

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: A2504032
Date Received: 3-25-93
Receipt No.: XIIIIII
Received By: V. Kelly

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: United States of America Phone: 503-231-6145
(Fish and Wildlife Service)
Address: Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4181
2. Date of Priority: June 6, 1883
3. Source: Bridge Creek Trib. to: Grays Lake
4. Point of Diversion:
Township 4S Range 43E Section 26, NE1/4 of NW1/4, B.M.,
County of Bonneville
5. Description of diverting works: Earthen diversion and 2 ditches, for
irrigation.
6. Water is claimed for the following purposes:
- | Purpose | From | To | C.F.S. or A.F.A. |
|---------------------|--------|--------|------------------|
| Irrigation/Wildlife | Apr.15 | Oct.15 | 1.6 |
| Stockwater/Wildlife | Mar.15 | Nov.15 | 0.02 |
7. Total Quantity Claimed is:
1.62 C.F.S. (and/or) A.F.A.
8. Total consumptive use claimed is 100 Acre Feet Per Annum.
9. Non-irrigation uses: 50 head cattle, wildlife.

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United States of America
Fish and Wildlife Service

A2504032

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
4S	43E	26	NE	NW	Irr,S&W	40

Total Number of Acres Irrigated 40

11. Place of use, county(ies): Bonneville

12. Do you own the property listed above as place of use? Yes.

13. Other Water Rights Used: None.

14. Remarks: This claim clarifies and updates Water Right Claim No. 25-4032.

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

15. Basis of Claim (Check one) Beneficial Use X Posted Notice _____

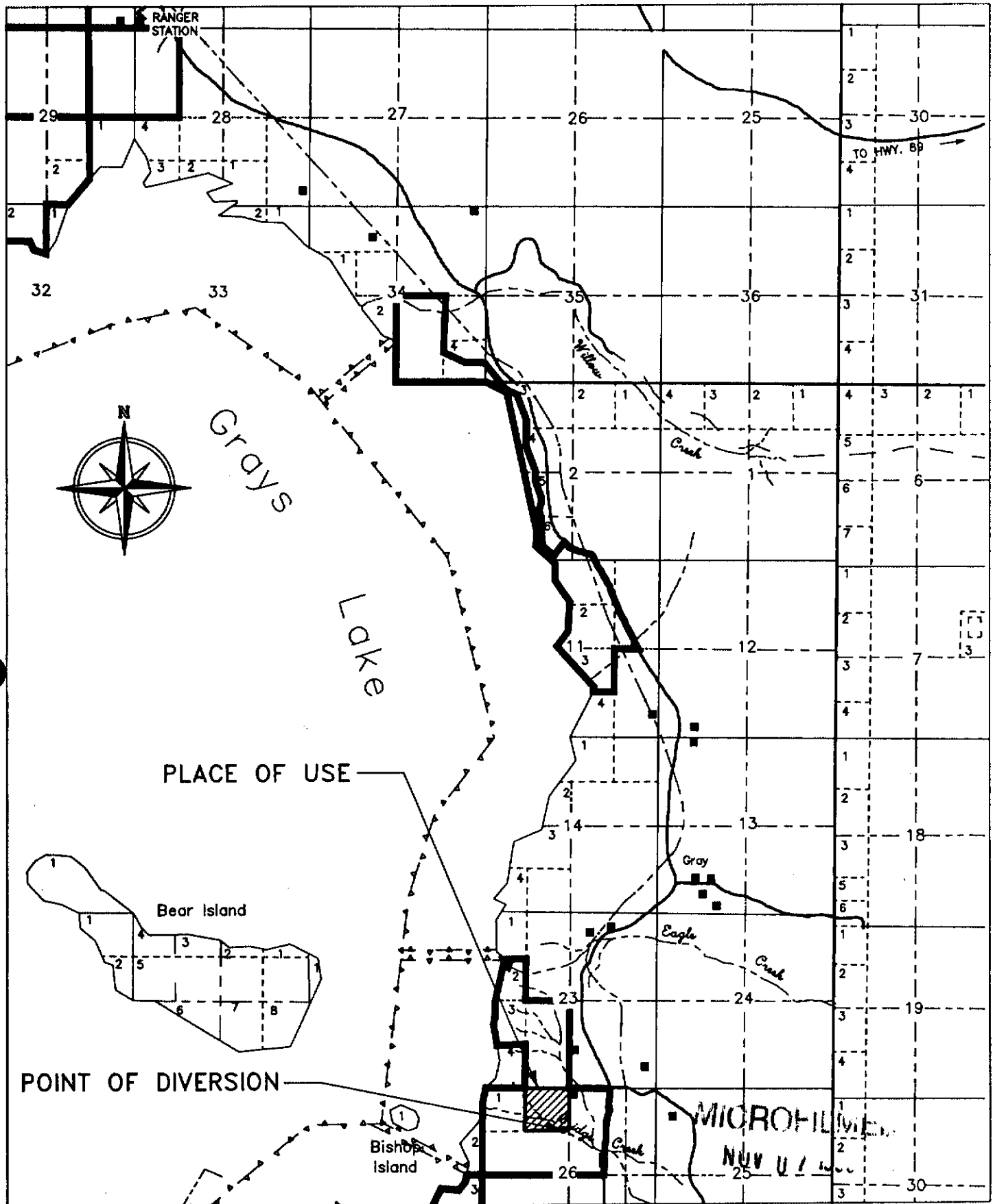
License _____ Permit _____ Decree _____

If applicable provide IDWR Water Right Number 25-4032

Court _____ Case Number _____ Decree Date _____

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WATER RIGHT NUMBER 25-4032

Additional Evidence Supporting this
Beneficial Use Claim is found
in the Declaration of Michael N. Fisher

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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.

