

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: A43-04240
Date Received: 4/28/1989
Receipt No: C006507
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GOLDEN F. GARDINER 208-645-2563
Address: HC 72, BOX 2038
MALTA, ID 83342

2. Date of Priority: MAR 01, 1949

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	26E	23	SE	SE	NW		CASSIA

5. Description of diverting works:
HEADGATE, DITCHES, SUMP, PUMP, PIPELINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/15	2.400		

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

8. Total consumptive use is 348.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	26E	23	NE	SE		IRR	39.0
			NW	SE		IRR	39.0

Section Acres 78.0

00/00/0000

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	26E	24	NW	SW		IRR	38.0
Section Acres							38.0
Total Acres							116.0

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:
43-02573, 43-00015

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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 _____



ROBERT E. SMYLIE
Governor

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
GEO. N. CARTER, STATE RECLAMATION ENGINEER
B O I S E

Water right 43-0423

October 5, 1959

43-
for 4240

RE: Permit No. 21712
17441

Golden Gardiner
Malta, Idaho

Dear Mr. Gardiner:

RE: Water rights pertaining to $N\frac{1}{2}SE\frac{1}{4}$ Section 23; $SW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$ Section 24, Township 13 South, Range 26 East.

Decreed Rights:

43-02300 { Jesse & Lavilla Shill - 0.8 c.f.s., priority April 1, 1906, Middle Fork
Cassia Creek to irrigate $SW\frac{1}{4}NW\frac{1}{4}$ Section 24.
43-02501 { Also 0.8 c.f.s., Priority April 1, 1913, Middle Fork Cassia Creek to
irrigate $NW\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$ Section 24.

Permits:

43-02195 canceled by auto-void
No. 11148 - Jesse S Shill - 7/12/15, approved 7/30/15, Certificate of Completion of Works issued for 0.8 c.f.s. from Middle Fork Cassia Creek, with point of diversion in $SW\frac{1}{4}NE\frac{1}{4}$ Section 23 to irrigate $SW\frac{1}{4}NW\frac{1}{4}$ Section 24.

43-2270 (right canceled in auto-void) also claimed as 43-04232
No. 17441 - Jesse Shill - 4/2/31, approved 4/11/31, Certificate of Completion of Works issued for 2.4 c.f.s. from Middle Fork Cassia Creek, with point of diversion in $SE\frac{1}{4}NW\frac{1}{4}$ Section 23 to irrigate $SW\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$ Section 24. Beneficial use proof due 4/11/36. Water to be used from October 1 each year to April 1 following year.

43-2257 No. 21712 - Data sent you October 2. (43-02357 canceled by allocations)

42-02175 canceled by well location
Permit No. 11148 is a duplicate of the decreed water right, Priority April 1, 1906, which already gives a full miner's inch per acre.

Permit No. 17441 can be used to provide a full miner's inch per acre or 0.8 c.f.s. additional water for $NW\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$ Section 24, provided the 80 acres are all irrigated.

4240 Permit No. 21712 covers land not otherwise covered.

These permits all have been certified as to completion of works; beneficial use of the water has not been proven.

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Continued
Page 2

17-02270 { For you to use Permit No. 17441, it will be necessary for you to have an as-
17-04232 { signment of the permit or show legal proof of your ownership of the land and
water rights. You could make proof of beneficial use of the water and receive
a water license to irrigate the NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, amount of water
rights to total one miner's inch per acre, however your priority would be
approximately five years prior to the date of making the proof. Under Permit
No. 21712 your priority would be about three and a half years prior to making
the proof of beneficial use of the water.

17-2357 {
-4240 { At this time you have a use right under Permits 17441 and 21712 which is
probably recognized among the other users of water from the same source. If
you took the case to the District Court you could possibly obtain an earlier
priority than noted above as priority we could allow on a Water License.

Very truly yours,

Ralph W. Thomas
Ralph W. Thomas
Office Engineer

RWT:mr

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RECEIVED

JAN 21 1992

Department of Water Resources
Southern Region Office

Water right 43-04240

No 2

APPLICATION FOR PERMIT
To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 29240
PERMIT No. 21712
DISTRICT No.

*claimed as
A43-04240*

1. Name of Applicant: FRED GARDNER

Postoffice address: Malta

County: Cassia

State: Idaho

1. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock:

(c) Amount paid in:

(d) Names and addresses of directors:

11. The financial resources of the applicant are:

(a) Cash on hand:

(c) Bonds to be issued:

(b) Treasury stock:

(d) Other resources:

2. Quantity of water claimed: 2.4

cubic feet per second.

3. Source of water supply: South fork Cassia Creek

which is a tributary of Raft River

4. Location of point of diversion: 2294

feet distant from the Southeast

corner of Section 22, T. 13 S., R. 26 E., B.M., and is in the NW 1/4 of

Section 22, T. 13 S., R. 26 E., B.M., County of Cassia

5. Water is to be used for irrigation

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section

T., R., B.M., in the of Section, T., R., B.M.

(b) Amount of power generated: H.P., under feet head.

