

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 43-13238
Date Received: 7/17/2002
Receipt No:
Received By:

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

1. Name of Claimant(s)

UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE ID USA 83709-1657

Phone: (208)373-4000

2. Date of Priority: 01/28/1960

3. Source: GROUND WATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
12S	27E	31	SW NE	CASSIA	
12S	27E	31	NW NW SE	CASSIA	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.09	20.9

7. Total Quantity Appropriated is:
0.09 C.F.S. and/or 20.9 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
12S	27E	31	NW NE	IRRIGATION	7

Section Acres 7

Total Acres 7

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:

14. Remarks:

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-2487B.

15. Basis of Claim: License

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 10 2002	
By _____	Clerk
_____	Deputy Clerk

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

In Re SRBA	)	
	)	ORDER OF PARTIAL DECREE
Case No. 39576	)	
	)	For Water Right 43-13238
_____	)	

On August 15, 2002, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 43-13238 is hereby **decreed** as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED October 10, 2002



 ROGER S. BURDICK
 Presiding Judge
 Snake River Basin Adjudication

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

DISTRICT COURT-SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
OCT 10 2002	
By _____	Clerk
_____	Deputy Clerk

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 43-13238

NAME AND ADDRESS: UNITED STATES OF AMERICA
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE, ID 83709-1657

SOURCE: GROUND WATER

QUANTITY: 0.09 CFS
20.90 APY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF .1 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION
VOLUME OF 20.9 AF. COMBINED RIGHT NOS.: 43-13238, 43-13240, &
43-13242.

PRIORITY DATE: 01/28/1960

POINT OF DIVERSION: T12S R27E S31 NWNWSE Within Cassia County
SWNE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.09 CFS 20.90 APY

PLACE OF USE: Irrigation Within Cassia County
T12S R27E S31 NWNE 7.0
7.0 Acres Total

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A COMBINED TOTAL
OF 7 ACRE IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NO.:
43-13238, 43-13240, & 43-13242.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 5.2 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2002 OCT 10 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA)
)
Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 43-13238

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 43-13238 was mailed
on October 10, 2002, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

ROBBIN HALL
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
10/10/02

07/18/2002

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

RIGHT NUMBER: 43-13238

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE ID 83709-1657

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.09 CFS
20.9 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION
RATE OF 0.1 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF
20.9 AF. COMBINED RIGHT NOS.: 43-13238, 43-13240, & 43-13242.

PRIORITY DATE: 01/28/1960

POINT OF DIVERSION:

T12S R27E S31 SWNE Within CASSIA County

T12S R27E S31 NWNWSE 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	0.090 CFS 20.90 AFY

PLACE OF USE: IRRIGATION Within CASSIA County

T12S R27E S31 NWNE 7.0

7 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 7 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:
43-13238, 43-13240, & 43-13242.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 5.2 ACRES WITHIN THE PLACE OF
USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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: License

RIGHT NO. 43-13242 IS AN EXPANSION OF THIS RIGHT AND RIGHT NO.
43-13240 PURSUANT TO SECTION 42-1416B, IDAHO CODE.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-2487B.

Idaho Department of Water Resources

43-13238, 43-13240 & 43-13242



RECOMMENDED PLACE OF USE
DATA ENTRY ON JULY 18, 2002
TWP 12S, RNG 27E, SEC. 31



- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

Gis Place of Use Presentation
1987/1988 Napp Photography
Prepared by Jeanie Robertson

VERIFIED BY *jc* 1/16/01

01/16/2001

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

RIGHT NUMBER: 43-2487B
NAME AND ADDRESS: DELIA L LOVINGFOSS
WALTER JEAN LOVINGFOSS
HC 61 BOX 1020
MALTA, ID 83342

SOURCE: GROUND WATER

QUANTITY: 3.3 CFS
764 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF ~~264~~ ¹⁹¹ AF. COMBINED RIGHT
NOS.: 43-02487B, 43-02551, & 43-10233. ^{743.1 or 20.9}
THIS RIGHT WHEN COMBINED WITH RIGHTS LISTED BELOW SHALL
PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS.: 43-
00307, 43-02487B, 43-02551, 43-10233, 43-10363, & 43-10799.

