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DEPARTMENT OF
WATER RESOURCES

U.S. Department of Justice

Environment and Natural Resources Division

JJD:KEH
90-6-2-63c

Kelley E. Harris
Labat-Anderson, Inc.
999 Eighteenth Street
Suite 945, North Tower
Denver, Colorado 80202

Telephone (303) 312-7306
Facsimile (303) 312-7379

January 20, 2006

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase No. 25-04032

Dear Ms. Delaney:

Please find enclosed the original (which was fax filed today without the attachments)

1. **STANDARD FORM 1 OBJECTION**, with attachments.

Thank you for your time and attention in this matter.

Sincerely,

Kelley Harris
Kelley Harris
Paralegal

**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

A. Subcase 25-04032

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: UNITED STATES OF AMERICA ACTING THROUGH
USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
Address: 911 NE 11TH AVE
PORTLAND, OR 97232-4181
Daytime Phone: (503) 231-6251

Name & Address of Attorney, if any:

JAMES DUBOIS,
U.S. DEPARTMENT OF JUSTICE
999 18 STREET, SUITE 945
DENVER, CO 80202
(303) 312-7341

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: UNITED STATES OF AMERICA ACTING THROUGH
USDI FISH AND WILDLIFE SERVICE, DIVISION OF ENGINEERING
Address: 911 NE 11TH AVE
PORTLAND, OR 97232-4181

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: Bridge Creek
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right Should not exist.
 - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): Source: The Source for this claim is erroneously described as an "Unnamed Stream." The source should be identified as Bridge Creek. The source of water diverted at this Point of Diversion is the natural flow from a channel that is a branch of Bridge Creek. The claim to Bridge Creek as a source of this water right is supported by a Posted Notice, aerial photos, maps, and the affidavits of Ostler, Fisher, Stoor, and Langman which are attached hereto.

F.

VERIFICATION

State of Colorado)
)
County of Denver)

ss.

James J. DuBois, duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

SUE ELLEN WOOLDRIDGE
Assistant Attorney General

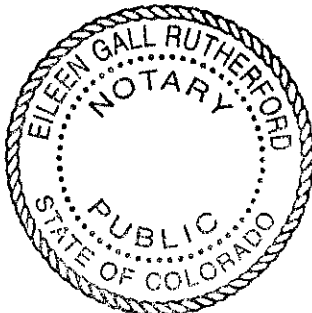
By:



JAMES J. DUBOIS, #13206
U.S. Department of Justice
Environment and Natural
Resources Division
General Litigation Section
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 312-7341

ATTORNEY FOR THE
UNITED STATES OF AMERICA

Subscribed and sworn to before me on : January 20, 2006



My Commission Expires 8/23/2008

Eileen Gall Rutherford
Notary Public for STATE OF COLORADO
Residing at: DENVER COUNTY, COLORADO
My Commission Expires: 8/23/2008

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January, 2006, I caused to be served a true and correct copy of the foregoing **STANDARD FORM 1 OBJECTION** by placing a copy thereof in the United States mail, postage pre-paid, and addressed as follows:

via Fascimile:

Diana R. Delaney, Chief Deputy Clerk (Original)
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, ID 83301
(208) 736-2121

via First-Class Mail:

Kent W. Foster
1000 Riverwalk Dr. Ste. 200
PO Box 50130
Idaho Falls, ID 83405

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC Box 033
Boise, ID 83724

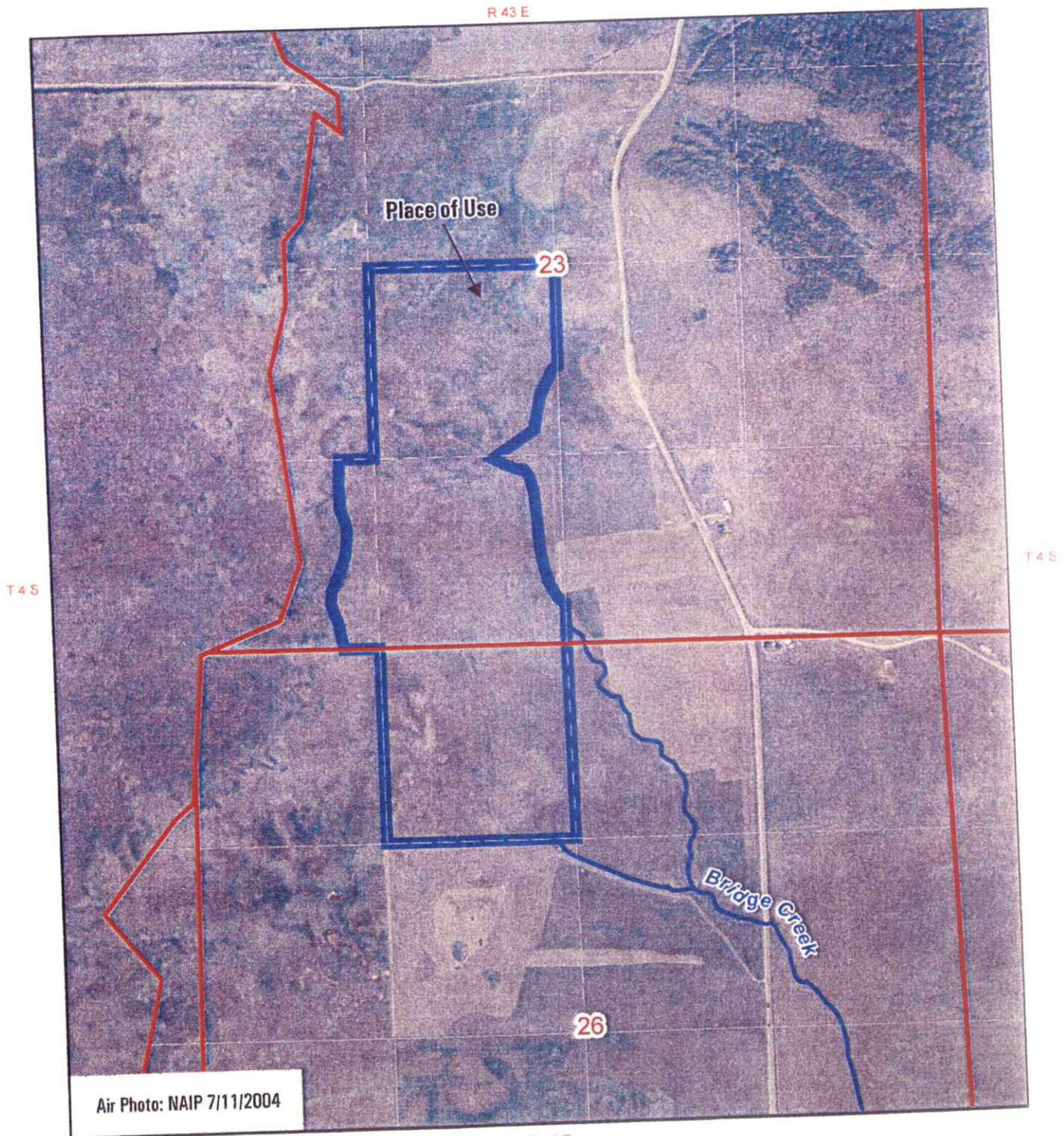
IDWR
Document Depository
PO Box 83720
Boise, ID 83720-0098


James J. DuBois



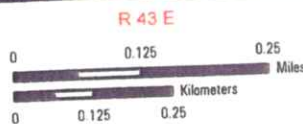
U.S. Fish & Wildlife Service
Grays Lake National Wildlife Refuge
Bonneville County, Idaho

Claim Number 25-04032 Place of Use



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim25-04032_20040711.MXD, 6/16/05