(c) Water is to be returned to at a point

distant from the corner of Section, T., R., B.M., in the

of Section, T., R., B.M.

7. Estimated cost of works: \$ 50,000

8. Kind of works: Dam and ditch

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1. Location of point of diversion: 2294 feet distant from the Southeast corner of Section 22, T. 13 S., R. 20 E., B.M., and is in the NW 1/4 of Section 27, T. 13 S., R. 20 E., B.M., County of Cassia

2. Water is to be used for irrigation.

3. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section T. R. B.M. in the of Section T. R. B.M.

(b) Amount of power generated H.P. under feet head

(c) Water is to be returned to at a point feet

distant from the corner of Section T. R. B.M. in the of Section T. R. B.M.

4. Estimated cost of works: \$ 100,000

5. Kind of works: Dam and ditch

6. Height of dam: 4 feet; length of dam at top: 10 feet; length of dam at bottom: feet; material used in dam:

7. Size of headgate: Width: feet; height: feet

8. Ditch: Width at bottom: feet; width at water line: feet; depth of water: feet

dimension as of flume:

Diameter of pipe: inches; length of conduit: miles

Average grade per mile: feet

9. The time required for the completion of such work is years

10. The time required for the complete application of the water to the proposed use is additional years

11. The land to be irrigated is described in the following tabulation: See remarks.

12. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: None

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16. (a) Is reservoir to be used? If so, fill in (b) and (c) below:
(b) Name of Reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

BE IT KNOWN THAT The undersigned hereby makes application for permit to appropriate the public water of the State of Idaho as herein set forth.

FRED CARDNER

Applicant.

By

Agent.

Date of first receipt at Department of Reclamation: 9:00 A. M. June 9, 1950

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 21712. Approved September 29, 1950.
Recorded in Book 78 Page 21712
This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:
Bond in the sum of \$ to be filed on or before
Work to begin on or before November 29, 1950 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
One-fifth of the work above specified to be completed on or before March 29, 1951
The whole of said work to be completed on or before September 29, 1951
Beneficial use of water appropriated in accordance herewith, to be made on or before September 29, 1952

WITNESS My hand this 29th day of September, 1950

W. K. R. KILP
State Reclamation Engineer.

Governor of the State of Idaho.

IN TESTIMONY WHEREOF, WE, C. A. HOLINS

and J. L. "CY" PRICE, Secretary of State of the State of Idaho, have caused this instrument to

be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 29th

day of September, 1950. STATE OF IDAHO

(SEAL) Counter-signed:

By

C. A. HOLINS

Governor

By J. L. "CY" PRICE

Secretary of State.

REMARKS: South Fork is generally considered or used for waste water- is not used only at high water period.

11

Twp	Range	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

13 S. 26 E. 23
24

40

Total number of acres to be irrigated -

claimed as
A43-04240

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MAR 14 1993

Corrected application received:

Approval of State Reclamation Engineer

43-04240

The number of this permit is 21712
Recorded in Book 78

Page 21712 Approved September 29, 1950

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ _____ to be filed on or before _____ and to continue diligently and uninterruptedly to completion.
Work to begin on or before November 29, 1950 unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before March 29, 1951

The whole of said work to be completed on or before September 29, 1951

Beneficial use of water appropriated in accordance herewith, to be made on or before September 29, 1952

WITNESS My hand this 25th day of September, 1950

MARK R. KULP
State Reclamation Engineer.

_____, Governor of the State of Idaho,

IN TESTIMONY WHEREOF, WE, C. A. HOLINS

and J. L. "CY" PRICE

_____, Secretary of State of the State of Idaho, have caused this instrument to

be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 25th

day of September, 1950

STATE OF IDAHO

By

C. A. HOLINS

Governor.

(SEAL) By J. L. "CY" PRICE

Secretary of State.

REMARKS: South Fork is generally considered or used for waste water - is not used only at high water period.

11

Twp.	Range	Sec.	NE 1/4, NW 1/4, SW 1/4, SE 1/4				NE 1/4, NW 1/4, SW 1/4, SE 1/4				NE 1/4, NW 1/4, SW 1/4, SE 1/4				NE 1/4, NW 1/4, SW 1/4, SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
13 S.	26 E.	23													10	40			50
		24																	40
Total number of Acres to be Irrigated -																			120

APPROVAL OF STATE RECLAMATION ENGINEER

I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, hereby extend the time for the completion of construction work under Permit to appropriate the Public Waters of the State of Idaho, No. 21712 to November 1, 1951.

Witness my hand this 15th day of December, 1950.

MARK R. KULP
State Reclamation Engineer

APPROVAL OF STATE RECLAMATION ENGINEER

I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, hereby extend the time for the completion of construction work under Permit to appropriate the Public Waters of the State of Idaho, No. 21712 to November 1, 1952.

