WEEKS
BEFORE I COULD LOOK OVER THE MATERIALS AND GET THEM TO THE STAFF
PERSON WHO WOULD DO THE WORK. SUGGESTED THEY COULD CALL WITH ANY
QUESTIONS.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

July 9, 1996

KARL J. DREHER
DIRECTOR

DAVID J OR JULIE A HELLWINKEL
PO BOX 104
WELLINGTON NV 89444

RECEIVED

JUL 11 1996

Re: Snake River Basin Adjudication (SRBA) Water Resources
Notices of Claim No. A43-00068, A43-00070B, A43-00071B,
A43-00073B, A43-00074B, A43-00190, A43-00476, A43-07139,
A43-10505, A43-10509, A43-10510 & A43-10511
Change of Address

Dear Claimants,

IDWR has been notified the address presently in our claim records is incorrect. Although we have reached you at the address above, we need you to confirm this is your correct mailing address. Future notices related to your SRBA claim(s) can be sent only to the address on your claim(s) or as otherwise changed by you. The staff of this agency must avoid relying upon the word of others about your mailing address.

If the address above is correct, please sign your name at the bottom of this letter, and return it to this office. Otherwise, please make the proper corrections, sign, and return this letter. Thank you for your help. We hope to assure that you receive future notices about SRBA matters.

If the ownership of the property to which the water right(s) referenced above apply has changed, please call this office toll-free at 1-800/451-4129 to obtain a form to make this required change to the claim record.

Sincerely,

Adjudication Bureau Staff

SO:ss:region

#####

The address is correct as shown above or as otherwise changed.

Claimant Signature

Go to Page ____

Page: 1

A43-00068	A43-00070B	A43-00071B	A43-00073B	A43-00074B
A43-00190	A43-00476	A43-07139	A43-10505	A43-10509
A43-10510	A43-10511	R43-00068	R43-00070B	R43-00071B
R43-00073B	R43-00074B	R43-00190	R43-00476	R43-07139
R43-10509	R43-10510	R43-10511		

IMPORTANT NOTICE REGARDING YOUR WATER RIGHT

**THIS CONTAINS YOUR LEGAL NOTICE OF THE DIRECTOR'S REPORTS OF U.S. AND
TRIBAL NON-CONSUMPTIVE CLAIMS IN THE SNAKE RIVER BASIN ADJUDICATION
THESE CLAIMS COULD AFFECT YOUR WATER RIGHT**

20900
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

Presorted
First Class Mail
U.S. Postage Paid
Boise, Idaho
Permit No. 1

RECEIVED
APR 20 1995
Department of Water Resources

DAVID J HELLWINKEL
JULIE A HELLWINKEL
HC 51 BOX 1240
MALTA ID 83342

PO Box 104
Wellington N.V. 89444

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS**

In Re Snake River Basin Adjudication Case)
No. 39576)

Notice of Filing Director's Report and Supplemental
Director's Report Part II & III, United States' and Tribal
Non-consumptive Claims.

APR 19 1995
ALL CLAIMANTS OF RIGHTS TO THE USE OF WATER IN THE SNAKE RIVER BASIN
YOU ARE HEREBY NOTIFIED OF THE FOLLOWING:

THE DIRECTOR'S REPORT PART II & III FOR THE UNITED STATES' AND TRIBAL NON-CONSUMPTIVE CLAIMS HAS BEEN FILED WITH
THE DISTRICT COURT. A SUPPLEMENTAL DIRECTOR'S REPORT PART II & III HAS ALSO BEEN FILED WITH THE DISTRICT COURT.
THIS NOTICE CONTAINS IMPORTANT INFORMATION ABOUT THE DIRECTOR'S REPORTS, AND DEADLINES AND FURTHER PRO-
CEEDINGS ON THESE WATER RIGHT CLAIMS.

IMPORTANT NOTICE REGARDING YOUR WATER RIGHT

**THIS CONTAINS YOUR LEGAL NOTICE OF THE DIRECTOR'S REPORTS OF U.S. AND
TRIBAL NON-CONSUMPTIVE CLAIMS IN THE SNAKE RIVER BASIN ADJUDICATION
THESE CLAIMS COULD AFFECT YOUR WATER RIGHT**

21183
Idaho Department of water Resources
Statehouse Mail
Boise, Idaho 83720

Presorted
First Class Mail
U.S. Postage Paid
Boise, Idaho
Permit No. 1

RECEIVED
APR 20 1995
Department of Water Resources

DAVID J HELLWINKEL
JULIE A HELLWINKEL
HC61 BOX 1240
MALTA ID 83342

PO Box 104
Walla Walla WA 99444

SD-5301-3

Idaho Department of Water Resources
Copy Selected Data to Multiple Claims

Date: 06/08/95
Time: 15:42:01

Source Claim Number: R43-00070B

File to Copy From: AJ

Destination Claim Numbers:

A43-00068__	A43-00071B__	A43-00073B__	A43-00074B__	A43-00476__
R43-00068__	R43-00071B__	R43-00073B__	R43-00074B__	A43-00476__
A43-00070B__	__-__	__-__	__-__	__-__
__-__	__-__	__-__	__-__	__-__
__-__	__-__	__-__	__-__	__-__
__-__	__-__	__-__	__-__	__-__

(Enter=Copy to Above Claims & Go to AJ2)
(GOLD2=Submit Batch Job)

(GOLD8=Cancel) (Menu)

date Records updated
6-8-95
KKC

P/U for township was
incorrectly data entered as
255. Township was changed
to 265. and a remark noting
change was entered.