1:12,000 BOISE MERIDIAN

Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251





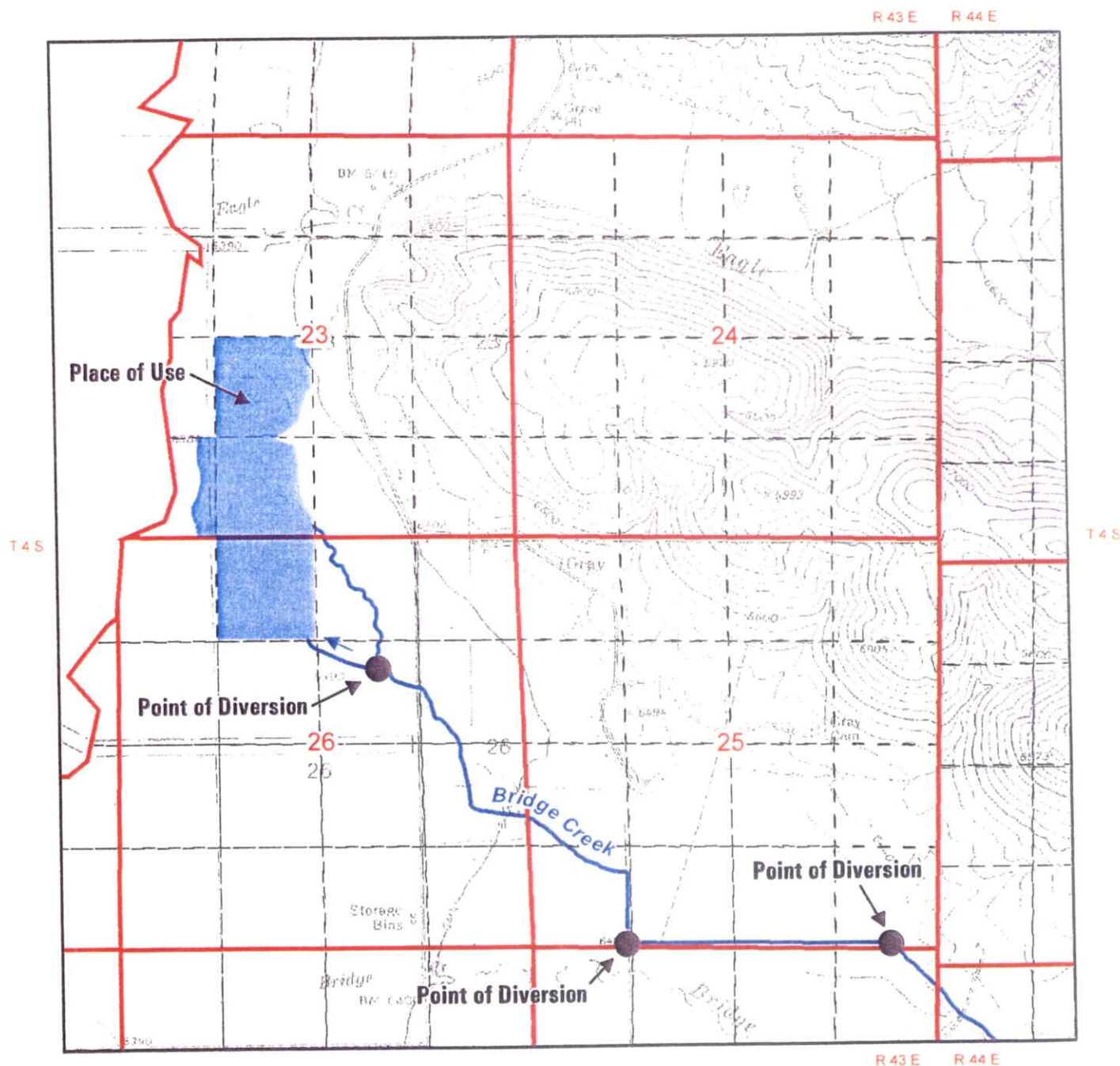
U.S. Fish & Wildlife Service

Grays Lake National Wildlife Refuge

Bonneville County, Idaho

Amended Claim 25-04032

SOURCE: BRIDGE CREEK
QUANTITY: 2.40 CFS, 0.05 CFS
POINT OF DIVERSION: T04S R43E S26 SWNE, S25 SWSW & SESE
PURPOSE OF USE: IRRIGATION/WILDLIFE, STOCKWATER/WILDLIFE



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim_Amended_25-04032.MXD, 3/31/05

0 0.25 0.5
Kilometers Miles
0 0.25 0.5
1:24,000 BOISE MERIDIAN

Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251



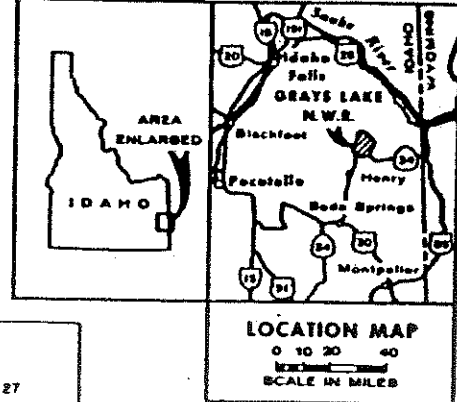
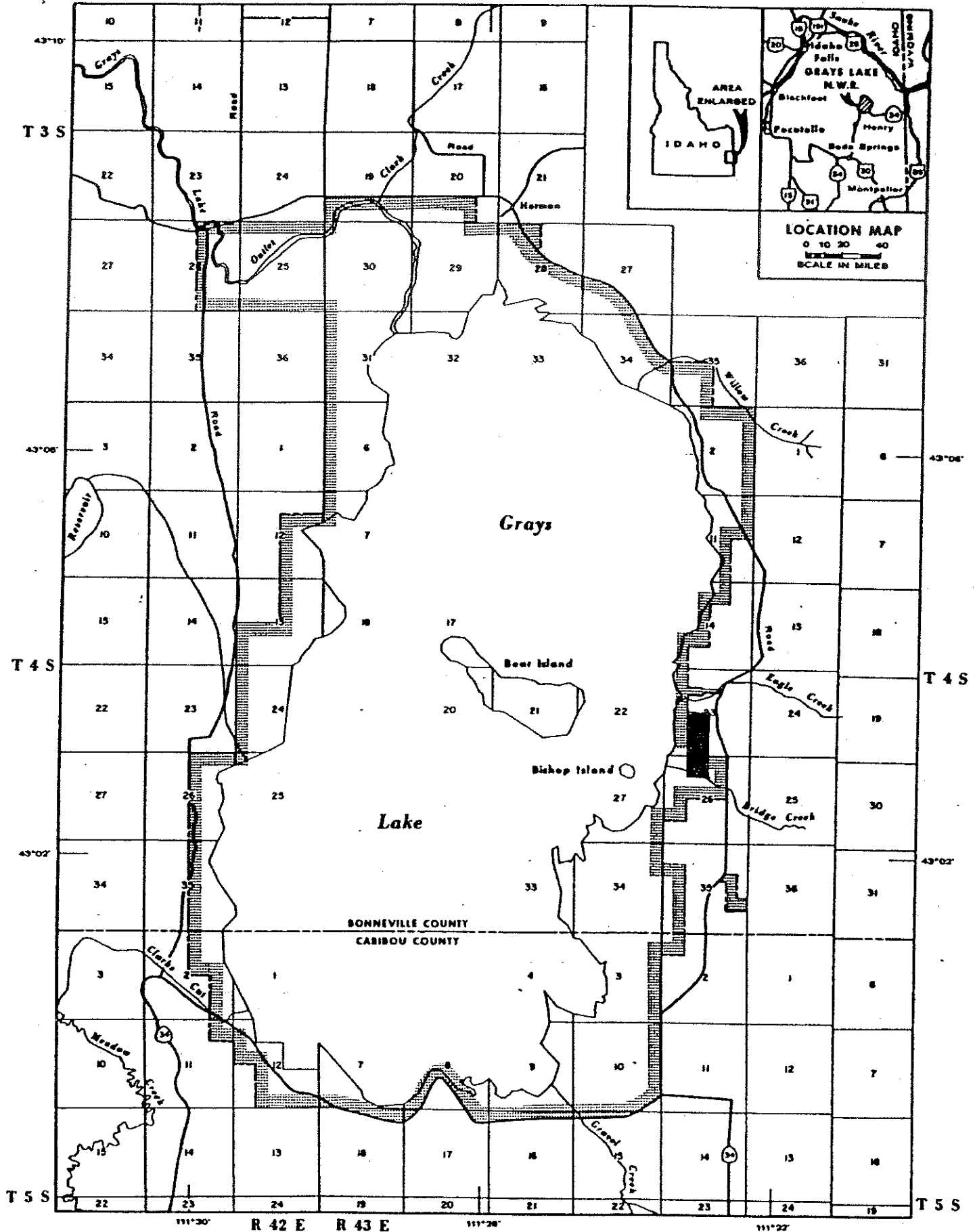
GRAYS LAKE NATIONAL WILDLIFE REFUGE