_____, March, 1952.

MARK R. KULP
State Reclamation Engineer

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MAR 04 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 A43-04240Date Received 4-28-89Receipt Number C006507

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Golden F. Gardiner Phone (208) 645-2563Mailing Address HCTZ Box 2038, Malta, Idaho Zip 833422. Date of Priority (Only one (1) per claim) March 1, 19493. Source of water supply (a) CASSIA Creek
which is tributary to (b) Raft River4. a. Location of existing point of diversion is: Township 13S Range 26E Section 23,
SE 1/4 of SE 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of CASSIA

Additional points of diversion if any: _____

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. Originally a wood and earth dam was used to divert the water. The dam was recently replaced by a headgate. There is also a headgate on the ditch at the point of diversion. Just past the headgate there is a weir. Originally only unlined ditches were used. Some ditches have been replaced by a sump, pump, and pipelines.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 3-1 to 11-15 amount 2.40 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.40 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 348 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

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	
<u>13S</u>	<u>26E</u>	<u>23</u>													<u>39</u>	<u>39</u>			<u>78</u>
		<u>24</u>										<u>38</u>							<u>38</u>

Total number of acres irrigated 116

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 ☒ 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.
G-31139/43-2573, 43-0015 or None ()

14. Remarks:

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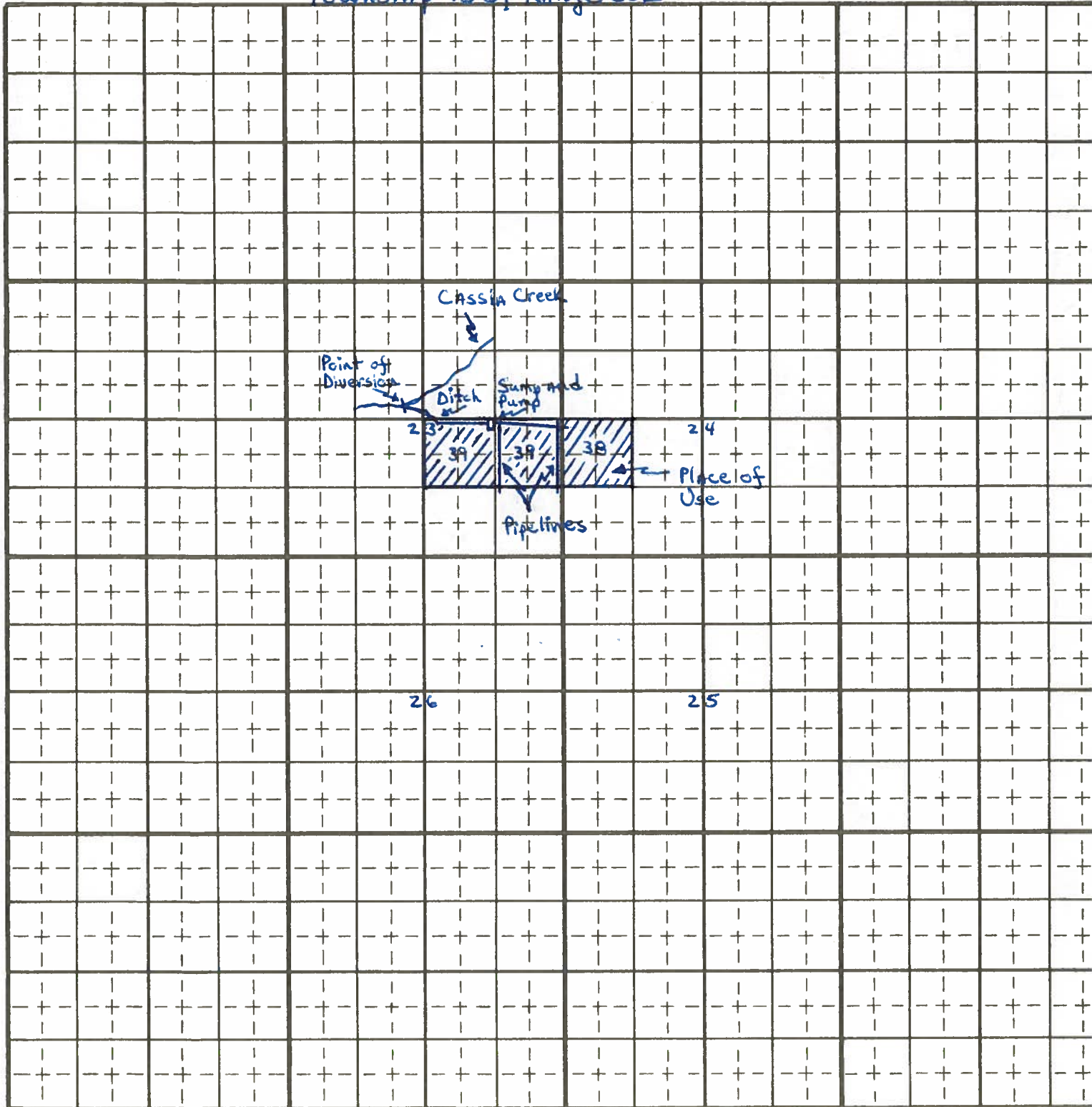
Last Name Gardiner Ident No. A43-04240

Copies: White -State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile

Township 13S, Range 26E



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MAR 04 1993

Last Name Gardiner

Ident No. A43-04240

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 43-4240
Court _____ Case Number _____ Decree Date _____
Plaintiff vs 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 do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) Golden F. Gardiner Date 4-28-89

Date _____

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 _____)
County of CASSIA) SS.