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

A43-00476

Date Received

Receipt Number

RECEIVED

JUN 7 1989

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) David J. and/or Julie A. Hellwinke Phone (208) 645-2256

Mailing Address HC 61 Box 1240, Malta, Idaho Zip 83342

2. Date of Priority (Only one (1) per claim) April 30, 1872- By Court Decree

3. Source of water supply (a) Tunnel Spring
which is tributary to (b) Cassia Creek

4. a. Location of existing point of diversion is: Township 13 South Range 26 E Section 19,
NW 1/4 of SW 1/4 of NW 1/4, Govt. Lot, B.M., County of Cassia

Additional points of diversion if any: NE 1/4 NE 1/4, SW 1/2 Section 19

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

Flow from this source is delivered direct to Cassia Creek. Credit for
this water (.24 cfs) is allowed in diversions for acreage irrigated
in other decreed rights as explained on page two number 14.

MICROFILMED
MAR 03 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 3/15 to 10/15 amount .24 or _____

For Stockwater purposes from 1/01 to 12/31 amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .24 (cfs) and/or (b) 12 (acre feet)

8. Total consumptive use claimed is 36 acre feet per annum. (12 x 3)

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stockwater for 275 cattle, 8 horses, 25 sheep

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13S	26E	19									18	20	10	20	18	19	30	35	
13S	26E	20												35					
Sections	19	& 20									S	S	S	S	S	S	S	S	

Total number of acres irrigated 205

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes xx No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

See remarks below - acres above are cumulative total of rights. or None ()

14. Remarks:

All water rights irrigate a total of 205 acres, as above, per
the Jobe Adams Decree. This includes permits #43-0068, 43-0070B,
43-0476 , 43-0073B, 43-0074B. The 205 acres above described does
not include the rights under permit 43-0071B on Chokecherry Creek
for .26 cfs irrigating an additional 75 acres. Only 13 acres in
this permit 43-0071B are included in the above cumulative total.

07139

MICROFILMED

Last Name HELLWINKEL Ident No. _____

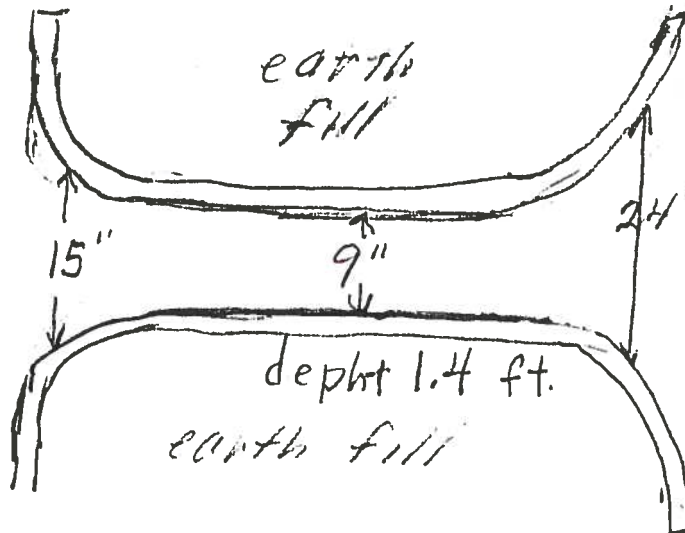
Copies: White - State, Yellow - Claimant



