

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: **A43-11137**
Date Received: 6/13/1989
Receipt No: X777777
Received By: _____

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

1. Name: NATHAN F. GARDINER 208-645-2563
Address: HC 72 BOX 2038
MALTA ID 83342
AND
Name: GOLDEN F. GARDINER 208-645-2563
Address: HC 72 BOX 2038
MALTA ID 83342
AND
Name: BARBARA E. GARDINER 208-645-2563
Address: HC 72 BOX 2038
MALTA ID 83342

2. Date of Priority: APR 30, 1883

3. Source: CASSIA CREEK Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	25E	31	NE	SW			CASSIA
			NW	SE			CASSIA

5. Description of diverting works:
HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.183		

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

8. Total consumptive use is 237.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	25E	31	NE	SW		IRR	40.0
			NW	SE		IRR	39.0
Section Acres							79.0
Total Acres							79.0

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:
A43-00058, 00059, 00061

14. Remarks:

COMBINED THIS RIGHT (.065CFS) WITH 1/2 OF 43-00333 (.1175CFS),
SAME SOURCE, SAME PRIORITY.

OWNERSHIP CHANGE 4/18/90 ADM

THIS CLAIM REPRESENTS ALL OF 43-00060 AND A PORTION OF 43-00333
THEREFORE I RENUMBERED THE ORIGINAL CLAIM. KKC 1-6-95

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

ALBION-IDAHO LAND CO.

Decree Plaintiff

JOBE ADAMS ET AL

vs Decree Defendant



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

~~SECRET~~ ~~AND~~ ~~SECRET~~

Governor PHIL BATT

R. KEITH HIGGINSON
Director

January 6, 1995

GOLDEN F GARDINER
HC 72 BOX 2038
MALTA ID 83342

RE: RENUMBERING OF SNAKE RIVER BASIN ADJUDICATION CLAIMS
A43-00058, A43-00059, A43-00060, AND A43-00061

Dear Mr Gardiner

Enclosed are the renumbered claims that represent the above original claims. After talking to Nathan on January 4, 1995, I reviewed the above claims and found that they actually represented all of the base decreed right and a portion of another decreed right. They were renumbered to better identify that the claims represent combined rights. Other than the number and a remark explaining why the claims were renumbered, no changes were made to the original claims.

Any information obtained during my field verification of these claims is not reflected in these claims at this time.

If you have any questions please contact me at this office.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures

01/31/2001

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

RIGHT NUMBER: 43-11137

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

VERIFIED BY KKC

SOURCE: CLYDE CREEK

TRIBUTARY: CASSIA CREEK

QUANTITY: 0.15 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.56 CFS. COMBINED RIGHT NOS: 43-11135, 43-11136, 43-11137, AND 43-11138.

PRIORITY DATE: 04/30/1883

POINT OF DIVERSION:	T13S R25E S31	SESWNW	Within CASSIA County
	T13S R25E S31	NWNWSE	Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4-01 10-31	0.15 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>				
T13S R25E S31	NESW	40	T13S R25E S31	NWSE 38

78 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 78 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 43-11135, 43-11136, 43-11137, AND 43-11138.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS. 43-00060 AND 43-00333.

Water Right Number - R43-11137

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
GARDINER

NATHAN F

1 - HC 72 BOX 2038
2 -
3 -
City- MALTA
Phone - 208-645-2563

State- ID Zip- 83342

GARDINER

GOLDEN F

1 - HC 72 BOX 2038
2 -
3 -
City- MALTA
Phone - 208-645-2563

State- ID Zip- 83342

GARDINER

BARBARA E

1 - HC 72 BOX 2038
2 -
3 -
City- MALTA
Phone - 208-645-2563

State- ID Zip- 83342

*** O - ORIGINAL OWNER ***

WARD

REUBEN

1 - BOX 172
2 -
3 -
City- ALBION
Phone - 208-673-5349

State- ID Zip- 83311

WARD

DELLA

1 - BOX 172
2 -
3 -
City- ALBION
Phone - 208-673-5349

State- ID Zip- 83311

+ - - Priority Date - - +
04/30/1883

+ - - Region - - - +
17 SOUTHERN

+ - - Stage - - - +
D - DECREED

+ - - Status - - - +

+ - - Source - - - - +
CLYDE CREEK

+ - - Tributary - - - - +
CASSIA CREEK

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

13S 25E 31 SE SW NW (31) CASSIA
NW NW SE (31) CASSIA

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.150

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.150 0.0

VERIFIED BY KC
K. C. K.