Subscribed and sworn (or affirmed) before me this 28th day of April 1989

SEAL

Notary Public Janet T. Kelly

Residing at Martha Idaho

My Commission Expires 3/17/92

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 04 1993

Last Name Gardiner Ident. Number 43-04240

Copies White-State, Yellow-Claimant

1/30/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Gardner CLAIM DENT. NO. A43-04240

DATE RECEIVED	CK #	AMOUNT \$	YES	NO	Require Info?
<u>4-28-89</u>		<u>0006507</u>			
1. Is the name and address complete with zip code?			☒	☐	*
2. Is a priority date entered?			☐	☐	*
Is the priority date acceptable in view of mandatory filing dates?			☐	☐	*
See Adjudication Memos #1 and #4 to determine if a Permit is required.			☐	☐	*
3. (a) Is a source entered?			☐	☐	*
(b) Is a tributary to entered? (if required)			☐	☐	
4. Is the legal description of the p.d. sufficient?			☐	☐	*
5. Is there a description of the diverting works?			☐	☐	
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.			☐	☐	*
Is the period of use included?			☐	☐	
Is a quantity claimed for each use?			☐	☐	*
7. Is a total quantity claimed entered?			☐	☐	
8. If required is a consumptive use entered?			☐	☐	
Is the consumptive use correct?			☐	☐	
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.			☐	☐	*
10. Is (are) the place(s) of use and purpose(s) indicated?			☐	☐	*
11. Is (are) the county(ies) entered?			☐	☐	
12. Is the ownership of p.u. checked?			☐	☐	
13. Are other water rights listed or "none" indicated?			☐	☐	
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)			☐	☐	
15. Is the basis of the claim indicated?			☐	☐	
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.)			☐	☐	
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.			☐	☐	*
18. Has the claim been signed, sealed, and dated by a notary?			☐	☐	*
19. Was this claim filed on time, or was an extension granted?			☐	☐	*
20. Is the fee enclosed correct?			☐	☐	*
21. If this claim is based on an existing water right, has the identification number been entered?			☐	☐	
22. Should this claim be receipted and data entered?			☒	☐	

Claim checked by: CA Date: 4-28-89

Claim must be returned to claimant: ☐ (Yes) ☐ (No)

Claimant must be notified of modifications: ☐ (Yes) ☐ (No)

Receipt Prepared by: CA Date: 4-28-89
Claim data entered by: CA Date: 5-1-89 Checked by: MICROFILMED Date:
Sent to claimant by: CA Date: 5-1-89

Comments: **MAR 04 1993**



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3030

CECIL D. ANDRUS
Governor

December 5, 1991

R. KEITH HIGGINSON
Director

A43-04240
GOLDEN F. GARDINER
HC 72, BOX 2038

MALTA

ID 83342

RE: Evidence of Priority

RESPONSE DEADLINE
FEBRUARY 3, 1992

Dear Claimant:

The Notice(s) of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice(s) indicate your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will soon conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, proof must be provided supporting the priority date you have claimed.

The Department will not recommend the Notice(s) be decreed by the court as claimed if no evidence of a priority date is submitted.

Please find enclosed a computer printout of your Notice(s) and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some Examples of Documents Which May Be Evidence of the Priority Date".

Please submit the required evidence supporting the priority date(s) by February 3, 1992, referencing all documents with the corresponding Notice number(s). If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Respectfully submitted,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosures

MICROFILMED

MAR 04 1993

01/26/2001

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

RIGHT NUMBER: 43-4240

NAME AND ADDRESS: GOLDEN F GARDINER
HC 72 BOX 2038
MALTA, ID 83342

VERIFIED BY KKC

SOURCE: CASSIA CREEK

TRIBUTARY: RAFT RIVER

QUANTITY: 2.32 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE
THAN .02 CFS PER ACRE. COMBINED RIGHT NOS. 43-2573, 43-4240,
& 43-10123

PRIORITY DATE: 03/01/1949

POINT OF DIVERSION: T13S R26E S23 SESENW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03-15 11-15	2.32 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>			
T13S R26E S23	NESE	39	T13S R26E S23 NWSE 39
T13S R26E S24	NWSW	38	