PRIORITY DATE: 01/28/1960

POINT OF DIVERSION: T12S R27E S31
T12S R27E S31

SWNE
NWNWSE

Within CASSIA County
Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03-15 11-15	3.30 CFS 764.00 AFY

PLACE OF USE:

IRRIGATION Within CASSIA County
T12S R27E S31 NWNE 10
T12S R27E S31 NENW 41
T12S R27E S31 LOT 2 SWNW 49
T12S R27E S31 NWSE 39

(7) BLM

LOT	SECTION	ACRES
LOT 1	SWNE	33
	NWNW	47
	SENE	40

249
259 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 259 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 43-00307, 43-02487B, 43-02551, 43-10233,
43-10363, & 43-10799.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 191 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Water Right 43-2487B

$191 \div 256 \times 249 = 185.8$
 $191 \div 256 \times 7 = 5.2$
5.2 Ac.

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 - License

RIGHT NO. 43-10233 IS AN EXPANSION OF THIS RIGHT AND RIGHT NO. 43-02551 PURSUANT TO SECTION 42-1416B, IDAHO CODE.

part of 2487B

07/17/2002

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

RIGHT NUMBER: 43-13238

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WY
BOISE ID 83709-1657

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.09 CFS
20.9 AFY

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION
RATE OF 0.1 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF
20.9 AF. COMBINED RIGHT NOS.: 43-13238, 43-13240, & 43-13242.

PRIORITY DATE: 01/28/1960

POINT OF DIVERSION:

T12S R27E S31 SWNE Within CASSIA County
T12S R27E S31 NWNWE 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	0.090 CFS 20.90 AFY

PLACE OF USE: IRRIGATION Within CASSIA County

T12S R27E S31 NWNE 7.0

7 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 7 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.:
43-13238, 43-13240, & 43-13242.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 5.2 ACRES WITHIN THE PLACE OF
USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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: License

RIGHT NO. 43-13242 IS AN EXPANSION OF THIS RIGHT AND RIGHT NO.
43-13240 PURSUANT TO SECTION 42-1416B, IDAHO CODE.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-2487B.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 43-13238 V1

WATER RIGHT NUMBER: 43-13238 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	UNITED STATES OF AMERICA ACTING THROUGH USDI BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 1387 S VINNELL WY BOISE, ID 83709-1657 (208)373-4000

Priority Date: 01/28/1960

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.090 CFS	20.90 AF
	<u>Total Diversion:</u>	0.090 CFS	20.90 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4NE1/4	Sec. 31, Twp 12S, Rge 27E, B.M.
CASSIA County		
GROUND WATER	NW1/4NW1/4SE1/4	Sec. 31, Twp 12S, Rge 27E, B.M.
CASSIA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
12S	27E	31	7.0				7.0

Total Acres: 7

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 42-1412(6), IDAHO CODE.

Remarks:

- Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 7 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-13238, 43-13240, & 43-13242.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 43-13238 V1

2. Quantity USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.1 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 20.9 AF. COMBINED RIGHT NOS.: 43-13238, 43-13240, & 43-13242.
3. Explanatory RIGHT NO. 43-13242 IS AN EXPANSION OF THIS RIGHT AND RIGHT NO. 43-13240 PURSUANT TO SECTION 42-1416B, IDAHO CODE.
4. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 5.2 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. Explanatory THIS RIGHT IS A SPLIT FROM FORMER RIGHT 43-2487B.

Comments:

1. jroberts 7/17/2002 Recommendation

Comment: This right was created as the result of a BLM Objection, splitting 43-2487B into 43-13237 (Lovingfoss) and 43-13238 (BLM).