Water right number - R43-11137

Prefix Translation: RESEARCH

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
13S	25E	31	NE SW		40.0	01	IRRIGATION	(31) CASSIA
13S	25E	31	NW SE		38.0	01	IRRIGATION	(31) CASSIA
Total Acres:					78.0			

- - - Diversion Means - HEADGATE

- - - Non-Irrigation Use -

- - - Other Rights for Same Use -

----- Remarks -----

QNT USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 1.56 CFS. COMBINED RIGHT NOS: 43-11135,
43-11136, 43-11137, AND 43-11138.

POU1 USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 78 ACRES IN IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS. 43-11135, 43-11136, 43-11137, AND 43-11138.

EXP THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS.
43-00060 AND 43-00333.

----- Old Water Right Numbers -----

----- Conditions of Approval -----
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 42-14(12)(6), IDAHO CODE.

----- Decree Plaintiff ----- + ----- Decree Defendant ----- + ----- Decree Date ----- +
ALBION-IDAHO LAND CO. JOBE ADAMS ET AL 00/00/0000

----- Comments -----
Date: 05/31/2000 User Id: KCHRISTE Subject: COPIED FROM REMARKS
COMBINED THIS RIGHT (.065CFS) WITH 1/2 OF 43-00333 (.1175CFS),

SAME SOURCE, SAME PRIORITY.
OWNERSHIP CHANGE 4/18/90 ADM
THIS CLAIM REPRESENTS ALL OF 43-00060 AND A PORTION OF 43-00333

THEREFORE I RENUMBERED THE ORIGINAL CLAIM. KKC 1-6-95
----- Audit Fields ----- +
05/31/00 KCHRISTE

AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

05/31/00 14:18:23
Page 3

Water right number - R43-11137

Prefix Translation: RESEARCH

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +									
Court Report Filing	-	00/00/0000	Field Inspection Made	-	07/21/1994	Civil Case Number	-	39576	
Objection Filed Date	-	00/00/0000	Field Inspection Flag	-		Old Case Number	-		
Response Filed Date	-	00/00/0000	Verified Date	-	05/31/2000	Old Judicial District	-		
Claim Received Date	-	06/13/1989	Last Amended Date	-	00/00/0000	Temporary Right	-	P	
			Receipt Number	-	X777777	Water District	-	43C	
			POU Ownership Flag	-	Y	Federal/State Indicator	-	S	
			Name Connector	-	AND	Presumption Flag	-		
						Notice of Error Flag	-		

DECREED RIGHTS BY ORIGINAL SYSTEM

SYSTEM 1	SYSTEM 2	SYSTEM 3
PORTIONS CLAIMED BY HAWKER & HUTCHISON	PORTIONS CLAIMED BY GARDINER & HUTCHISON	CLAIMED BY GARDINER
43-00230	43-00332	43-00058
43-00231	43-00333	43-00059
43-00232	43-00334	43-00060
	43-00335	43-00061