116 ACRES TOTAL

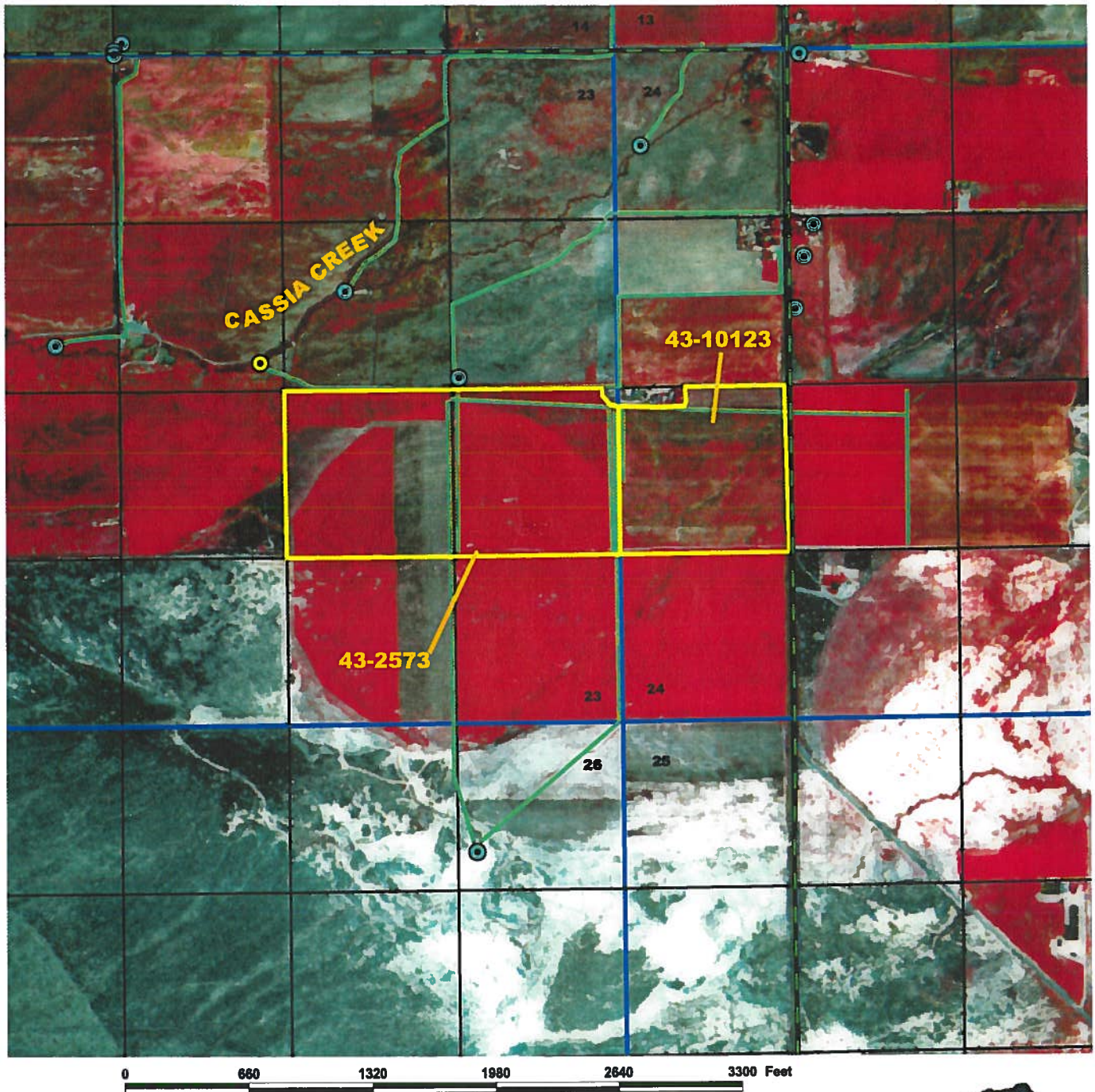
USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 330 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS. 43-2573, 43-4240, & 43-10123

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 - Beneficial Use

RECOMMENDED PLACE OF USE FOR 43-4240



PLACE OF USE

TWP 13S, RNG 26E, SEC 23 & 24

Data entry on January 26, 2001

GIS PLACE OF USE PRESENTATION

1987/1988 NAPP AERIAL PHOTOGRAPHY

DATA ENTRY BY KELLY K CHRISTENSEN

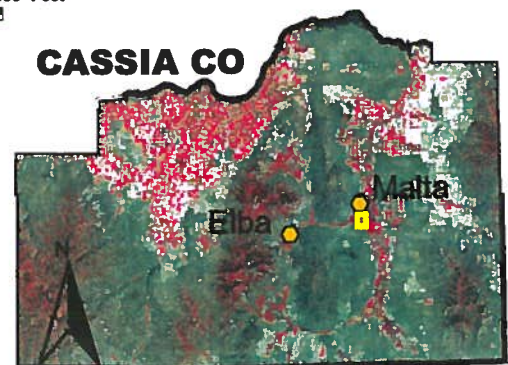
● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES

CASSIA CO



Surface Water Rights

Priority
A43-00300 - 4-1-06 .76 CFS for 38 Ac = .02 CFS/Ac
Sec 24

A43-00301 - 4-1-13 .80 CFS for 80 Ac = .01 CFS/A

complete overlap.
A43-00408 5-1-06 2.40 CFS for 118 Ac = .0203 CFS

A43-04292 4-1-31 .80 CFS for 80 Ac = .01 CFS
complete overlap with 43-00301 bringing the
rate per acre up to 1" to the Acre. (no evidence in file)

A43-04240 3-1-49 2.40 CFS 116 Ac = 0.0207 CFS
No overlap with other surface water
rights.