SONNEVILLE AND CARIBOU COUNTIES, ID.

UNITED STATES
DEPARTMENT OF THE INTERIOR

UNITED STATES
FISH AND WILDLIFE SERVICE

111°30' R 42 E R 43 E 111°26'



COMPILED IN REALTY FROM
SURVEYS BY USGS, FWS, BLM

BOISE MERIDIAN

0 1/4 1 2 MILES
0 1/2 1 2 KILOMETERS

16°16' MEAN DECLINATION 1960

WATER LOCATION

James Corbett

Notice of Water Location

I the undersigned having had the undisputed possession of and used the water in this stream known as Bridge Creek for 5 years on the 6 day of June passed do now locate and claim said water to the extent of 500 five hundred acres for agricultural purposes to be conveyed as heretofore in a ditch from this point to my Homestead situated about 6 miles down John Gray Lake and 1 mile South of Eagle Creek adjoining the foot hills on the East and running thence west into the Lake Bottom

Dated this 11 day of January 1888

Signed James Corbett Locator

Territory of Idaho }
County of Bingham }

I the undersigned do solemnly swear that I have for near 6 years been acquainted with the water course known as Bridge Creek described in the accompanying water location that the same has not heretofore been located or used for any purpose whatever by any person but myself

Signed James Corbett

Subscribed and sworn to before me this 11 day of January 1888



Joseph Hawkins
Notary Public

Recorded at the request of
Hawkins 7/27/88 at 3:20 pm
Geo A Robertson
Recorder

Homestead Map
Located at Bonneville County Recorder's Office

RAY OSTLER
226 GRAYS LAKE ROAD
WAYAN, ID 83285

November 5, 2004

Idaho Department of Water Resources
SRBA Eastern Region Unit
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1714
Attn: Ernie Carlsen

Dear Mr. Carlsen:

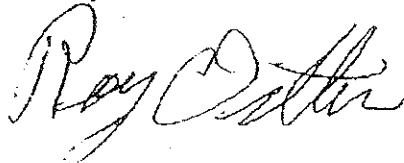
I have lived and ranched cattle in the Grays Lake Basin, Wayan, Idaho, since the Spring of 1961. Prior to the refuge acquiring lands up here in 1965, I owned approximately 130 acres of property just west of Bridge Creek Lane and approximately 120 acres west of Grays Lake Road; just across from my residence. During my time as a landowner at Grays Lake, I relied on the waters from Bridge Creek to provide stockwater and irrigation for both parcels of my property. I used Bridge Creek waters almost annually to irrigate pastures (the "South" and "Middle 40" pastures) and provide stockwater for 10 to 12 years; prior to selling these lands to the bird refuge (U.S. Fish & Wildlife Service) in about 1986. Around the mid-1960's, I had surveys done and constructed a ditch in the "South 40" and "Middle 40" pasture to facilitate increased water flows to that area. In addition, waters from the south Eagle Creek Channel were also used to irrigate the "North 40" pasture and an adjacent neighboring Stoddard property to the north. The Stoddard (or Ewart) Field was flood irrigated almost every year to provide water for crops, livestock and wildlife.

In addition to the property across from my residence, Eagle Creek waters were used to irrigate and the Bridge Creek Channel was also used on my southern parcels located off Bridge Creek Lane. Property neighboring the Bridge Creek Lane parcel (at that time owned by the Tingy family) was hayed almost annually and was flood irrigated during the Spring and early-Summer. The Bridge Creek channel, on these parcels, was used as a main source for providing water to livestock and wetlands, as well as early irrigation water for the Tingy property. As far back as I can remember, the Fulton Creek and Bridge Creek Channels never merge naturally, and the north diversion of the Bridge Creek Channel existed prior to us purchasing property up here. Today, there is a minor diversion off the Fulton Creek which flows into a diversion on the Muir property, and the Bridge Creek waters now flow to supplant the Fulton Creek waters across the Tingy property. Both creek channels provided an important source of water for my northern and southern properties.

In 1972, my wife and I purchased additional property and house in Thatcher, Idaho, but continued grazing our cattle up in the Grays Lake Basin every Spring through Fall from 1961 to present. About 1972 is when I sold 130 acres of property west of Bridge Creek Lane to the bird refuge.

During the time that I owned it, and since the bird refuge took it over, waters from Bridge Creek were used to irrigate and provide stockwater and Eagle Creek was used to provide water when Bridge Creek was dry.

Ray Ostler



I, Ralph Stoor, being first duly sworn, depose and testify as follows:

My name is Ralph E. Stoor and I am currently employed by the U.S. Fish and Wildlife Service (USFWS or Service) as an Engineering Equipment Operator at the Grays Lake National Wildlife Refuge (Refuge), near Wayan, Idaho. I have been employed by the USFWS since 1966. In my role as an Engineering Equipment Operator, I am assigned responsibility and duties for, operating and maintaining heavy equipment, maintaining government owned buildings, grounds, and facilities, maintaining refuge fencing, refuge farming operations, checking on refuge haying and grazing permittees, maintaining water levels, managing refuge water gaging controls, irrigating refuge lands, assisting in installation of water measurement flumes, coordinating Regional Office Service Personnel and other refuge programs, and attending water training sessions.

In addition to working at the refuge, I have lived in the Wayan and Soda Springs, Idaho, area for 60 years. I am familiar with irrigation practices both on- and off-refuge lands, before and after the refuge was established. I have owned my own ranching operation in the Wayan area (Grays Lake Valley) since 1962, and was also born and raised on the same ranch which I have worked for approximately 50 years.

