

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

6/8/2020

Water Permit 43-7294

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THIRZA L OTTLEY 1577 E 1740 S MALTA, ID 83342-8649 (208) 638-5590
Current Owner	TERRY R HUTCHISON 1873 S ELBA ALMO RD MALTA, ID 83342 (208) 638-5600

Status: Lapsed

Source

Tributary

Beneficial Use

From

To

Diversion Rate

Volume

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Water District Number: TBD

Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES  
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**Status:** Closed

**Source**

**Tributary**

**Beneficial Use**

**From**

**To**

**Diversion Rate**

**Volume**

**Source and Point(s) of Diversion**

**Place Of Use**

**Conditions of Approval:**

**Comments:**

**Dates and Other Information**

Number of Protests: 0  
Water District Number: TBD  
Application Type: New Appropriation  
Mitigation Plan: False

**Combined Use Limits**

N/A

**SubCase:**

N/A

**Water Supply Bank:**

N/A

State of Idaho  
Department of Water Resources  
**Permit To Appropriate Water**

NO. 43-07294

Proposed Priority: July 22, 1988      Maximum Diversion Rate: 2.00 CFS  
This is to certify, that **THIRZA OTTLEY**

**TERRY HUTCHISON**  
HC 61 BOX 1248  
MALTA, ID 83342

has applied for a permit to appropriate water from: **GROUNDWATER**  
and a permit is **APPROVED** for development of water as follows:

**RECEIVED**  
MAY 14 1991

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

IRRIGATION

04/01 to 11/01

2.00 CFS

LOCATION OF POINT(S) OF DIVERSION:  
Rediversion

NESE Sec. 23, Township 13S, Range 25E  
NWSE Sec. 23, Township 13S, Range 25E  
NWSE Sec. 23, Township 13S, Range 25E  
CASSIA County

PLACE OF USE: IRRIGATION

TWN RGE SEC

ACRES

ACRES

ACRES

TOTAL

13S 25E 23  
24

NESE 40  
NWSW 40

NWSE 20

60  
40

Total number of acres irrigated:

100

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **May 2, 1994**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
5. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. Any license issued by IDWR pursuant to the permit or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
7. Diversion and use of water under this permit is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

43-7294

State of Idaho  
Department of Water Resources**Permit To Appropriate Water**

NO. 43-07294

CONDITIONS/REMARKS:

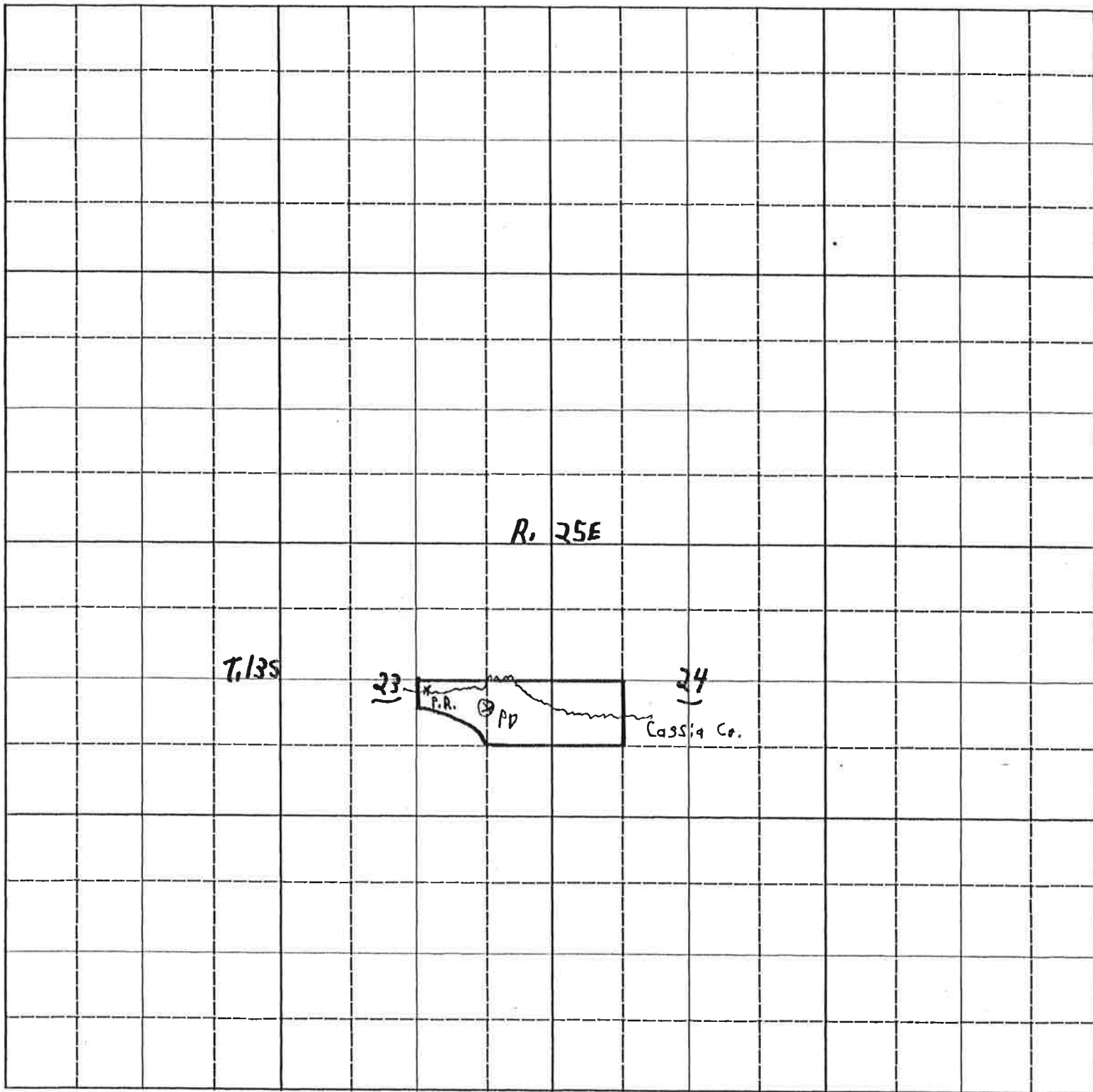
8. The Director retains jurisdiction of the permit and/or subsequent license issued to change, add or remove any requirement as determined to be appropriate.
9. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.  
Witness the seal and signature of the Director, affixed at Boise, this