Western Nevada Livestock Appraisal

Matt Benson • Senior Appraiser

575 Highway 88 • Gardnerville, NV 89410 • (702) 265-2031



Hellwinked
Passia Creek

Weirs for water measure
North Side #1 Diversion

& South Side #2 Diversion

MICROFILMED

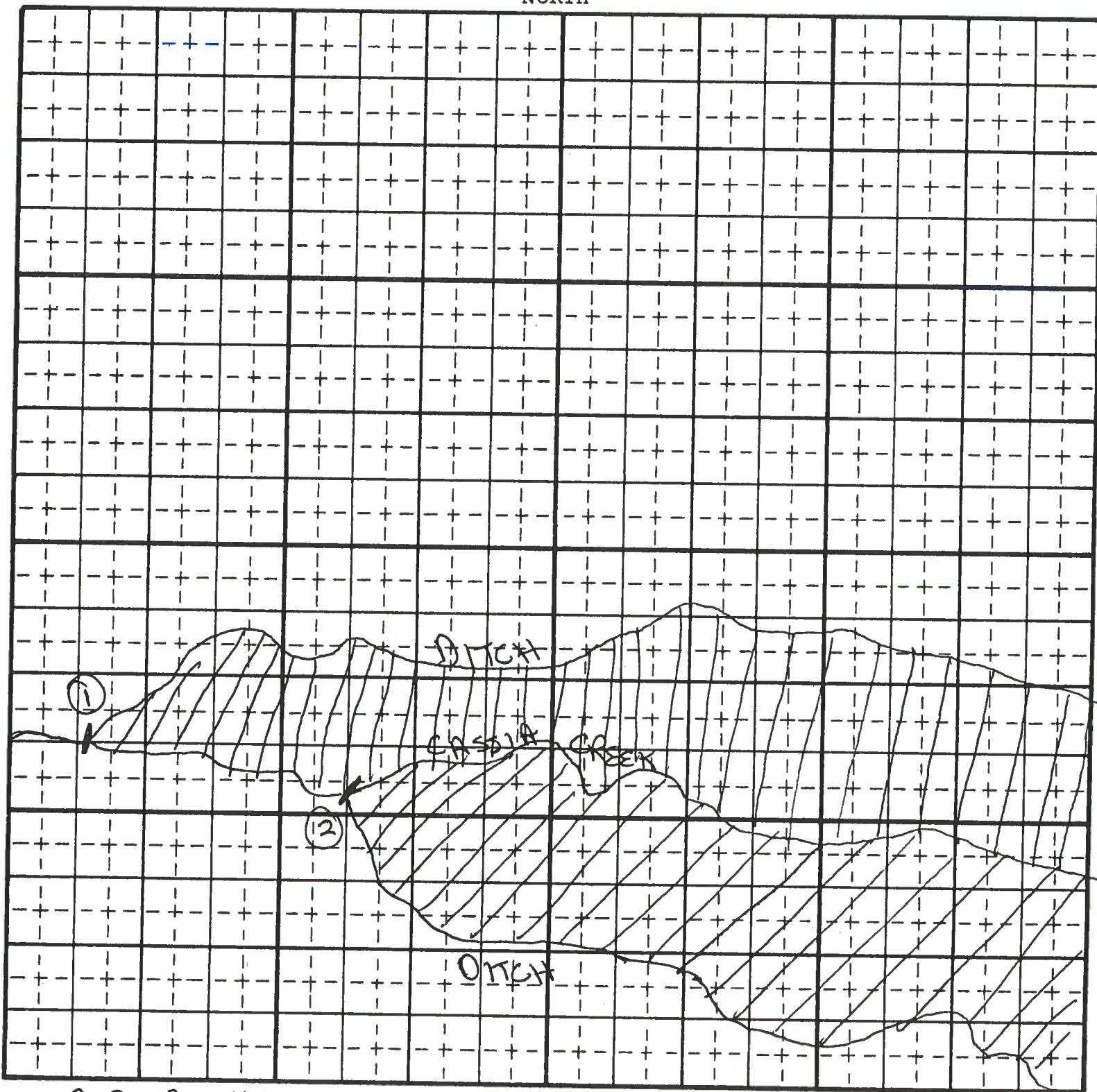
MAR 03 1993

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: ~~XXXXX~~
~~XXXXX~~ equals 1 mile
8 inches

TOWNSHIP 13 SOUTH
RANGE 26 E. SECT. 19

NORTH



2 DIVERSIONS

SOUTH

MICROFILMED

MAR 03 1993

Last Name HELLWINKEL Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree X

If applicable provide IDWR Water Right Number 43-00476 Court date _____

Court Fifth (Cassia) Case Number 12238 Decree Date 6/18/82

Plaintiff vs Defendant Wallace and Ramona Sears vs. Glenn and Virginia Berryman

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 X do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments -b-

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

David J. Hellwinkel
David J. Hellwinkel

Date 6-6-89

Julie A. Hellwinkel
Julie A. Hellwinkel

Date 6-6-89

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 6th day of June 19 89

SEAL

Notary Public

Rosella Nedda

Residing at

Malta, Idaho

My Commission Expires

April 6 1993

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

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MAR 03 1993

Last Name HELLWINKEL Ident. Number _____

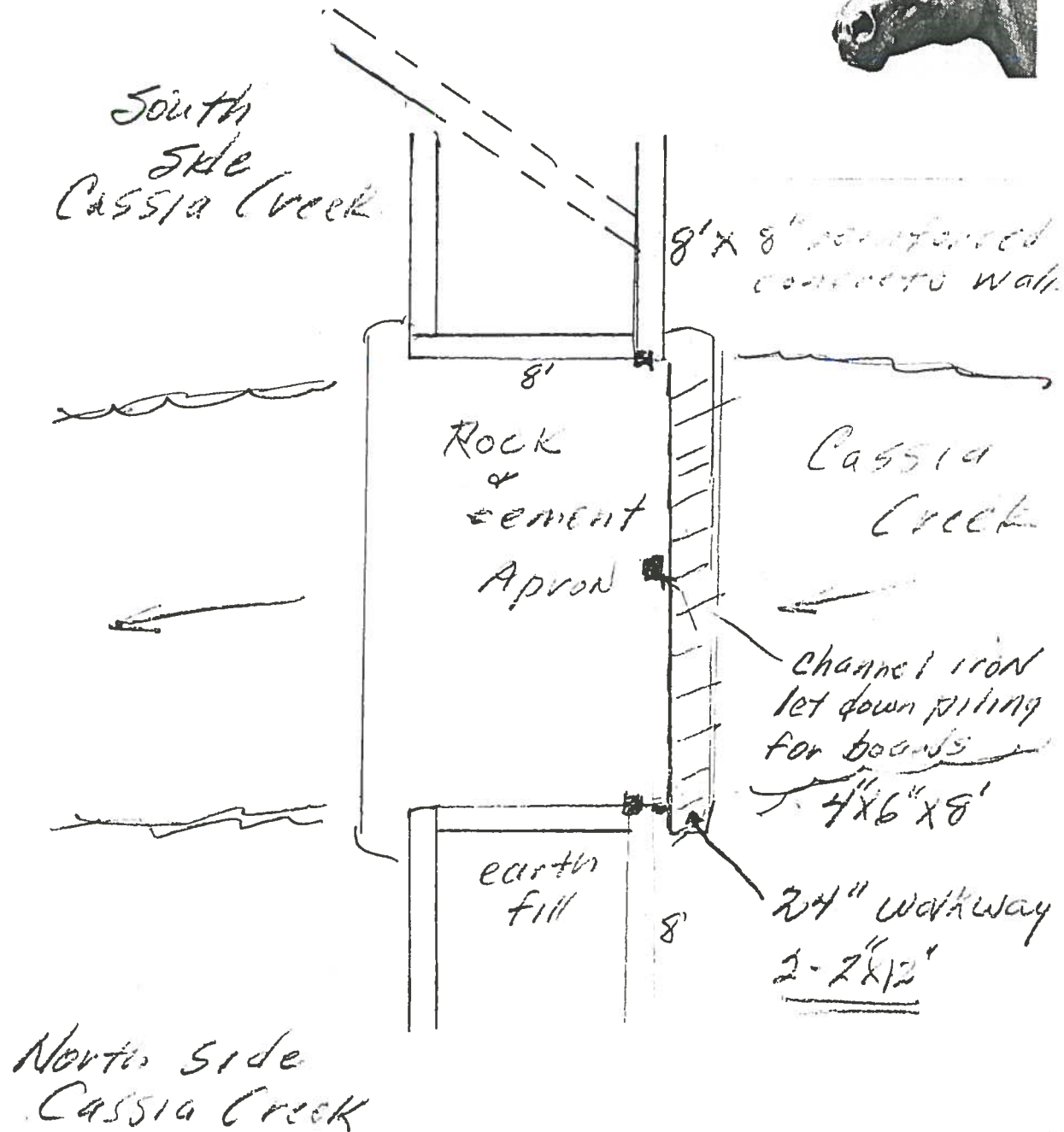
Copies White-State, Yellow-Claimant



Western Nevada Livestock Appraisal

Matt Benson • Senior Appraiser

575 Highway 88 • Gardnerville, NV 89410 • (702) 265-2031



To replace old
rock diversion dam.