Claims 43-00015A thru 43-00029A are for the total P/U
represented by the above claims.

1. ~~43-00408~~ Cassia Cr
~~118 ac @ 2.1 cfs~~ } ~~P/D overlap with 4240~~ ³⁰¹ ~~300~~ .0203 CFS/AC
 1.a) ~~43-04100~~ GW } ~~P/D overlap with 10123~~
~~118 ac @ 2.36 cfs~~

2. 43-2573 (see T-2488) GW P/D OL with 4233
 167 ac 3.03 CFS = .0179 CFS/AC

3. 43-4240 Cassia Cr
 P/D overlap with ³⁰⁰ 00408 ³⁰¹ Partial P/U overlap with 2573
 no evidence of Priority

4. 43-00300 Cassia Cr 38 ac @ .176 CFS = .02 CFS/AC
 P/D OL with 408 & ³⁰¹ 4240

5. 43-00301 Cassia Cr 80 ac .8 CFS .01 CFS/AC
 P/D OL w/ 408, 4240, 301 Farmstead & Bldgs on E 1/2 NW 1/4

5a) ~~43-4232~~ Cassia Cr. 80 ac .8 CFS .01 CFS/A
 (brings PPU up to 1"/Ac.) conflict in P/U across 10123
 no evidence of Priority (need to check micro fiche) ↓

6. 43-10123 GW 70 ac 1.40 CFS = .02 CFS/AC
 P/D OL with 4158 conflict in P/U across with 301

7. 43-04233 GW 88 ac 2.00 CFS .023 CFS/AC EXCEEDS 1"/AC
 P/D OL with 2573 88 x .02 = 1.76 CFS

43-4158 (GW)

Recom 118 2.36 cfs

claim ~~118~~ ac @ 2.36 cfs

1.50 cfs

43-10123 (GW)

claim
70 ac @ 1.46 cfs
90 cfs

2.40 cfs / 88 ac = .013 cfs

10/23

P/D limits ① 2573, 4240 10/23 } .02

301 4232 10/23 }

4158, 10123 } 2.40 cfs

P/u.

2573, 4240 10/23 } 330 ac

301 4232 10/23 } 103 ac

43-10123 claimed on 70 ac

43-4232 -

No P/u O.L.

P/D O.L. with 43-2573

Cassia Co. div

43-4240

P/u O.L. with 43-2573 N $\frac{1}{2}$ SE Sec 23 } Both

43-10123 NW SW Sec 24 } GW sources

No surface water O.L.



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

June 9, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

GOLDEN GARDINER
HC 72 BOX 2038
MALTA ID 83342

RE: SNAKE RIVER BASIN ADJUDICATION (SRBA) CLAIMS

Dear Mr Gardiner

I am reviewing your system in order to complete the recommendation of your rights for the SRBA court. As you may remember, I had started the review of your claims in 1994/95. In 1995 the court directed the department to review the water rights in Custer County. That review is now complete and we are again concentrating on Cassia County.

My initial review indicates two main areas of concern. One of the areas of concern regards your claims against the following rights; 43-00015, 43-00016, 43-00017, 43-00018, 43-00019, 43-00020, 43-00021, 43-00022, 43-00025, 43-00026, and 43-00029 collectively referred to the Bar M rights.

I have interviewed a number of individuals in the Malta area and have consistently received the same message that the Bar M rights have not been delivered for many, many years. The consensus is that the Bar M water was used to 'strengthen' the existing decreed rights as identified in the Jobe Adams decree (excluding the Bar M rights). As far as I can determine, the Bar M rights have never been used by the credentials committee for the Cassia Creek Irrigation District (43C) to determine voting rights. Based upon the information currently before me, I am drafting a recommendation to disallow these rights. If you have additional information that would alter this recommendation please provide it to me as soon as possible.

The second area of concern involves competing claims against the decreed rights that are for the property irrigated from Quaking Asp Spring and the Barker ditch. Is there information in your warranty deed that identifies the proportionate share that you received when you purchased the property? I have a copy of a quitclaim deed Eula Franks to Kenyon Tuttle and Heidi Tuttle identifying 0.05 cfs of 6-1-1883 water, 0.22 cfs of 4-30-1886 water, and 0.1 cfs of April 30, 1886 water. This conflicts with your claims. I will need additional information before I can complete my recommendation for these rights.

I will be contacting you toward the end of the month to review your claims on your farm near Malta. I will be out of the office from June 14 through June 20 but I should be available most any other business day if you wish to visit with me.

