

March 19, 1973

Mr. R. Keith Higginson, Director
Idaho Department of Water Administration
240 So. Holmes
Idaho Falls, Idaho 83401

Re: Forrest Mann Application No. 25-7025

Dear Mr. Higginson:

We are writing this letter at the request of Mr. Clifford Morris and his son, Mr. Bud Morris, the present owner and operator respectively of certain property near Grays Lake in Bonneville County, Idaho. The Morrises are concerned about the application of Forrest Mann No. 25-7025 for a permit to appropriate 2.0 cfs of water from Posey Creek, a tributary of Grays Lake. The Morrises have directed us to file a written protest to the issuance of said permit which we are doing by this letter.

Mr. Clifford Morris is the record owner of certain deeded ground including a majority of Section 20, Township 3 South, Range 43 E.B.M. in Bonneville County which is presently operated by his son, Mr. Bud Morris. Mr. Clifford Morris purchased this property in 1935 and either he or his son have operated the property every year since. At the time of the purchase of this ground by Mr. Morris in 1935, a ditch, which heads in Section 16, Township 3 South, Range 43 E.B.M., was located on his property which carried the waters of Posey Creek to his land where it has been used every year since 1935. The point of diversion and diversion works for said ditch are located in Section 16, Township 3 South, Range 43 E.B.M. and consist of a rock dam across Posey Creek which diverts, except in unusual period of very high water, all of the waters of Posey Creek into the ditch mentioned. The Morrises have been advised by their predecessors

Source: Gordon Morris
(encl.)
Date: 10/25/03

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in title that the dam and ditch were constructed and first used in 1921 and have been used every year from 1921 until 1935.

The water has always been used and is presently used for stock water and for irrigation of approximately 90 acres of deeded ground in Section 20, Township 3 South, Range 43 E.B.M. It is the understanding of the Morrisises that at some point below the above described diversion dam, there are some springs which feed Posey Creek and that the seepage from their ditch may contribute somewhat so that during a portion of the summer there may be up to 25 or 30 inches of water in Posey Creek which could be used by Mr. Forrest Mann.

We will be happy to supply any additional information which we can at your request and would appreciate it if you will advise us of hearing dates and all actions of which our clients should be aware in this matter.

Very truly yours,

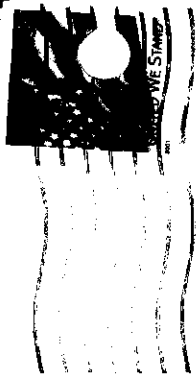
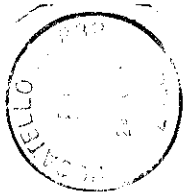
Kent W. Foster

KWF:jr

Source: Gordon Morris (Memo)
Date: 10/25/03

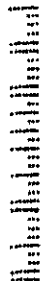


GORDON MORRIS
582 E 400 N
FIRTH ID 83236-1226



Bryce A. Contor
Water Resource Field Services
1571 N 1100 E
Deneton, ID.

83450



Source: Gordon Morris (mail)
Date: 10/25/03

October 25, 2003

Gordon Morris
582 E 400 N
Firth ID 83236

Re: Posey Creek Water Right Claims

Dear Mr. ~~Morris~~ Morris: (mailed w/ corrected) BAC

Thank you for showing me your water use on Posey Creek. With what you showed me, with documentation in your file and the other Posey Creek files, and with documentation that you and Mrs. Gardner are sending me, I have enough information to document the original basis of the Posey Creek water rights. What you and the other claimants showed me gives me a good idea of the lands currently able to be irrigated. The enclosed sketch shows where water use has been claimed.

Because actual application of water to beneficial use is the "basis, limit, and extent" of a water right, I also need a better understanding of the use of Posey Creek water during the five years leading up to signing of the adjudication claims. These claims were signed in 1988, 1989, and 1995. I would appreciate any information you can give me regarding all irrigation from Posey Creek from 1983 through 1995. The more detail you can provide - dates, acres irrigated, which ditches were used and which way the water ran - the more useful the information will be and the better job I can do.

A water right is protected from being lost by forfeiture if "circumstances beyond the water user's control" prevent the use of the right. If any of the Posey Creek claimants *were prevented* from irrigating by some circumstance they couldn't control, please also describe that situation.

I realize that the people who know the most about these things are the claimants themselves. However, if some "disinterested person" can provide a written statement about this water use, that is stronger evidence than a statement from a claimant.

Any statement (from the claimant or anyone else) needs to show "personal knowledge." This doesn't mean just that the person *knows* about the water use, but that they actually *saw it* themselves. A statement like "I know this water use occurred because I saw it myself the summer I worked for the

Water Resources
Field Services
208 663 4667

Forest Service at Caribou, which would have been 1988 or 1989" is the kind of thing we need. Please try to include specific detail about *exactly where* the water was used, *when* it was used, and *how much* was used.

Please mark up this map, write a statement, get statements from other people if you can, and mail it back to me at the address at the top of the letter. If you have questions, please call me at 208 663 4667 or 208 681 9100.

Thank you,

Bryce A. Contor



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