1988 started
to be complete fall
1989

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MAR 03 1993

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: A43-00476
Date Received: 6/15/1989
Receipt No: S008271
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DAVID J. HELLWINKEL 208-645-2256
Address: HC 61 BOX 1240
MALTA, ID 83342

AND/OR

Name: JULIE A. HELLWINKEL 208-645-2256
Address: HC 61 BOX 1240
MALTA, ID 83342

2. Date of Priority: APR 30, 1872

3. Source: TUNNEL SPRING Trib. to: CASSIA CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	26E	19	NW	SW	NW		CASSIA
			NE	NE	SW		CASSIA

5. Description of diverting works:
WEIR, HEADGATE, DITCH...SEE ATTACHED

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.240		
STOCKWATER	01/01	12/31	0.090		

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

8. Total consumptive use is 36.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/275 BEEF STOCK, 8 HORSES, 25 SHEEP

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
13S	26E	19	NE		SW		IRR	18.0
			NW		SW		IRR	20.0
			SW		SW		IRR	10.0
			SE		SW		IRR	20.0
			NE		SE		IRR	18.0
			NW		SE		IRR	19.0
			SW		SE		IRR	30.0
			SE		SE		IRR	35.0
								Section Acres
								170.0
		20	SE		SW		IRR	35.0
								Section Acres
								35.0
								Total Acres
								205.0

*26E
Corrected
6-8-95
KJC*

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:
A43-00068, 00070B, 00071B, 00073B, 00074B

14. Remarks:
WATER ALSO USED FOR STOCK IN SECTIONS 19 & 20.
A43-07139...SPRING RUNOFF ALSO USED ON ADDITIONAL 37 ACRES IN
SW QTR, SEC 19.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

SEARS

Decree Plaintiff

vs

BERRYMAN

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)
County of _____) SS.

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

Notary Public

Seal

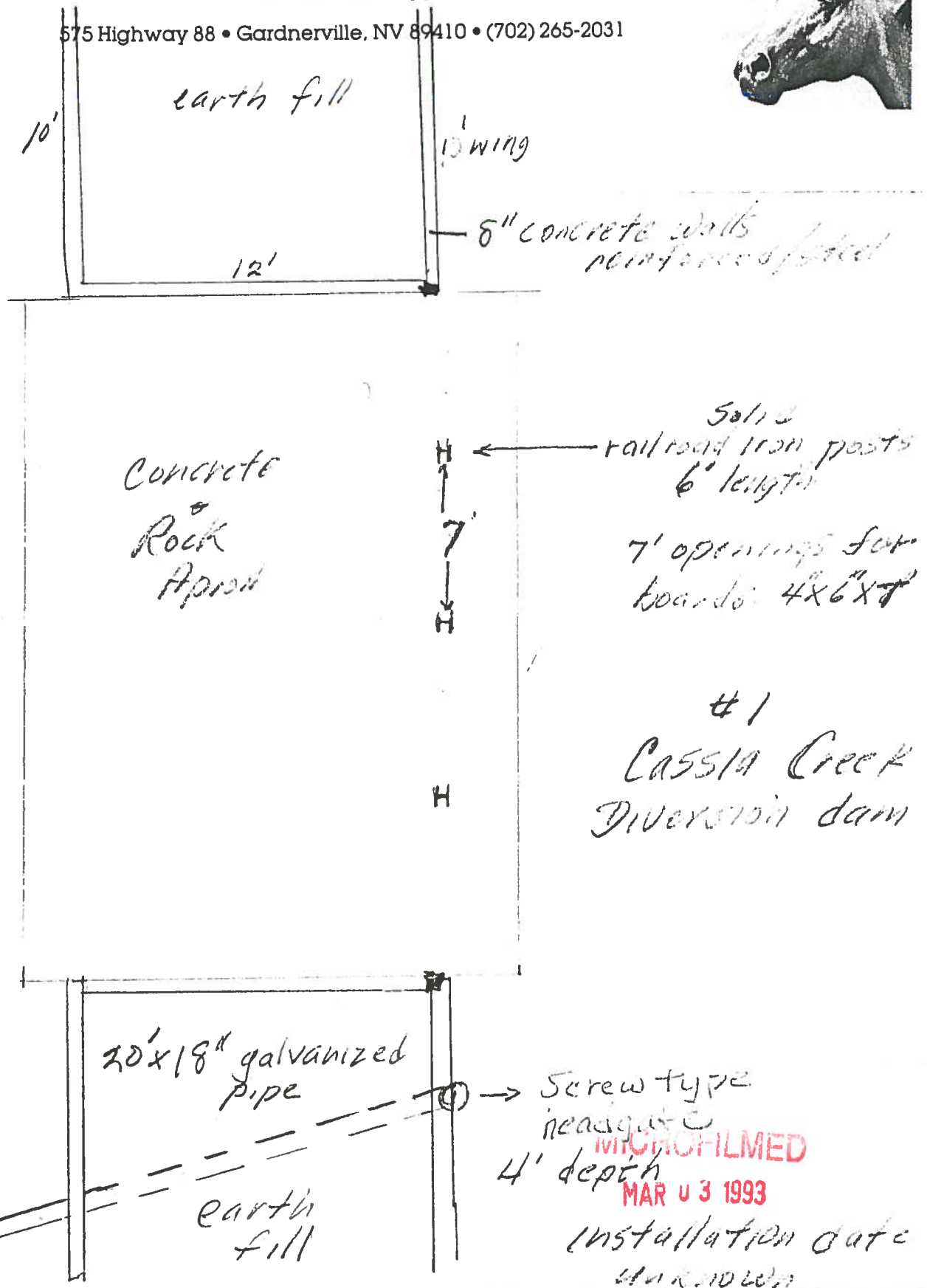
Residing at _____
My Commission Expires _____