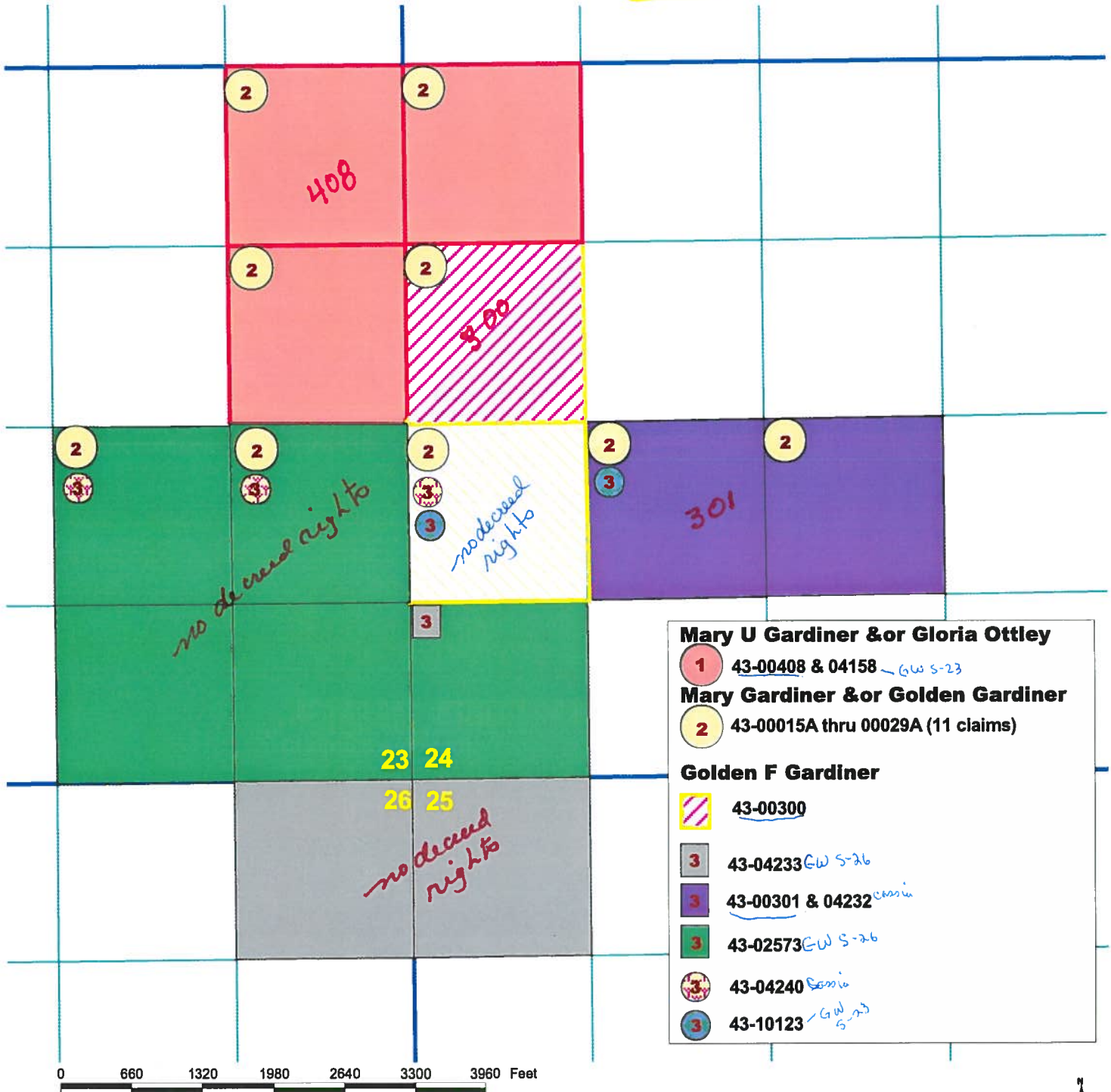
Sincerely,

Kelly K Christensen

IDAHO DEPARTMENT OF WATER RESOURCES

Claims by system

1. A43-00408 & A43-04158
2. A43-00015A, 00016A, 00017A, 00018A, 00019A, 00020A, 00021A, 00022A, 00025A, 00026A, & 00029A
3. A43-00300, (00301 & 04232), **04233**, 04240, & 10123



Mary U Gardiner & or Gloria Ottley
1 43-00408 & 04158 — GW S-23
Mary Gardiner & or Golden Gardiner
2 43-00015A thru 00029A (11 claims)
Golden F Gardiner
3 43-00300
3 43-04233 GW S-26
3 43-00301 & 04232 <i>casin</i>
3 43-02573 GW S-26
3 43-04240 <i>casin</i>
3 43-10123 — GW S-23

TWP 13S; RNG 26E;
FIELD EXAM DATE AGENT

JPEG LAYOUT CREATED

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

- ELBA AREA STREAMS
- ELBA AREA DITCH SYSTEM
- OUTSIDE CLAIMED P/U
- CLAIMED POINT OF DIVERSION
- CLAIMED PLACE OF USE
- SECTION LINES
- QUARTER QUARTER LINES