The State of Idaho, ex rel.
Keith Higginson in his official
capacity as Director of the Idaho
Department of Water Resources,

Petitioner,

v.

The United States; The State of
Idaho; and all claimants to the
use of water from the Snake River
Basin Water System,

Defendants.

CASE NO. 39576

DECLARATION OF
MICHAEL N. FISHER

Dec. of Fisher

I, Michael N. Fisher, do declare that:

1. I am the Refuge Manager of the Grays Lake National Wildlife Refuge, Wayan, Idaho, United States Department of the Interior, Fish and Wildlife Service, Region 1.

2. I have been employed by the United States Fish and Wildlife Service since May 1986. I attended Gavilan College in Gilroy, California, and received an Associate of Science degree in Life Sciences in June 1971. I then completed a Bachelor of Science degree in Applied Field Biology at California Polytechnic State University in June 1973. I am a Certified Wildlife Biologist confirmed by The Wildlife Society.

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3. My professional career began with the United States Fish and Wildlife Service (Service) in May 1986, when I accepted the position of Refuge Manager of the Hart Mountain National Antelope Range. Prior to entering the Refuge Manager series, I held various positions with the United States Department of Agriculture, Soil Conservation Service, and the United States Department of the Interior, Bureau of Land Management, in Washington and Montana. These positions included soil conservation technician, soil conservationist, and wildlife management biologist.

4. From December 1989 through the present, I have been the Refuge Manager at the Grays Lake National Wildlife Refuge (Refuge). My duties include all phases of operating a wetland refuge for conservation and protection of endangered species, migratory birds, and native wildlife species. One of my main duties is to measure, regulate, and record the use of the Refuge water supply. Managing this water supply requires close cooperation with adjoining landowners, Refuge permittees, and the Bureau of Indian Affairs.

5. I am familiar with the current operations of the Refuge and have examined historic operations through archival documents, on-site inspections and interviews. Previous landowners, Service employees, and others knowledgeable of the Refuge and its surroundings were interviewed.

6. The United States Department of the Interior, Fish and Wildlife Service, maintains the Grays Lake National Wildlife Refuge for the conservation and protection of endangered species, migratory birds, and native wildlife. This facility requires the use of water to fulfill these purposes.

7. The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

8. To the best of my information and belief, water claimed as a beneficial use water right within the Grays Lake National Wildlife Refuge was first put to beneficial use as follows:

a. Water Right Claim No. 25-4032: Water was used for irrigation and stockwater in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26, Township 4 South, Range 43 East, prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Raymond Ostler. Mr. Ostler is the former owner of this property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Ostler, he had purchased the parcel from Mr. Herman Wakeman (deceased) in 1960, who had previously purchased it from Mr. Earl Sibbett (deceased). Mr. Ostler also said Mr. Sibbett's father was the original homesteader of the parcel. As related to him by previous owners, Mr. Ostler indicated that water was first beneficially used on this parcel in 1883.

b. Water Right Claim No. 25-4034: Water was used for irrigation and stockwater in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 23, Township 4 South, Range 43 East, prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Raymond Ostler. Mr. Ostler is the former owner of this

property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Ostler, he had purchased the parcel from Mr. Herman Wakeman (deceased) in 1960, who had previously purchased it from Mr. Earl Sibbett (deceased). Mr. Ostler also said Mr. Sibbett's father was the original homesteader of the parcel. As related to him by previous owners, Mr. Ostler indicated that water was first beneficially used on this parcel in 1886.

- c. Water Right Claim No. 25-4045: Water was used for irrigation and stockwater in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 11, Township 4 South, Range 43 East, prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Reed Humphreys. Mr. Humphreys is the former owner of this property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Humphreys, he inherited the parcel from his father who purchased it from a Mr. Hawkins (deceased). Mr. Humphreys also said that the Hawkins family originally homesteaded this parcel. As related to him by previous owners, Mr. Humphreys indicated that water was first beneficially used on this parcel in 1904.

- d. Water Right Claim No. 25-4046: Water was used for irrigation and stockwater in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 34, Township 3 South, Range 43 East,

prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Reed Humphreys. Mr. Humphreys is the former owner of this property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Humphreys, he inherited the parcel from his father who purchased it from a Mr. Madsen (deceased). Mr. Humphreys also said that Mr. Madsen originally homesteaded this parcel. As related to him by previous owners, Mr. Humphreys indicated that water was first beneficially used on this parcel in 1904.

- e. Water Right Claim for Eagle Creek: Water was used for irrigation and stockwater in Lots 2 and 3 of Section 23, Township 4 South, Range 43 East prior to the establishment of the Refuge, as evidenced by statements made to me by Mrs. Luella Muir. Mrs. Muir is the former owner of this property and she stated that the parcel has been in the Muir family for over 100 years. Mrs. Muir stated that water was first beneficially used on this parcel in the 1800's. Another water right claim filed by Mrs. Muir and her husband (deceased) on lands irrigated in common with this parcel indicated a first beneficial use of water on January 11, 1888 (Exhibit A).
- f. Water Right Claim for Headquarters Pond: The Headquarters Pond was constructed in 1969 as evidenced by the 1969 Annual Narrative Report for Grays Lake National Wildlife Refuge (Exhibit B). The pond was constructed for wildlife purposes as further stated by the 1969 Annual Narrative Report.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12th day of March, 1993.

Michael N. Fisher

Michael N. Fisher
Refuge Manager
U.S. Department of the Interior
Fish and Wildlife Service
Grays Lake National Wildlife Refuge
74 Grays Lake Road
Wayan, Idaho 83285

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