Western Nevada Livestock Appraisal

Matt Benson • Senior Appraiser

575 Highway 88 • Gardnerville, NV 89410 • (702) 265-2031



14-1281

PARSONS, SMITH, STONE & FLETCHER
Attorneys for Defendants, Berrymans
137 West 13th Street
P O Box 910
Burley, Idaho 83318
Tel. No. (208) 678-8382

Josephine

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

WALLACE SEARS and RAMONA
ULERS, husband and wife,

Plaintiffs,

vs.

GLENN BERRYMAN and VIRGINIA
BERRYMAN, husband and wife,
et al,

Defendants.

Case No. 12218

PROCEEDINGS ON REMAND, FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND JUDGMENT.

The above-entitled action was tried on April 4, 1978.
An Amended Judgment and Decree was entered on the 17th day of
November, 1978. An appeal was taken from the Amended Judgment and
Decree. The Supreme Court of the State of Idaho affirmed the
Amended Judgment and Decree with the exception of the issue as to
25 inches of the 1879 water, which was part of the Sadie Beecher
water in the John Adams decree. The Supreme Court remanded the
case to the District Court to determine who was entitled to the
said 25 inches of the 1879 Sadie Beecher water.

The matter was accordingly set for hearing on November
12, 1981. Lawrence H. Duffin appeared for the plaintiffs and
William A. Parsons, of Parsons, Smith, Stone & Fletcher, for the
defendants, Glenn Berryman and Virginia Berryman. Josephine

Page 1 - Proceedings on Remand, Findings
of Fact, Conclusions of Law,
and Judgment

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MAR 03 1993

1 lands from the Amended Judgment originally entered in these pro-
2 ceedings and the proceedings on remand.

3 F. All issues on remand have been resolved.

4 G. The signatures of counsel for the parties herein
5 shall be conclusive of the stipulation entered into and concurrence
6 in the Findings and Conclusions and approval of the Judgment.

7 BASED upon the proceedings on remand, the Amended
8 Judgment and Decree previously entered, the foregoing Findings of
9 Fact and Conclusions of Law, it is

10 **ORDERED, ADJUDGED AND DECREED:**

11 1. Wallace Sears and Ramona Sears own and have the right
12 to divert that portion of the water decreed to Sadie Beecher in
13 the Jobe Adams Decree of 1928 as follows:

14 (a) .36 c.f.s., or 18 inches, with a
15 priority date of April 30, 1872.

16 (b) .34 c.f.s., or 17 inches, with a
17 priority of April 30, 1873.

18 (c) 1.2 c.f.s., or 60 inches, with a
19 priority date of April 30, 1879.

20 (d) 1.77 c.f.s., or 88.50 inches, with
21 a priority date of April 1, 1894.

22 (e) .20 c.f.s., or 10 inches, with a
23 priority date of April 27, 1910.

24 for the irrigation on the following described real property in
25 Cassia County, Idaho:

26 East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$),
27 and the Southeast Quarter (SE $\frac{1}{4}$) of Section 24,
28 Township 13 South, Range 25 East, Boise Meridian.

29 with the two points of diversion located in the Southeast Quarter
30 (SE $\frac{1}{4}$) of Section 23, Township 13 South, Range 25 East, Boise
31 Meridian.

32 2. Norman Brothers, a partnership, composed of Sidney
Norman, Newell Norman, Royal Norman and Milton Norman, own and
have the right to divert that portion of the water decreed to
Sadie Beecher in the Jobe Adams Decree of 1928 and as decreed to

Page 4 - Proceedings on Remand, Findings
of Fact, Conclusions of Law,
and Judgment

1 a predecessor in interest, and that water decreed to Clifford
2 Beecher and Hazel Beecher in the Jobe Adams Decree as follows:

3 (a) 2.18 c.f.s., or 119 inches, with a
4 priority date of April 30, 1872. 1.24 c.f.s., or
12 inches, of which .55 flows from Riparian Tunnels.

PARSONS, SMITH, STONE & FLETCHER
ATTORNEYS
BOISE, IDAHO

1 a predecessor interest, and that water decreed to (1).
2 Beecher and Hazel Beecher in the Jobe Adams Decree as follows:

3 (a) 2.38 c.f.s. or 119 inches with a
4 priority date of April 10, 1872 (.24 c.f.s. or
5 12 inches of which from Spring Tunnel).

6 (b) .74 c.f.s. or 13 inches with a
7 priority date of April 10, 1873.

8 (c) 1.11 c.f.s. or 61.50 inches with a
9 priority date of April 1, 1894.

10 (d) .16 c.f.s. or 8 inches with a
11 priority date of April 27, 1910, from Side Hill
12 Springs.

13 for the irrigation of the following described real property:

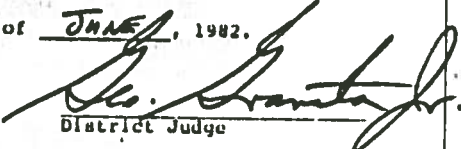
14 The South Half (S $\frac{1}{2}$) of Section 19, and the
15 West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of
16 Section 20, Township 13 South, Range 26 East
17 Boise Meridian, excepting therefrom that portion
18 deeded to the State of Idaho for highway purposes,
19 being a portion of the North Half of the Southwest
20 Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) and the North Half of the Southeast
21 Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 19, and a portion of
22 the Northwest Quarter of the Southwest Quarter
23 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 20 of Township 13 South,
24 Range 26 East Boise Meridian.