I have personal knowledge and experience in diverting water for irrigation and wildlife purposes onto the Grays Lake Refuge lands covered under claims A25-00229A, A25-02161, A25-04032, A25-04034B, A25-04045, A25-13722, A25-14084, A25-14096, and the new Bridge Creek, Eagle Creek, and unnamed stream (locally known as Hawkins Creek) claims. Specifically, water was diverted for irrigation and wildlife purposes as indicated below:

1) CLAIM: A25-00229A

SOURCE: Herman Creek (also known as Meyers Creek)

PLACE OF USE: T.3 S., R.43 E., Sec. 28, NWNW, SWNW, and Sec. 29, NENE, SENE, Bonneville Co., B.M

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 28, NWNW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 160 acres of land associated with this claim in 1976. I refer to these lands as the Rich Tract. Since the Service acquired the lands, Refuge staff have made efforts to irrigate every year. Since that date, I was involved in constructing wildlife and stockwater ponds in areas tied directly to this specific diversion and in approving irrigation. During 1977, I was involved in the construction of a low elevation dike off the diversion and in October of 1994 a new west ditch was constructed in the Rich Tract. In August of 1982, I was involved in the construction of a pond for wildlife and stockwater use off the Herman Creek Channel. On July 1, 1993, the area was surveyed for culvert installation and water control structures

were in place by August 4, 1993. During the period from 1976 through 2004 ditches and water control structures were cleaned and maintained on a regular basis (as needed). Since the installation of the water control structures, water levels have been actively managed in that area when water was available. In October (25th and 26th) of 1994 two new ditches were created off the Herman Creek Channel to improve irrigation and on November 3rd and 4th of that same year additional work was done on the ditches, including surveys. Throughout the time the Service has owned the property, water has been used for irrigation, wildlife and stockwater.

From a historical perspective, obvious evidence of old natural water and diversion channels exists in that same area today (within the Rich Tract and on BLM property just east of the County Road - Grays Lake Road).

2) CLAIM: A25-02161

SOURCE: A well near Headquarters

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with the claim in 1969. Since the Service acquired the lands, the Refuge has used this well to: supply water to a residence, headquarters office, shop, bunkhouse, guard station, 3 hydrants, an RV pad; irrigates lawn surrounding the office area; and provide water for livestock.

3) CLAIM: A25-04032 and new claim to Eagle Creek

SOURCE: Bridge Creek (A25-04032) and Eagle Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 26, NENW, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-04032: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S., R.43 E., Sec. 25, SESE and SWSW, Bonneville Co., B.M.

New Claim: T.4 S., R.43 E., Sec. 23, NENE; Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE

IRRIGATION OF PLACE OF USE: The Service acquired the 40 acres of land associated with this claim in 1973. I refer to these lands as the South 40. Since the Service acquired the lands, Refuge staff have made efforts to irrigate every year. Bridge

Creek water serves the entire place of use. However, water from Eagle Creek (coming through the ditch east of the County Road and into the Bridge Creek channel) is also used. Since Service ownership, I have observed that water from these diversions primarily served to provide irrigation, stockwater, and to supply wildlife wetlands during the Spring, Summer, and Fall. As long as I can remember, and before the Service acquired the property, waters from these diversions irrigated pasture lands, provided livestock water, and supplied water to wetlands. On August 29, 1988, the north diversion channel of Bridge Creek was cleaned to improve irrigation, stock, and wildlife water delivery to the South and Middle 40 Units and southern edge of the North 40 Unit.

4) CLAIM: A25-04034B and new claim to Bridge Creek

SOURCE: Eagle Creek (A25-04034B) and Bridge Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 23, NESW, SESW, and SWSW, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-04034B: T.4 S., R.43 E., Sec. 23, NENE, and NWSWNE, Bonneville Co., B.M.;

Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE;

New Claim: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S, R.43 E, Sec. 25, SESE and SWSW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 80 acres of land associated with this claim in 1986. I refer to these lands as the North 40 (NESW) and Middle 40 (SESW). Since the Service acquired the lands, Refuge staff have made efforts to irrigate every year. The primary source of water for this tract is Eagle Creek. However, there are times when Bridge Creek water is additionally diverted onto these lands. Prior to Service ownership, I observed early-Spring through mid-Summer and Fall irrigation of crops located in the "North 40" and "Middle 40" for haying and pasture. Since Service ownership of this property, the lands continue to receive irrigation water for haying crops, pasture and wildlife. Beginning with the establishment of the refuge in 1965, work to improve water delivery from the main Eagle Creek channel was initiated. On September 22, 1976, work was done on the Eagle Creek water control structure and main diversion to improve water delivery to the refuge and lands owned by adjacent neighboring landowners (now the refuge). I have documented additional work to maintain this particular water delivery system beginning in 1987 to present; this work has occurred almost on an annual basis. In addition, at least six diversion culverts out of the Dugway Ditch supply Eagle Creek water to the Ewart Field (or Stoddard Field) and the Middle and North 40 Units. These diversions from the Dugway Ditch divert water prior to running onto the adjacent private landowner to the south. Historically, these fields

were flood irrigated on almost an annual basis prior to refuge ownership. Since refuge ownership of these same parcels, they have been irrigated in the same manner almost annually for the purposes of proving irrigation of croplands, stockwater and wildlife. Refuge staff has done, and continues to do, a considerable amount of maintenance work on the Dugway Ditch (as needed); including filling leaks, upkeep of culverts, and cleaning ditches. On August 29, 1988 the north diversion channel of Bridge Creek was cleaned to improve irrigation, stock, and wildlife water delivery to the South and Middle 40 Units and southern edge of the North 40 Unit.

5) CLAIM: A25-04045 and new claim to unnamed stream (known as Hawkins Creek)

SOURCE: Willow Creek (A25-04045) and Unnamed Stream (a.k.a. Hawkins Creek) (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 11, SENE, SWNE, NESW, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-4045: T.4 S., R.44 E., Sec. 6, SESW, Bonneville Co., B.M.; Point of Injection: T.4 S., R.43 E., Sec. 1, SESW; Points of Re-diversion: T.4 S., R.43 E., Sec. 11 SESENE

New Claim: T.4 S., R.43 E., Sec. 11 SESENE, and additional in SESENE.

IRRIGATION OF PLACE OF USE: The Service acquired the 69.2 acres of land associated with this claim in 1975. I refer to these lands as the Hawkin's Field (NWSE) and the Hay Field (SENE, SWNE, and NESW). Since the Service acquired the land, Refuge staff have taken an active role in irrigating on regular basis as water is available for croplands, livestock and wildlife. Since approximately November 30, 1977, the refuge has coordinated with the neighboring private landowner to maintain the initial diversion from the Willow Creek Channel into Hawkin's Creek. The refuge has also spent a significant amount of time throughout the years coordinating with the same private landowner to ensure the refuge receives sufficient water for irrigation of hay fields, pasture lands and for wildlife habitat. The original Hawkin's Creek Channel was changed by the landowner from the Hay Field to the fence line diverting water into the Hawkin's 40 Field. Refuge staff have since cleaned, improved and cut new ditches in order to more adequately provide irrigation water to the Hawkin's 40 Field. Refuge staff have coordinated with the adjacent landowner for several years to divert water to the North Ditch in order to provide irrigation and wildlife water to the Hay Field. I have documented additional work on the Hawkin's Creek Channel for both September 21 and October 17, 1995. It is my understanding that this same property was historically irrigated prior to Service acquisition.

6) CLAIM: A25-13722

SOURCE: Eagle Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 23, Lots 2 & 3, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 23, NENW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 44.5 acres of land associated with this claim in 1988. Since the Service acquired the land, Refuge staff have irrigated almost every year. Prior to Service ownership, I observed the primary source of water supply to these tract coming from Eagle Creek. Prior to Service ownership, I observed early-Spring through mid-Summer, and when water was available, throughout the Fall, irrigation of the Boat House Field for hay crops, pasture units, wetlands, and for a stockwater pond. Since Service ownership of this property, the lands continue to receive irrigation water for haying crops, pasture and wetlands for wildlife. Beginning with the establishment of the refuge in 1965, work to improve water delivery from the main Eagle Creek channel was initiated. On September 22, 1976, work was done on the Eagle Creek water control structure and main diversion to improve water delivery to the refuge and lands then owned by adjacent neighboring landowners (now the refuge). I have documented additional work to maintain this particular water delivery system from 1976 to present; which has occurred almost on an annual basis. In addition, since November 9th, 1987, the refuge also has records of irrigating the Boat House Field with waters from the Eagle Creek Channel on a fairly regular basis, for purposes of irrigating croplands, and providing water for livestock and wildlife.