18<sup>th</sup> day of April, 1991.

*R. Keith Higginson*  
for R. Keith Higginson, Director

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



Scale: 2 inches equal 1 mile.

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

Thirza Otley  
(Applicant)



# 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

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

March 21, 1991

RECEIVED

MAR 22 1991

Department of Water Resources  
Southern Region Office

Charles L. Twitchell  
P.O. Box 464  
Elba, ID 83326

RE: Letter Dated March 11, 1991

Dear Mr. Twitchell:

The letter you sent to Keith Higginson on March 11, 1991, was forwarded to me by Mr. Higginson for response. In particular, you inquired about an application for permit to appropriate trustwater no. 43-07294 in the name of Thirza Ottley and Terry Hutchison. If you have correctly represented the dates of advertisement as March 8 and 15, 1991, a formal protest should be filed with our Southern Regional office, 222 Shoshone St. East, Twin Falls, Idaho 83301, on or before March 25, 1991. The protests should object to the application on one of the following grounds: (1) Will it injure other water rights; (2) Is there sufficient water for the purpose sought; (3) Is it filed for purposes of delay or speculation; (4) Does the applicant have sufficient financial resources to complete the project; (5) Is it in the local public interest, and (6) Does it promote the conservation of water within the State of Idaho? Upon proper submittal of your protest, a hearing will ultimately be scheduled to resolve the issues you raised.

In your letter, you referred to a portion of Keith Higginson's letter which summarized the December 7, 1990, Proposed Memorandum Decision. Keith Higginson stated in his letter that a proposed memorandum decision was issued approving a water right for instream flow but reducing the quantity of water sent to those parties present at the hearing. You interpreted his summary to mean that a portion of prior rights had been confiscated. The decision specifically protects earlier in time water rights. The reduction that Keith referred to was a reduction in the instream flow. Originally nine cubic feet per

43-7294

Charles Twitchell  
March 21, 1991  
Page 2

second in the main stem of Circle Creek was sought for appropriation. Because of information such as that you presented us regarding the small trickle of water flowing in Circle Creek, the minimum streamflow was reduced to 1.5 cfs.

Respectively,

A handwritten signature in cursive script, reading "Gary Spackman".

GARY SPACKMAN, Manager  
Water Right Permits Section

GS:js

cc: Southern Region

**RECEIVED**  
MAR 13 1991

Department of Water Resources

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES  
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720  
Attention; Mr. R. Kieth Higginson

Dear Kieth;

I received your information, and in reading it I am still of the opinion that someone is losing something. That Water resources is aiding and abetting the Park Service to build a bigger bureaucracy in this area for the continued take over of private land and rights.