25 with no points of diversion located in the Southwest Quarter
26 (SW $\frac{1}{4}$) of Section 19, Township 13 South, Range 26 East, Boise
27 Meridian.

28 3. The Water Master of District 43-C shall distribute
29 the water decreed to Sadie Beecher and the water decreed to
30 Clifford Beecher and Hazel Beecher in the amounts and for the
31 lands described in paragraph 1 and 2 of this Judgment.

32 4. Wallace Sears and Ramona Sears and Norman Brothers,
a partnership, are hereby permanently enjoined from asserting any
rights to the Sadie Beecher water except as decreed in this
Judgment.

DATED this 18th day of JUNE, 1982.


District Judge

Page 5 - Proceedings on Remand, Findings
of Fact, Conclusion of Law,
and Judgment

1
2
3
4
APPROVED:


MICROFILMED
MAR 03 1993

DAVID HE
JULIE HE
HC 61

DAVID AND JULIE HELLWINKEL
HC 61 BOX 1240
IDAHO 83342
-2256

Need check
Returned
for \$ 912.00

RECEIVED

N 7 1989

Department of Water Resources
Northern Region Office

KKC

Water rights filed
are directing these
actions when we were in

Enclosed
pursuant to the
claims to your attention as
your office last week.

A summary of our claims and the computed filing fee is as follows:

Permit #	Priority Date	c.f.s.	Acres	Filing Fee
43-0068	4-30-1872	1.88	94	\$ 144.00
43-0070B	4-30-1872	.26	13	63.00
43-0476	4-30-1872	.24	12	62.00
43-0071B	4-30-1873	.26	13	63.00
43-0073B	4-01-1894	1.31	65	115.00
43-0074B	4-27-1910	.16	8	58.00
		4.11	205	505.00
43-07139	3-09-1979	1.50	75	~~125.00~~ 87.00
Beneficial	4-27-1910	.10	5	55.00
43-00190	1885	1.00	50	105.00
Beneficial	1885	.40	20	70.00
Beneficial	1885	.30	15	65.00
Domestic/stock	1944	N/A	N/A	25.00
		7.41	370	\$ ~~950.00~~ 912.00

We have enclosed our check for \$950.00 in payment of the filing fee. We have also included \$7.50 for our subscription to the docket sheet in 1989.

If there is anything we have forgotten or if you have questions, please contact us. Julie's work number is (208)645-2211. Thank you for your assistance when we were in.

Sincerely,

Julie Hellwinkel
David and Julie Hellwinkel

Water Right Number - 43-00476

Adj. Flag Translation: Standard Water Right Number

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - - - + - - - - Address - - - - +

*** C - CURRENT OWNER ***
NORMAN BROTHERS

1 -
2 -
3 -
City-
Phone -
State- Zip-

*** O - ORIGINAL OWNER ***
BEECHER

CLIFFORD
HAZEL
1 -
2 -
3 -
City-
Phone -
State- Zip-
City-
Phone -
State- Zip-

1 -
2 -
3 -
City-
Phone -
State- Zip-

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
04/30/1872 17 D - DECREED

+ - - - - Source - - - - + + - - - Tributary - - - - +
SPRING TUNNEL CASSIA CREEK

+ - - - - - - - - - Point of Diversion - - - - -
Twn Rng Sec Tract Lot RFlg County
13S 26E 19 NW SW (31) CASSIA

+ - - - - Code Description Period From Period To Water Use Diversion Rate Diversion Volume
01 - IRRIGATION 0.240

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
0.240

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use | Description | County |
|-----|-----|-----|-------|-----|-------|--------------|-------------|-------------|
| 13S | 25E | 19 | NE SW | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | NW SW | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | SW SW | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | SE SW | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | NE SE | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | NW SE | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | SW SE | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 19 | SE SE | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 20 | NW SW | | | 01 | IRRIGATION | (31) CASSIA |
| 13S | 25E | 20 | SW SW | | | 01 | IRRIGATION | (31) CASSIA |

MICROFILMED
MAR 03 1993

Water right number - 43-00476 Adj. flag translation: Standard Water Right Number

| Tw | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|----|-----|-----|-------|-----|-------|------|-------------|--------|
|----|-----|-----|-------|-----|-------|------|-------------|--------|

Total Acres:

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 43-0068, 0070B, 0071B, 0073B, 0074B

+ - - P/U INCOMPLETE, SEE FILE

+ - - Conditions of Approval - No Conditions of Approval found.

+ - - Decree Plaintiff - + + - - Decree Defendant - + +
SEARS BERRYMAN

+ - - Audit Fields -

+ - - Water Rights Dates and Flags Area

| | | | | | |
|------------------|--------------|-----------------|--------------|------------------|-------|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 00/00/0000 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Start Work Date | - 00/00/0000 | Verified Date | - 00/00/0000 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 43C |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - |
| Decree Date | - 06/18/1982 | | | | |

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MAR 03 1993

06/15/2001

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

RIGHT NUMBER: 43-476

NAME AND ADDRESS: DARLENE KINCADE
LARRY KINCADE
1781 E HWY 77
MALTA, ID 83342

VERIFIED BY: KAC

SOURCE: CASSIA CREEK

TRIBUTARY: RAFT RIVER

QUANTITY: 0.24 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER
ACRE. COMBINED RIGHT NOS. 43-68, 43-70B, 43-71B, 43-73B, 43-74B, 43-476, AND
43-7139.

PRIORITY DATE: 04/30/1872

POINT OF DIVERSION: T13S R26E S19 LOT 3 SWNWSW Within CASSIA County
T13S R26E S19 LOT 3 SENWSW 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 | 0.24 CFS |

PLACE OF USE:

IRRIGATION Within CASSIA County

| | | | | | | |
|---------------|------|-----|---------------|-------|------|-----|
| T13S R26E S19 | NESW | 21 | T13S R26E S19 | LOT 3 | NWSW | 11 |
| T13S R26E S19 | SESW | 7.8 | T13S R26E S19 | | NESE | 17 |
| T13S R26E S19 | NWSE | 19 | T13S R26E S19 | | SWSE | 26 |
| T13S R26E S19 | SESE | 33 | T13S R26E S20 | | NWSW | 5.6 |
| T13S R26E S20 | SWSW | 37 | | | | |

177.4 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 187.6 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-68,
43-70B, 43-71B, 43-73B, 43-74B, 43-476, AND 43-7139.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 177.4 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-68,
43-70B, 43-71B, 43-73B, AND 43-476.