7) CLAIM: A25-14084

SOURCE: Bridge Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SWNW and Sec. 34, NENE, NWNE, SWNE, SENE, NESE, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, NWNW, B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 140.84 acres of land associated with this claim in 1980. I refer to these lands as the Tingy Field. Since the Service acquired the lands, Refuge staff have irrigated as often as possible when water is available, which usually occurs during Spring and early-Summer and occasionally mid-

Summer, using water from the Bridge Creek Channel (also know as the Fulton Creek Channel). Prior to Service ownership, the Service installed on July 28, 1977, culverts along, and within, the Service right-of-way (Bridge Creek Access Road) for the purposes of diverting water. On November 5, 2001, additional lateral ditches were constructed and the creek channel cleaned. On June 27, 1988, the Service replaced the original water control structure (on Ewart Muir property). The stock ponds, currently used for livestock and wildlife, were established prior to these parcels being purchased by the Service. Prior to refuge establishment in 1965, the Tingy Field was irrigated and Bridge Creek water was the source of irrigation for these areas while under private ownership. Since that time, the refuge has assisted in operating the water control structure to divert waters either west or north for the purposes of irrigation and providing water for livestock and wildlife. Since 1988, the Service has also solely maintained and cleaned (as needed) the Bridge Creek delivery channel and water control structure to ensure water delivery to private landowners and the refuge. Bridge Creek waters are used annually by the refuge, during the Spring and Summer, to fill several ponds and for irrigation at the west end of Bridge Creek Lane for stockwater, croplands, and wildlife.

8) CLAIM: A25-14096

SOURCE: Willow Creek

PLACE OF USE: T.3 S., R.43 E., Sec. 34, NWSE, SWSE, SESE, and Sec. 35 SWSW, Bonneville Co., B.M.

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 35, NESW, Sec. 34, NESE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 100 acres of land associated with this claim in 1975. Since the Service acquired the lands, Refuge staff in association with a neighboring landowner, have irrigated almost every year. Prior to Service ownership, existing ditches and creek channels were used by the previous landowner to deliver water for irrigation, stockwater and wetlands. Since November 30, 1977, the refuge (in cooperation with the adjacent landowner) has continued to maintain the diversion and flow water from the Willow Creek channel for irrigation, and for providing water for livestock and wildlife. On October 21, 2002 ditches off the main Willow Creek Channel were cleared and additional diversion channels added for purposes of providing increased flows for irrigation, livestock and wildlife.

Further affiant saith not. **DATED** this _____th day of January, 2005.

Ralph E. Stoor
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232-4181

STATE OF _____)

COUNTY OF _____)

The affiant, Ralph Stoor, being first duly sworn by me, hereby declares that he has read the foregoing Affidavit and that the information contained therein is true and accurate to the best of his knowledge and belief.

Subscribed and sworn to me by Ralph Stoor this ____th day of January, 2005.

NOTARY PUBLIC

Residing at: _____

(Seal)

My Commission Expires:

I, Michael N. Fisher, being first duly sworn, depose and testify as follows:

My name is Michael N. Fisher and I have been employed by the U.S. Fish and Wildlife Service (USFWS or Service) since 1986. I am currently employed as a Supervisory Wildlife Biologist at the Southeast Idaho National Wildlife Refuge Complex in Chubbuck, Idaho. I have been in this position since November, 2003. Previous to this position, from December, 1989 to November, 2003, I was the Refuge Manager at the Grays Lake National Wildlife Refuge (Refuge), near Wayan, Idaho.

In my role as Refuge Manager, I was responsible for administering and managing the daily operations of the Refuge. Besides routine Refuge administrative duties, a large portion of my time was spent managing important Refuge wildlife and habitat resources, including expansive wet meadows and uplands adjacent to the 22,000 acre lake bed. My duties included managing critical habitat management programs, such as: habitat enhancement, habitat restoration and water manipulation; burning; weed spraying; wildlife surveys; irrigation of agricultural lands and wetlands; and conducting farming, haying and grazing activities. Critical irrigation duties included ensuring that wet meadows were properly irrigated for use by wildlife during the critical breeding, nesting and migration seasons to produce cover/forage for wildlife and stock use: for filling shallow wetland ponds and sloughs for wildlife and stock use;; irrigation of grain/alfalfa fields, grown for wildlife; and irrigation of Refuge hay meadows. Besides providing forage for permittees' livestock and for growing crops of hay, the flood irrigation methods used at the Refuge by me and my Refuge staff created valuable habitats such as wet meadows, dense grass stands and grain crops for nesting, foraging and migrating greater sandhill cranes, ducks, geese, trumpeter swans, shorebirds (i.e. willet, avocet, curlew), marshbirds (i.e. herons, egrets, white-faced ibis) and a wide assortment of other wildlife species dependant on these types of wetland habitats (meadows, grain fields, ponds, shallow sloughs).

I have personal knowledge and 14 years of field experience in diverting, and allowing Refuge permittees to beneficially divert, water for irrigation and wildlife purposes onto Refuge lands covered under SRBA claims A25-00229A, A25-02161, A25-04032, A25-04034B, A25-04045, A25-13722, A25-14084, A25-14096 and the new Bridge Creek, Eagle Creek, and unnamed stream (locally known as Hawkins Creek) claims. I personally irrigated Refuge meadows and fields, using diversion structures, canvas dams, irrigation ditches and irrigation laterals. In addition, ponds and sloughs were manipulated by me for stock and wildlife use. The Refuge staff and I have documented and quantified this use by using staff gauges, water flow meters, fixed flumes, portable flumes, water brooms and water volume measurement methods. Specifically, water was diverted for irrigation, stock and wildlife purposes as indicated below:

1) CLAIM: A25-00229A

SOURCE: Herman Creek (also known as Meyers Creek)

PLACE OF USE: T.3 S., R.43 E., Sec. 28, NWNW, SWNW, and Sec. 29, NENE, SENE, Bonneville Co., B.M

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 28, NWNW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: As shown by the enclosed title documents, the Service acquired the land associated with this claim in 1976. After acquisition of the property, the Refuge Manager was often annually involved in attempts to coordinate water use on the property with neighbors. In 1992, I attempted to divert water in old ditches to the Place of Use, but flows were too low. Refuge staff replaced headgates and cleaned ditches in fall of 1992. Since 1993, the Refuge staff have irrigated the Place of Use (the Rich Tract, which consists of the west grain field, the northwest meadow and the northeast meadow) annually. Waters from Herman Creek are used to irrigate the west grain field, the meadows and to provide stock water along the main Herman Creek channel within the Rich Tract. A series of irrigation ditches and canvas dams are used to distribute Herman Creek flows to the Place of Use described above. The Refuge has measured irrigation water flows on the Refuge through instantaneous flow measurements, flumes and by other methods since 1995. To the best of my knowledge, the Service manages irrigation of the Rich Tract similar to the previous owners.

2) CLAIM: A25-02161

SOURCE: A well near Headquarters

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: As shown by the enclosed documents, the Service acquired the lands associated with this claim in 1969 and this replacement well was drilled in 1976. Previously, there was a well at this site that could no longer be used for domestic uses. Since 1976, the Refuge has used the well to: supply water to a residence headquarters office, shop, bunkhouse, guard station, three hydrants and three recreational vehicle/travel trailer pads; irrigate the lawn surrounding the office area; and provide water for livestock and wildlife. During my 14-year tenure as Refuge Manager of Grays Lake NWR, I supervised the application of, or personally applied, the well water to these uses.