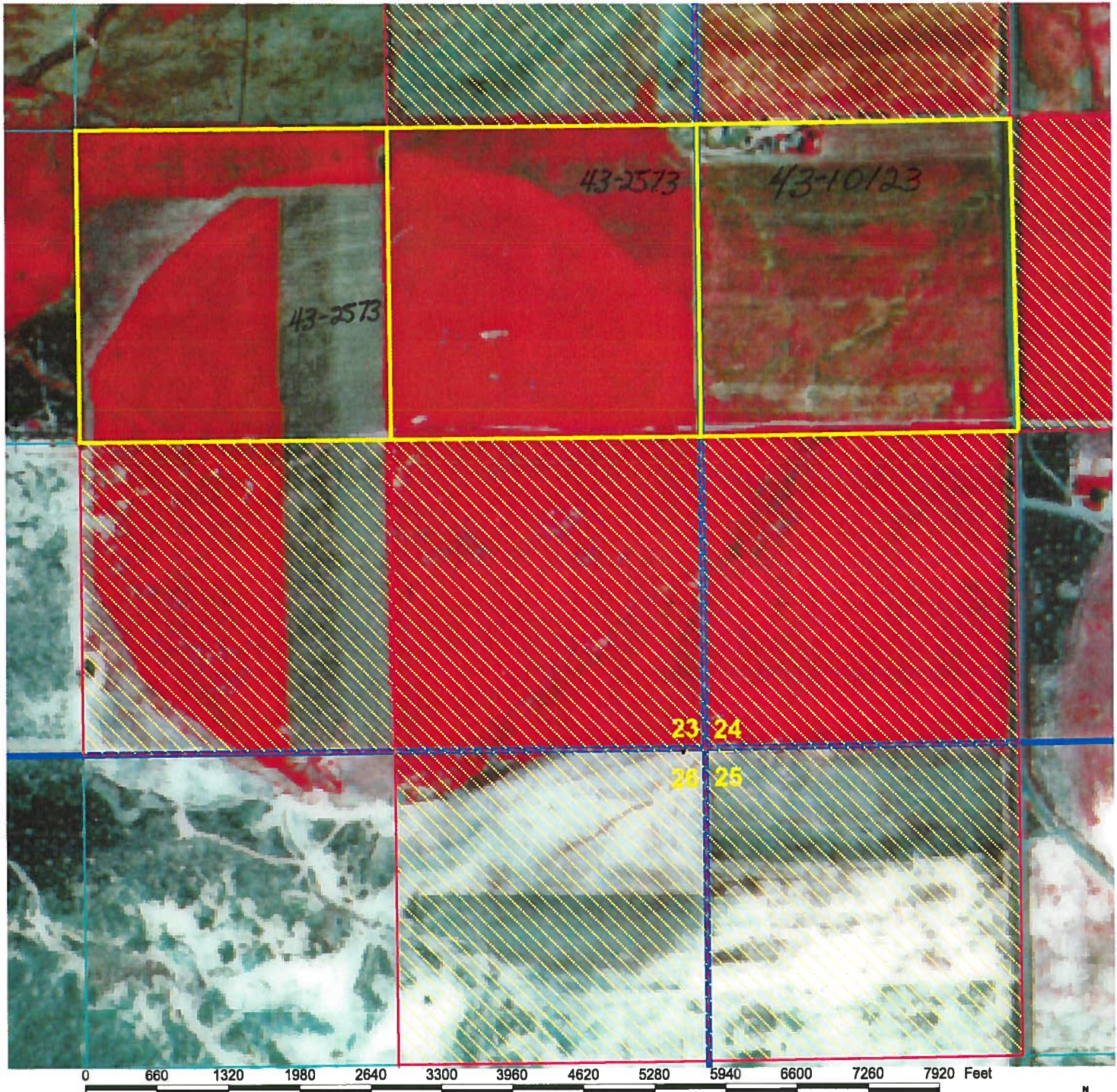
CASSIA Co.



IDAHO DEPARTMENT OF WATER RESOURCES

Claims by system

1. A43-04240
2. Multiple overlapping rights occurs within the claimed P/U.



TWP 13S; RNG 26E;
FIELD EXAM DATE AGENT

JPEG LAYOUT CREATED

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

- ELBA AREA STREAMS
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- OUTSIDE CLAIMED P/U
- CLAIMED POINT OF DIVERSION
- CLAIMED PLACE OF USE
- SECTION LINES
- QUARTER QUARTER LINES

CASSIA Co.



A. AJ CLAIM: # A43-04240 PRIORITY DATE: 03-01-1949 STAGE: S

B. WR RECORD: # 43-04240 PRIORITY DATE: 03-01-1949 STAGE: S

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE? Y() N()

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE? Y() N()

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?
(IF YES, DESCRIBE BELOW) Y() N()

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED N/A() Y() N()

FIELD EXAM COMPLETED N/A() Y() N()

FIELD EXAM SENT TO STATE OFFICE N/A() Y() N()

LICENSE ISSUED N/A() Y() N()

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE
OF THE PRIORITY DATE REQUIRED? N/A() Y() N()

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,
INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY? Y() N()

NOTES: The basis of this claim is beneficial use as identified in a lap
permit that was approved 9-29-1950. On Dec 15, 1950 the
dept extended the time for completion of works to Nov 1, 1951.
Completion of works was again extended in Mar of 1951

=====

RECOMMENDED PRIORITY DATE:

REVIEWED BY _____

DATE _____