ANALYSIS FROM FIELD VERIFICATION MEETINGS WITH ALL THREE CLAIMANTS

SYSTEM 1

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

RECOMMENDATION ANALYSIS FOR SYSTEM 1

DECREED RIGHT 43-00232

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

DECREED RIGHTS 43-00230 AND 43-00231

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

SYSTEM 2 & 3

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

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

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

SPLIT ANALYSIS BASED UPON THE 50% SHARE AGREEMENT

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

RECOMMENDATION ANALYSIS FOR SYSTEM 2

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

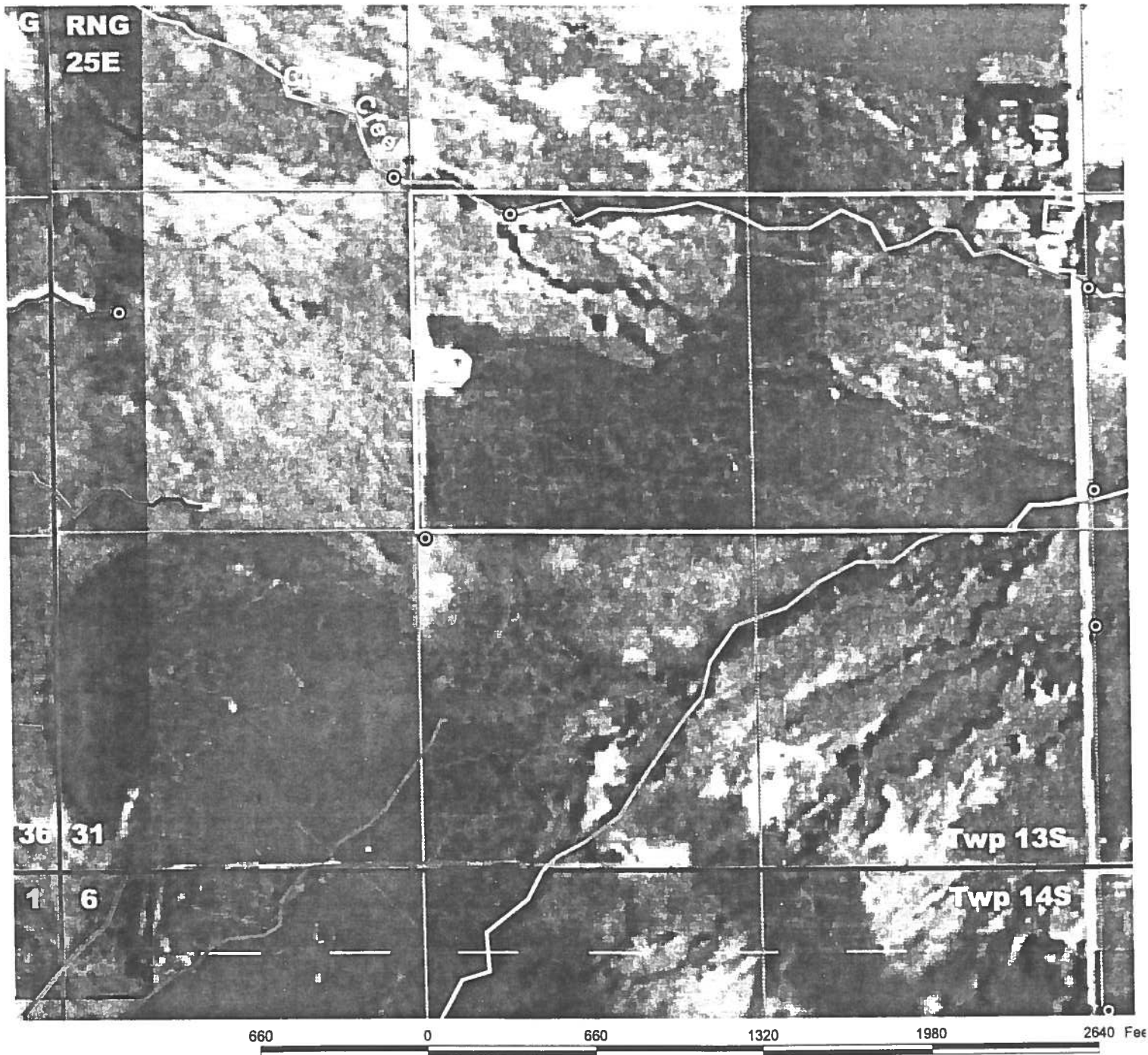
Gardiner's claims for system 2 are claimed within a permissible place of use (PPU) with the rights under system 3. Based upon §42-1426 and that the changes have been made with the knowledge of other users I accept the split as valid as agreed upon between the users and the use within the PPU as an unrecorded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