3) CLAIM: A25-04032 and new claim to Eagle Creek

SOURCE: Bridge Creek (A25-04032) and Eagle Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 26, NENW, Bonneville Co., B.M

POINT OF DIVERSION:

A25-04032: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S., R.43 E., Sec. 25, SESE and SWSW, Bonneville Co., B.M.

New Claim: T.4 S., R.43 E., Sec. 23, NENE; Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE

IRRIGATION OF PLACE OF USE: As shown by the enclosed title documents, the Service acquired the land associated with these claims in 1973. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with upstream and downstream neighbors. To the best of my knowledge, since the Service acquired the lands, Refuge permittees irrigated all of the lands every year until 1995. Since 1995, Refuge staff has irrigated the lands every year. The Place of Use includes meadows in the South 40 field which produce hay. The Refuge staff cleaned all upstream delivery ditches and channels located on Ewart Muir Estate land, with the permission of the heirs, to the point of diversion in 1992. The Refuge staff also maintained and improved ditches on the Refuge in 2002.

Water from Bridge Creek and Eagle Creek water, coming through the Dugway Ditch and into the Bridge Creek channel, is used on these lands for irrigation, wildlife, and stock. Water from the point of diversion moves north and west to irrigate meadows in the South 40 fields. Water from these diversions also provides livestock water and flood irrigation for hay production to create wet meadow habitats for wildlife. Wildlife use in these wet meadows is high, including use by sandhill cranes, waterfowl and shorebirds for breeding, nesting and migration. Spring, summer and early fall water from Bridge Creek and flows from Eagle Creek provide water that I have diverted (via structures, ditches and using canvas dams) and monitored, or measured, while Refuge Manager at Grays Lake. I have also directed Refuge staff to conduct the diversions and measurements. Water measurements were made at least once per month and after flow adjustments were made, since 1995, at the north ditch flume (Sec. 26, SWNE) (by flume gauge or water flow meter prior to the flume) and the west water control structure (Sec. 26, SWNE) along the Bridge Creek channel on the Refuge.

4) CLAIM: A25-04034B and new claim to Bridge Creek

SOURCE: Eagle Creek (A25-04034B) and Bridge Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 23, NESW, SESW, and SWSW, Bonneville Co., B.M.

POINT OF DIVERSION:

PAGE 3 OF 7: Affidavit of Michael N. Fisher

A25-04034B: T.4 S., R.43 E., Sec. 23, NENE, and NWSWNE, Bonneville Co., B.M.; Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE;

New Claim: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S., R.43 E., Sec. 25, SESE and SWSW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with these claims in 1986. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. To the best of my knowledge, since the Service acquired the lands, Refuge permittees irrigated all of the lands every year until 1995. Water from Eagle Creek and Bridge Creek is diverted onto these lands. The Place of Use includes the North 40 Field and Center 40 Field. From 1995 to 2003, the Refuge staff and I continued the historic practice of diverting water from the Main Eagle Creek diversion structure (Sec. 23, NWSWNE) on the Refuge. Water was diverted south and west across the Ewart (Stoddard) Field to the Place of Use in the North 40 Field and the Center 40 Field. The Refuge staff and I also diverted water from 1995 to 2003 across the Sibbett field to the Center 40, as had been done historically. Irrigation water on this Place of Use is used for stock and wildlife watering and to provide hay production to create diverse wet meadow habitats for sandhill cranes, waterfowl and shorebirds.

Since 1995 until 2003, Refuge staff have taken water measurements at specific water diversion points to quantify flows using water flow meters and, more recently, fixed flumes in two locations. In 1995, the Refuge staff cleaned the delivery ditch across private land, with the permission of the owner, from the point of diversion to the Place of Use. The distribution ditch within the Place of Use was cleaned at the same time. Maintenance and improvements to ditches were done again in 2002 to improve flows.

5) CLAIM: A25-04045 and new claim to unnamed stream (known as Hawkins Creek)

SOURCE: Willow Creek (A25-04045) and Unnamed Stream (a.k.a. Hawkins Creek) (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 11, SENE, SWNE, NESW, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-4045: T.4 S., R.44 E., Sec. 6, SESW, Bonneville Co., B.M.; Point of Injection: T.4 S., R.43 E., Sec. 1, SESW; Points of Re-diversion: T.4 S., R.43 E., Sec. 11 SESENE.

New Claim: T.4 S., R.43 E., Sec. 11 SESENE, and additional in SESENE.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with these claims in 1975. After acquisition of the property, the Refuge Manager was involved in attempts

to coordinate water use on the property with neighbors. For the first five years following purchase, an agreement was in place, as a condition of purchase, allowing the original owner to continue to manage the property for haying and grazing as he had done previously, including water management which supported haying, grazing and wildlife. This water management was considered beneficial to the Refuge. To the best of my knowledge the former owner irrigated all of the lands in the Place of Use until 1980 and after the five year agreement expired in 1980, the Refuge permittee continued to irrigate all of the lands every year until 1995. The Place of Use consists of meadows, also known as Hayfield and Hawkins Creek fields, which are part of tract #32. Since 1995, the Refuge staff and I have taken an active role in irrigating the Place of Use every year. I coordinated closely with the adjacent landowner upstream to ensure the Refuge receives sufficient flows through Willow Creek and Hawkins Creek. This water is used for hay production and stock water and provides important wildlife habitat for sandhill cranes, waterfowl and shorebirds. Maintenance and improvements to ditches were done in 2002.

6) CLAIM: A25-13722

SOURCE: Eagle Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 23, Lots 2 & 3, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 23, NENW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with this claim in 1988. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. To the best of my knowledge, since the Service acquired the lands, the Refuge permittee irrigated all of the lands in the Place of Use every year from 1988 to 1995. Refuge staff cleaned the ditches and laterals in the Place of Use in 1992. Since 1995, the Refuge staff has continued to irrigate all of the lands every year. The Place of Use is also known as Boathouse Field (Tract 40).

As Refuge Manager I diverted water into the Boathouse Field (Tract 40) annually via a ditch from the main Eagle Creek ditch. This water irrigated the Boathouse Field, to the south and west of the Point of Diversion, for hay production, while also providing wildlife and stock water. From 1995 through 2003, I measured water flows using flow meters and, more recently, a Parshall flume to quantify Eagle Creek flows used to irrigate this Place of Use. Maintenance and improvements to ditches were done in 2002.

7) CLAIM: A25-14084

SOURCE: Bridge Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SWNW and Sec. 34, NENE, NWNE, SWNE, SENE, NESE, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, NWNW, B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with this claim in 1980. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. Since the Service acquired the lands, irrigation flows have reached the Place of Use every year. The Place of Use is the Tingey Tract, #51. The Refuge staff has irrigated these lands every year since 1980. Water is used for hay production, stock water and for important wildlife use by sandhill cranes, waterfowl and shorebirds. Since 1995, I have measured water flows down the Bridge Creek channel using flow meters. Maintenance and improvements to ditches were done in 2002.

8) CLAIM: A25-14096

SOURCE: Willow Creek

PLACE OF USE: T.3 S., R.43 E., Sec. 34, NWSE, SWSE, SESE, and Sec. 35 SWSW, Bonneville Co., B.M.

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 35, NESW, Sec. 34, NESE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with this claim in 1975. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. For the first five years following purchase, an agreement was in place, as a condition of purchase, allowing the original owner to continue to manage the property for haying and grazing as he had done previously, including water management to support the haying, grazing, and wildlife. This water management was considered beneficial to the Refuge. To the best of my knowledge, the former owner irrigated all of the lands in the Place of Use until 1980, and after the five year agreement expired in 1980, the Refuge permittee irrigated all of the lands every year until 1995. After 1995, Refuge staff continued to irrigate the Place of Use every year. Water from Willow Creek irrigates the Place of Use, known as Willow Creek Field (Tract #32). Uses include stockwater and watering of meadows for important wildlife habitat for sandhill cranes, waterfowl and shorebirds. I have been measuring Willow Creek flows since 1995 using water flow meters. Maintenance and improvements to Willow Creek ditches were done in 2002.