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

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO
SECTION 42-1425, IDAHO CODE.

**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: June15, 2001

Water right number: 43-476

DARLENE KINCADE

HC 61 BOX 1240

MALTA ID 83342

Telephone Number: (208)645-2346

LARRY KINCADE

HC 61 BOX 1240

MALTA ID 83342

Telephone Number: (208)645-2346

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: 6-13-01

SIGNATURE: Darlene Kincade

Please print your name: Darlene Kincade

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, (208)736-3033

02/23/2001

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

RIGHT NUMBER: 43-476

NAME AND ADDRESS: DARLENE KINCADE
LARRY KINCADE
HC 61 BOX 1240
MALTA, ID 83342

ROUGH RECOM

VERIFIED BY: KKC

SOURCE: CASSIA CREEK

TRIBUTARY: RAFT RIVER

DIVERSION OF WATER UNDER THIS RIGHT IS LIMITED TO THE TIMES THE FLOWS OF TUNNELL CREEK AT THE ORIGINAL POINT OF DIVERSION, ARE AVAILABLE TO FILL THIS RIGHT. THIS RIGHT MAY ALSO BE SUBJECT TO CONVEYANCE LOSS BETWEEN THE ORIGINAL POINT OF DIVERSION AND THE MOUTH OF TUNNELL CREEK ON CHALLIS CREEK.

A MEASURING DEVICE ACCEPTABLE TO THE DEPARTMENT MAY BE REQUIRED ON TUNNELL CREEK AT THE ORIGINAL POINT OF DIVERSION IN ORDER TO MEASURE THE CREEK FLOW.

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 43C.

QUANTITY: 0.24 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS. 43-68, 43-70B, 43-71B, 43-73B, 43-74B, 43-476, 43-476, AND 43-7139.

PRIORITY DATE: 04/30/1872

POINT OF DIVERSION: T13S R26E S19 LOT 3 SWNWSW Within CASSIA County
T13S R26E S19 LOT 3 SENWSW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|----------------|---------------|----------|
| IRRIGATION | 04-01 10-31 | 0.24 CFS |

PLACE OF USE:

IRRIGATION Within CASSIA County

| | | | | | | |
|---------------|------|-----|---------------|-------|------|-----|
| T13S R26E S19 | NESW | 21 | T13S R26E S19 | LOT 3 | NWSW | 11 |
| T13S R26E S19 | SESW | 7.8 | T13S R26E S19 | | NESE | 17 |
| T13S R26E S19 | NWSE | 19 | T13S R26E S19 | | SWSE | 26 |
| T13S R26E S19 | SESE | 33 | T13S R26E S20 | | NWSW | 5.6 |
| T13S R26E S20 | SWSW | 37 | | | | |

177.4 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 188.1 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-68, 43-70B, 43-71B, 43-73B, 43-74B, 43-476, 43-476, AND 43-7139.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 27 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 177.4 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-68, 43-70B, 43-71B, 43-73B, 43-74B, 43-476, AND 43-476.

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

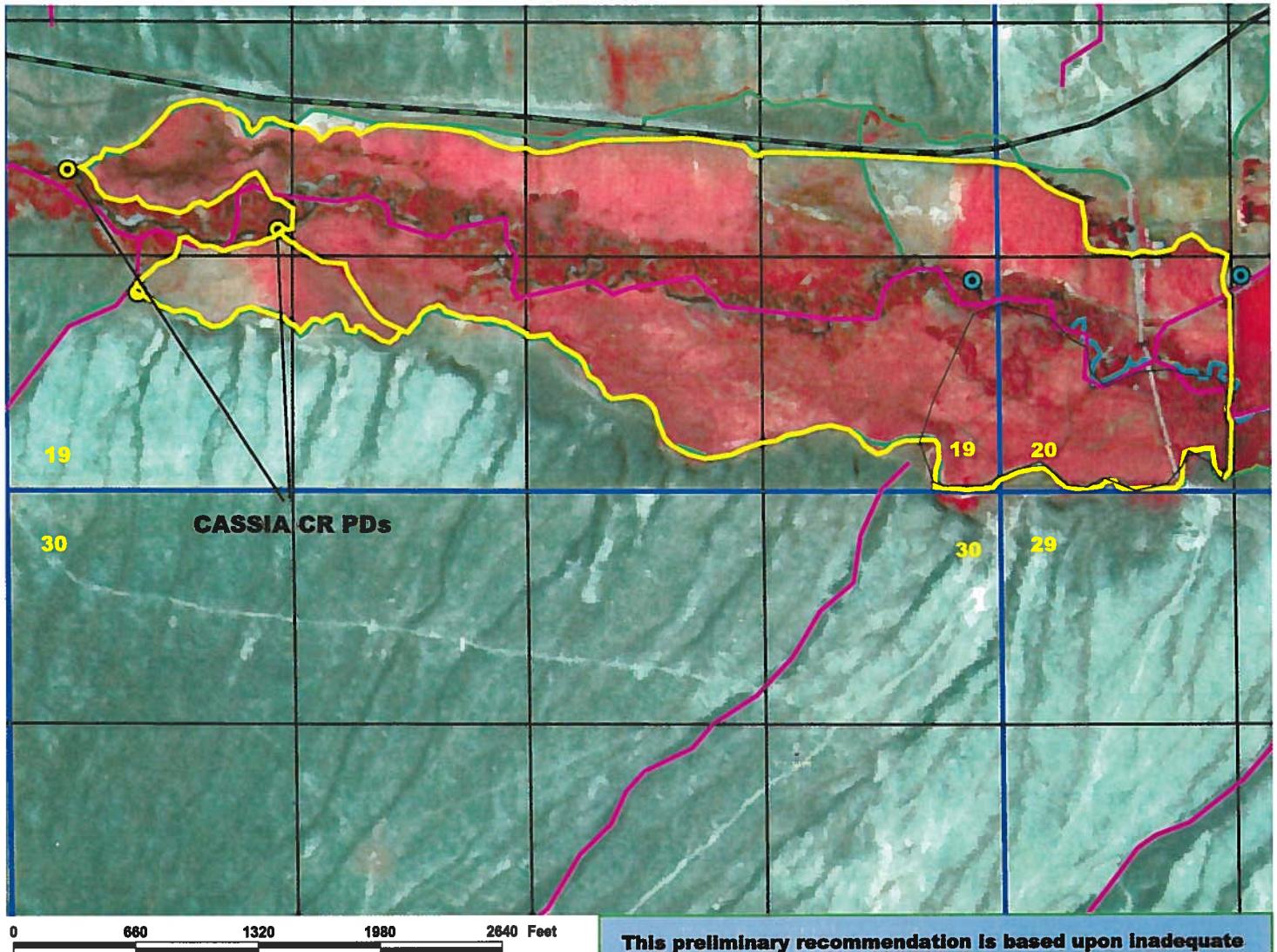
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO SECTION 42-1425,
IDAHO CODE.