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

RECOMMENDATION ANALYSIS FOR SYSTEM 3

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

RECOMMENDED PLACE OF USE FOR 43-11135, 43-11136, 43-11137, & 43-11138

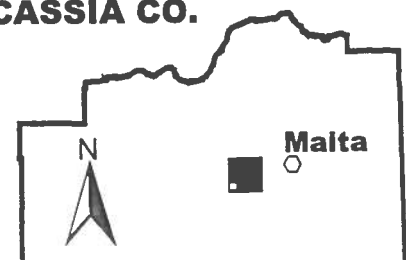


PLACE OF USE
TWP 13S RNG 25E, SEC 31
data entry on: May 31, 2000

GIS PLACE OF USE PRESENTATION
1987 AND/OR 1988 NAPP PHOTOGRAPHY

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

CASSIA CO.



CLAIM NUMBER 43-11135 DATE 5-31-00
11136 AGENT KKC
11137
11138

TRANSFER NUMBER _____
 CLAIMED ACRE TOTAL 79
 GIS ACRE TOTAL 78

				NE				NW				SW				SE				
	TWP	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
CLAIM	135	25E	31									40					39			79
GIS												39.6					37.6			
RECOM												40					38			78
CLAIM																				
GIS																				
RECOM																				
CLAIM																				
GIS																				
RECOM																				

B43-POU.SHP

SHAPE NOS.

242

B43-POD.SHP

NOS. DESCRIPTION

189 Sec 31

SE SWNW

190 Sec 31

NWNWSE

DBF TABLES UPDATED

B43-DBPOU.DBF 5-31

B43-DBPOD.DBF 5-31

JPEG LAYOUT 43-11135-11138 Gardiner

A stackyard in the NE SW has been excluded from that q/q and in the NWSE the farmstead, ~~and~~ the road right-of-way & a small triangular piece of ground in the SE corner have been excluded from the recommendation for that Q/Q.

Ground north of Clyde Creek has been included ~~and~~ in the recommendation although that ground gets water off the Hutcheson property.

A portion of the recommended P/U lays south of natural drainage channels and is normal wet. Some argument could be made to exclude those acres however irrigation water from Clyde Creek can reach the ground and the seeps can 'dry up' during the end of the irrigation season thereby requiring irrigation to maintain green vegetation.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

09:51:13
05/31/00

PAGE: 2
QUICKLOOK INFORMATION

2
CLAIM NUMBER: A43-11137

WR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	ELEMENT DOCUMENTED WHOM/DATE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			KKC 7-21-00	N	KKC 5-31-00			
POINT OF DIV				Y				
SOURCE				Y				
PLACE OF USE				Y				
DIV. AMOUNT CFS/VOLUME				Y				
CONSUMPTIVE USE				-				
PURPOSES OF USE				N				
PERIOD OF USE				Y				
BASIS OF CLAIM				N				
REMARKS				Y				

this claim is part of a combined decreed P/P4 that has been split.
See Attached narrative. Additional info in 43-11135.
no other pages of CVR retained as there was
no data entry.

BARCODE UPDATED
WHOM/DATE

KKC
5-31-00

Kelly K Christensen
KELLY K CHRISTENSEN
SR WATER RESOURCE AGENT
DATE: 5-31-00

Gardiner Claims on Clyde Creek

Decree summary

1-6-95

KKC

43-00058 4-30-74 .2196 CFS

-00059 " -82 .0218 "

-00060 " -83 .065 "

-00061 " -85 .02626 "

43-00332 4-30-74 .7814 CFS

333 " -83 .235 "

334 " -85 .2374 "

335 " -82 .7852 "

claimed rate.

Renumbered to

A43-00058

Part 00332

4-30-74 .61 CFS

A43-11135

A43-00059

Part 00335

4-30-82 .413 CFS

A43-11136

A43-00060

Part 00333

4-30-83 .183 CFS

A43-11137

A43-00061

Part 00334

4-30-85 .73 CFS

A43-11138