Further affiant saith not. DATED this _____th day of January 2005.

Michael N. Fisher
U.S. Fish and Wildlife Service
4425 Burley Drive, Suite 4
Chubbuck, ID 83202

STATE OF _____)
COUNTY OF _____)

The affiant, Michael N. Fisher, being first duly sworn by me, hereby declares that he has read the foregoing Affidavit and that the information contained therein is true and accurate to the best of his knowledge and belief.

Subscribed and sworn to me by Michael N. Fisher this ____th day of January 2005.

NOTARY PUBLIC

Residing at _____

(Seal)

My Commission Expires:

DESCRIPTIVE SUMMARY

This document is an affidavit by David J. Langman regarding the management of water from various sources at the Grays Lake National Wildlife Refuge (Refuge).

AFFIDAVIT

I, David J. Langman, being first duly sworn,

1. I am a resident of Battle Ground, Washington, and am employed by the U. S. Fish and Wildlife Service (FWS), Region I as a Regional Hydrologist in the Water Resources Branch of the Division of Engineering in Portland, Oregon.
2. I am a trained hydrologist with an Associate of Applied Science Degree in Water Resources from Spokane Community College, Spokane, Washington and a Bachelor of Science Degree in Geology from Eastern Washington University, Cheney, Washington. Since college, I have received additional advanced training in hydraulics and hydrology.
3. I have been employed by the FWS as a hydrologist since October 1989. Previous to my current position, I was employed by the U. S. Geological Survey as a Hydrologic Technician (1981 - 1983) and as a Hydrologist (1983 - 1989) before transferring to the U. S. Fish and Wildlife Service in October 1989. My responsibilities include the areas of hydrology and water rights management for the six states comprising Region I, which includes Idaho. These duties also include among others, recommending measurement devices for specific sites and situations, designing and installing water measurement devices, making water flow measurements, providing training in water measurement procedures to other personnel in the Region, reviewing and interpreting water-measurement data, and researching water rights.
4. I also have a thorough understanding of the 48 Snake River Basin Adjudication (SRBA) claims pertinent to the Refuge. I have been the point of contact for the FWS regarding these claims since 1994, and have worked with Refuge staff to ensure the validity of each claim described below.
5. Between 1994 and 2003, I have installed/overseen the installation of approximately 16 water-use monitoring systems at the Refuge. The purpose of these monitoring sites is to quantify the amount of water diverted to the place of use covered under the Refuge's irrigation water rights claims filed in the SRBA. Specifically, these irrigation claims include A25-00229A, A25-04032, A25-04034B, A25-04045, A25-13722, A25-14084, A25-14096, and three new claims for Bridge Creek, Eagle Creek, and an unnamed stream locally known as Hawkins Creek. The monitoring sites relevant to these claims are:

Station Name: Herman Creek near Collins Ranch - East Channel

Station Number 461201

Monitors water-use under claim no. A25-0229A

Source - Herman Creek
Period of record - July 1995 to present

Station Name: Herman Creek near Collins Ranch - West Channel
Station Number 461202
Monitors water-use under claim no. A25-0229A
Source - Herman Creek
Period of record - July 1995 to present

Station Name: Bridge Creek & Eagle Creek at Sibbett Field
Station Number 461203
Monitors water-use under claim no. A25-4032 and A25-4034B
Source - Bridge Creek and Eagle Creek
Period of record - July 1995 to present

Station Name: Willow Creek near Mann Ranch
Station Number 461204
Monitors water-use under claim no. A25-4046B
Source - Willow Creek
Period of record - July 1995 to present

Station Name: Hawkins Creek near Linstrom Ranch
Station Number 461205
Monitors water-use under claim no. A25-4045
Source - Hawkins Creek
Period of record - July 1995 to present

Station Name: Eagle Creek Ditch near Boathouse
Station Number 461206
Monitors water-use under claim no. A25-13722
Source - Eagle Creek
Period of record - July 1995 to present

Station Name: Herman Creek near Collins Ranch - Main Channel
Station Number 461208
Monitors water-use under claim no. A25-0229A
Source - Herman Creek
Period of record - July 1995 to present

Station Name: Bridge Creek near Tingey Ranch
Station Number 461212
Monitors water-use under claim no. A25-14084
Source - Bridge Creek
Period of record - unknown

Station Name: Eagle Creek at Ewart Field - East Ditch
Station Number 461213
Monitors water-use under claim no. A25-4005 and A25-4034B
Source - Eagle Creek
Period of record - May 2002 to present

Station Name: Eagle Creek at Ewart Field Field - West Ditch
Station Number 461214
Monitors water-use under claim no. A25-4005 and A25-4034B
Source - Eagle Creek
Period of record - May 2002 to present

Station Name: Dugway Ditch at East Ewart Field - Upper Site
Station Number 461215
Monitors water-use under claim no. A25-4034B
Source - Eagle Creek
Period of record - May 2002 to present

Station Name: Dugway Ditch at East Ewart Field - Lower Site
Station Number 461216
Monitors water-use under claim no. A25-4034B
Source - Eagle Creek
Period of record - May 2002 to present

7. I have included copies of the FWS's Annual Water Use records for specified years for the above stations. These reports demonstrate the amount of water diverted for the specified year(s).
8. Since 1994 I have made over 35 trips to the Refuge. These trips were made to recommend and/or install measuring systems and to become familiar with the various water resources of the Refuge. Over the past 11 years, I have gained an understanding of water sources, delivery, and management under the claims referenced above at paragraph #4, including: where and how the Refuge receives its water under its SRBA claims and how it is managed.
9. Based on the data collected at FWS monitoring stations and my familiarity with the water systems on the Refuge, I provide the following conclusions:

CLAIM: A25-00229A

The source of water for this claim is Herman Creek (also known as Meyers Creek). The water is first diverted from its source in the NWNW, Sec. 28, T.3S., R.43E., B.M. and is diverted for wildlife, stock and irrigation purposes onto the NWNW, SWNW, Sec. 28, and NENE, SENE, Sec. 29, T.3S., R.43E., B.M. It is my understanding that since the Service acquired the Place of Use (POU) in 1976,

Refuge staff have diverted the water for irrigation, stock and wildlife purposes. Water use under this claim has been measured at Stations No(s).461201, 461202, and 461208 since July of 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-04032 (Bridge Creek) & New Claim (Eagle Creek)

The primary source of water for the POU covered by these claims is Bridge Creek. When sufficient water is not available from Bridge Creek, water is used from Eagle Creek, coming through the Dugway Ditch into the Bridge Creek channel for use on the Refuge. I have observed this several times on my visits to the Refuge. Water use under these claims has been measured at Station No. 461203 since July of 1995. It is my understanding that since the Service acquired the POU in 1975, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-04034B (Eagle Creek) & New Claim (Bridge Creek)

The primary source of water for the POU covered by these claims is Eagle Creek. However, Bridge Creek water is also diverted onto these lands. Eagle Creek water reaches the POU from a ditch approximately one quarter mile north of the POU and from the Dugway Ditch to the east. Eagle Creek also co-mingles with Bridge Creek and reaches the POU through the Bridge Creek channel. Bridge Creek reaches the POU of use from the southeast. I have observed this several times on my visits to the Refuge. Water diverted under these claims can be monitored at Stations Nos. 461203, 461213, 461214, 461215, and 461216. It is my understanding that since the Service acquired in the POU in 1986, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-04045 (Willow Creek) & New Claim [(Unnamed Stream (a.k.a. Hawkins Creek))]

The sources of water for the POU covered by these claims are Willow Creek and an unnamed stream (a.k.a. Hawkins Creek). Water from Willow Creek is injected into an unnamed stream (a.k.a. Hawkins Creek). It is my understanding that since the Service acquire the POU in 1975, Refuge staff have diverted the water and it has been used for irrigation, stock and wildlife purposes every year.