Case in point- item dated Dec. 7, 1990. Proposed Memorandum Decision approving water right for in stream flow, but, reducing the quantity of water sent to those parties who were present at the hearing. Now, the word, reducing, means less water any way you cut it. And, quantity of water sent to those parties who were present at said hearing. Were those attending this meeting all water users from the Jobe Adams Decree area? What type of vote was taken? Are any records kept of who did vote? I am questioning the validity of this take over by you and your Bureau. And, am planning on continuing this issue.

To finish this problem of our correspondence, I did not say there wasn't any water, what I did say was, there was very little if any water above the Nickerson property that could be diverted. and it was protected under the Jobe Adams Decree.

In 1946 I and my Father bought 1600 acres of land out in the Moulton Valley and I spent four years fencing and plowing that land.

Eventually we did raise a crop of wheat or so and lived out there one summer, so we crossed that stream many times in those years.

A Step-father-in-law lived on the Circle Ranch, and his Father built the stone home and farmed that place. So, it would be remiss for me to make the statement that there wasn't any water there, my Mother taught at the Moulton school for a number of years, and I worked for a Mr. Wallace Ward who ran sheep and cattle out there. The Jobe Adams Decree covers that water out there, also, as it is in Idaho.

There was a Decree before the Jobe Adams Decree and I have a copy of it available which is dated April, 1883 and is almost a duplicate of the Jobe Adams Decree, except for some minor errors.

I am sure you remember the reservoir fiasco of the Sixties in which you were involved and when it finally came to an impasse that the concession was that this was Federal Water.

We discussed water useage and ground water abuses. I am going to site an abuse that you are fostering in your department and hope that you have a means of correcting before we have more problems in this.

Application of Trust water Right #43-07294, as printed in the S.I.P. dated Mar. 8 and 15, 1991.

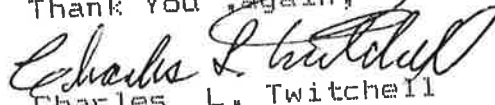
No. 1 - the description of the land is not totally correct.  
No. 2 land has been sold off and I don't believe they have this much land. No. 3, there is already 60 miner inches of water decreed to this land from Cassia Creek per the Jobe Adams decree.



Must I write a formal protest to address this legally ?  
I appreciate the information that you sent, and as you see, it does  
raise more questions .

Thank You , and I hope to hear from you on this application for  
ground water .

Thank You , again;



Charles L. Twitchell

Box 464.

Elba, Id. 83326

*Dated - 3-11-1991*

DEC 10 1990

Water Right Number - 43-07294

Adj. Flag Translation: Standard Water Right Number

Old (D) Number -

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

\*\*\* C - CURRENT OWNER \*\*\*  
OTTLEY

THIRZA

1 - HC 61 BOX 1248

2 -

3 -

City- MALTA

State- ID Zip- 83342

Phone - 208-638-5590

1 - HC 61 BOX 1248

2 -

3 -

City- MALTA

State- ID Zip- 83342

Phone - 208-638-5590

HUTCHISON

TERRY

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +  
07/22/1988 ERROR IN REGION A - APPLICATION+ - - - - - Source - - - - - + + - - - - - Tributary - - - - - +  
GROUNDWATER+ - - - - - Point of Diversion - - - - - +  
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

13S 25E 23 NE SE (31) CASSIA

13S 25E 23 NW SE R (31) CASSIA

13S 25E 23 NW SE (31) CASSIA

+ - - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume  
01 - IRRIGATION 04/01 11/01 2.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +  
2.000+ - - - - - Place of Use - - - - - +  
TwN Rng Sec Tract Lot Acres Code Description County  
13S 25E 23 NE SE 40.0 01 IRRIGATION (31 ) CASSIA  
13S 25E 23 NW SE 20.0 01 IRRIGATION (31 ) CASSIA  
13S 25E 24 NW SW 40.0 01 IRRIGATION (31 ) CASSIA

Total Acres: 100.0

+ - - Diversion Means - WELL, PUMP, HEADGATE, DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - CASSIA CR. DECREED WATER

+ - - - - - Remarks - - - - - +  
No Remarks found.

Water right number - 43-07294

Adj. flag translation: Standard Water Right Number

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

+ - - - - Old Water Right Numbers - - - - - +  
No Old Water Right Numbers found.

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

+ - - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - +  
00/00/0000

+ - - - - Comments - - - - - +  
No Comments Found

+ - - Audit Fields - 10/11/88 BALDWIN

+ - - - - 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	- 7
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	- S001052	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 07/22/1988	Transfer/Amended	-
Decree Date	- 00/00/0000	Microfilm Roll No	-	Presumption Flag	-