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Robertson, Jean

From: Robertson, Jean
Sent: Thursday, July 18, 2002 5:05 PM
To: Kelly, Vicki
Cc: McHugh, Candice
Subject: Lovingfoss & BLM splits & recommendations...

Lovingfoss = 43-307, 43-10363, 43-10799 (with reduced Place of Use) and the following splits:

43-2487B = 43-13237 (Lovingfoss)
43-13238 (BLM)

43-2551 = 43-13239 (Lovingfoss)
43-13240 (BLM)

43-10233 = 43-13241 (Lovingfoss)
43-13242 (BLM)



43-10363



43-10799



43-13237



43-13238 BLM New



43-13238, 13240,
13242 BLM Lay...



43-13239



43-13240 BLM New
Recommendatio...

ingfoss New Recomingfoss New Recomingfoss New Recom Recommendation...



43-13241



43-13242 BLM New



43-307 Lovingfoss



43-307, 10363,
10799, 13237, 1...

ingfoss New Recom Recommendation... New Recommen...

Robertson, Jean

Subject: SF5s Lovingfoss -- 43-307, 10363, 1-799, 2487B, 2551, 10233
Due Date: Friday, July 19, 2002

Status: Completed
Percent Complete: 100%
Date Completed: Thursday, July 18, 2002

Total Work: 0 hours
Actual Work: 0 hours

Owner: Robertson, Jean
Requested By: McHugh, Candice

I'll look these over and maybe confer with Doug, and then give you a call if I have any questions...

Jean, FYI. Call me with any questions you may have since these a little convoluted.

43-00307 et al.

Just received a FAX copy of the Cooperative Wildlife Habitat-Farming Development Agreement signed by Lovingfoss, BLM and Idaho Department of Fish and Game entered into on May 1, 2002. It allows Walter Lovingfoss to Farm 7 acres of BLM land located on T12S, R27E, Section 31, NWNE. Candice: Please split the water per the previous e-mail, but since it's only 7 acres, Walter will have to live with a reduction in quantity for the remaining 3 acres, or in the alternative, maybe the water can be moved to somewhere else by the field office.

Subcases: 43-00307, 43-02487B, 43-02551, 43-10233, 43-10633, and 43-10799.

Spoke with Walter Lovingfoss this morning. All of BLM's objections to the above-referenced water right claims are to 10 acres of BLM land described in the irrigation places of use. Much to my surprise, Mr. Lovingfoss has an agreement with the BLM and Idaho Fish and Game (he called it an exchange of use agreement, where riparian land on his private property is not farmed, and Mr. Lovingfoss irrigates about 10 acres of BLM land and harvests hay from the land. he is FAXing me a copy of the agreement, and FRED - call Peggy Bartels in Burley and have her FAX me a copy of the agreement. He read a provision in the agreement that says "Any water right that results from irrigating public land shall be in the name of the United States." Or words to that effect. Certainly sounds like a BLM land use permit to me, or maybe a "Sykes Act" agreement.

Candice: Please have someone draft SF-5s that split the water rights putting the following place of use in BLM's name:

T12S R27E S31 NWNE 10 acres

Robertson, Jean

From: Robertson, Jean
Sent: Friday, July 12, 2002 8:37 AM
To: McHugh, Candice
Subject: 43-307, 43-2487B, 43-2551, 43-10233, 43-10363, & 43-10799 (Lovingfoss)

Candace,

I'd like to propose something to you about these rights. The surface water rights from Raft River, 43-307, 43-10363, & 43-10799 were never really decreed to the NWNE of Section 31 (where the BLM wants the split rights) but I **did** include them in a PPU with the other rights, limited to 249 acres within the PPU. Would it be possible to just leave them on the Lovingfoss 249 acres and only split the groundwater rights and expansion claim 43-2487B, 43-2551 & 43-10233? If you are in, let me know when you want to talk about them and I'll give you a call...Jeanie