This preliminary recommendation is based upon inadequate information and does not reflect the expected final recommendation for this right and any other overlapping rights. Communication between the claimant and the department is required to resolve the outstanding issues.

Idaho Department of Water Resources

**RECOMMENDED PLACE OF USE FOR
43-476**

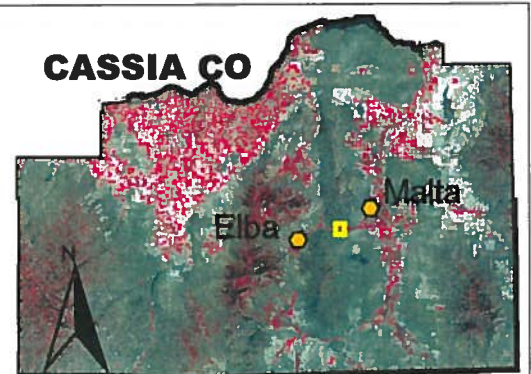


PLACE OF USE
TWP 13S, RNG 26E, SEC 19, & 20
Data entry on February 23, 2001

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

-  **RECOMMENDED POINT OF DIVERSION**
-  **PLACE OF USE NOT CLAIMED**
-  **RECOMMENDED PLACE OF USE**
-  **SECTION LINES**
-  **QUARTER/QUARTER LINES**

CASSIA CO





IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST E
TWIN FALLS ID 83301
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

HELLWINKEL SYSTEMS ANALYSIS

SEARS VS BERRYMAN DECREE SUMMARY

PAGE 5 RATE SUMMARY STARTING AT LINE 3

- a) 2.38 cfs or 119 in with a priority date of 4-30-1872
(0.24 cfs from Spring Tunnell)
43-00068 for 1.88 cfs
43-00070B for .26 cfs
43-00476 for .24 cfs
total 2.38 cfs
- b) 0.26 cfs or 13 in with a priority date of 4-30-1873
43-00071B for 0.26 cfs
- c) 1.31 cfs or 65.5 in with a priority date of 4-1-1894
43-00073B for 1.31 cfs
- d) 0.16 cfs or 8 in with a priority date of 4-27-1910
from Side Hill Springs
43-00074B for 0.16 cfs

2 P/D's SW¹/₄ of sec 19

SEARS VS BERRYMAN DECREE

(Proceedings on Remand findings of fact. Conclusions of law and judgment) dated **June 18, 1982**

Claims analysis against the Berryman portion of the decree

The decree identified 2.38 cfs of 1872 water as owned and appurtenant to the property of Berryman. That rate is a combination of three different rights identified as follows:

| | |
|-----------|-----------------|
| 43-00068 | 1.88 cfs |
| 43-00071B | 0.26 cfs |
| 43-00476 | <u>0.24 cfs</u> |
| total | 2.38 cfs |

Rights 43-00071B and 43-00476 were claimed as decreed and have corresponding adjudication numbers. However, A43-00068 was claimed for 3.29 cfs for irrigation and 0.09 cfs for stockwater for a total of 3.29 cfs. My analysis of the claim indicates that this is a combined right claim and therefore should have received a 10,000 series number. The claimant identified 43-00068 as a portion of the claim and an approximate 54% of the 'Bar M' decree with a priority date of April 30, 1872 for 2.60 cfs. The break down for this right is listed below.

| | |
|----------------|---|
| A43-00068 | 1.88 cfs |
| 2.60 cfs * 54% | <u>1.404 cfs</u> |
| total | 3.284 cfs Vs the total claimed rate of 3.29 cfs |

The other rights appurtenant to the property were claimed as decreed and are identified as follows:

| | |
|------------|---|
| A43-00070B | 0.26 cfs |
| A43-00073B | 1.31 cfs |
| A43-00074B | 0.16 cfs |
| A43-07139 | 1.50 cfs |
| A43-10509 | 0.10 cfs (place of use is close to above claims but not at the same location) |

| | <i>irr
claimed</i> | <i>ret.
Recom</i> | | |
|-----------|------------------------|-----------------------|--|--|
| A43-00068 | 3.29 | 1.88 | | |
| 70B | .26 | .26 | | |
| 71B | .26 | .26 | | |
| 73B | 1.31 | 1.31 | | |
| 74B | .16 | .16 | | |
| 476 | .24 | .24 | | |
| | | | | |
| | | | | |