Since 1994, on two occasions I have observed water being diverted to the POU. Water-use under these claims have been monitored at one of its two points of re-diversion at Station No. 461205 since July 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that most of the water claimed was diverted through the first point of re-diversion. There is also a second point of diversion which is not measured. As stated in the affidavits of Ralph Stoor and Michael Fisher, the Refuge uses all of the water made available to it.

CLAIM:A25-13722

The source of water for this claim is Eagle Creek. It is my understanding that since the Service acquired the POU in 1988, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. Since 1995 on several occasions, I have observed water being diverted to the POU. Water use under this claim has been monitored at Station No. 461206 since July 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

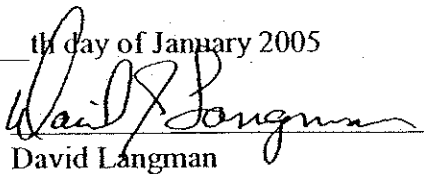
CLAIM:A25-14084

The source of water for this claim is Bridge Creek. It is my understanding that since the Service acquired the POU in 1980, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. Since 1995 on several occasions, I have observed water being diverted to the POU. Water use under this claim is monitored at Station No. 461212. The attached FWS's Annual Water Use Records, 1996-2003 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-14096

The source of water for this claim in Willow Creek. It is my understanding that since the Service acquired the POU in 1975, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. Since 1995 on several occasions, I have observed water being diverted to the POU. Water use under this claim has been monitored at Station No. 461204 since July 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

Further affiant saith not. DATED this 11 th day of January 2005



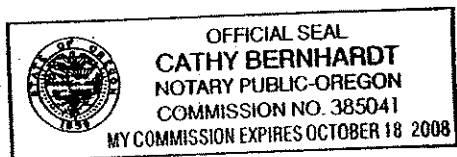
David Langman
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232-4181

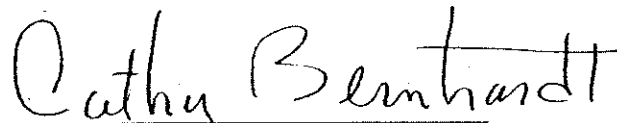
STATE OF Oregon)

COUNTY OF Multnomah)

The affiant, David Langman, being first duly sworn by me, hereby declares that he has read the foregoing Affidavit and that the information contained therein is true and accurate to the best of his knowledge and belief.

Subscribed and sworn to me by David Langman this 11 th day of January 2005.





NOTARY PUBLIC

Residing at Portland, Oregon

(Seal)

My Commission Expires: October 18, 2008



U.S. Fish & Wildlife Service

Grays Lake National Wildlife Refuge

Bonneville County, Idaho

Air Photo 6/5/1960

111°22'30"W

R 43 E R 44 E

111°21'0"W

43°3'0"N

Place of Use
Claim 25-4032

T 4 S

43°3'0"N

T 4 S

111°22'30"W

R 43 E R 44 E

111°21'0"W

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

GYL_25-4032_imagerySupport.MXD, 1/19/06



1:12,000 BOISE MERIDIAN

Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251



UTM ZONE 12
NAD 83

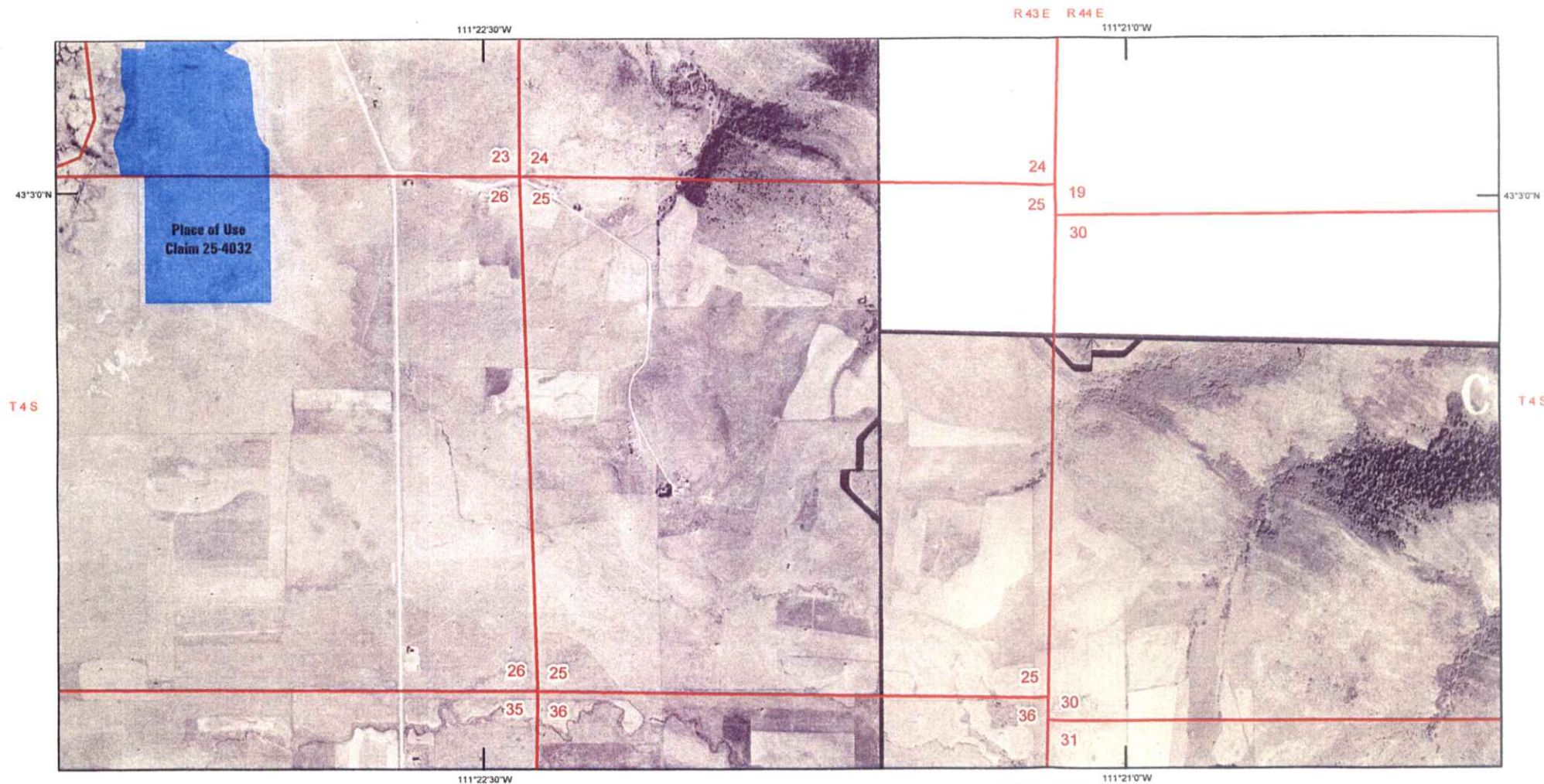


U.S. Fish & Wildlife Service

Grays Lake National Wildlife Refuge

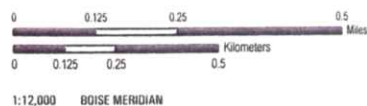
Bonneville County, Idaho

Air Photo 9/14/1951



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

CYL_25-4032_ImagerySupport.MXD, 1/19/06



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UTM ZONE 12
NAD 83